

IMPLEMENTATION OF THE IMPACT ASSESSMENT AND PUBLIC CONSULTATIONS AT LOCAL LEVEL IN BULGARIA



Sofia, 2021



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**IMPLEMENTATION OF THE IMPACT ASSESSMENT
AND PUBLIC CONSULTATIONS AT LOCAL LEVEL
IN BULGARIA**

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Analytical document

IMPLEMENTATION OF THE IMPACT ASSESSMENT AND PUBLIC CONSULTATIONS AT LOCAL LEVEL IN BULGARIA

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ANALYTICAL DOCUMENT

IMPLEMENTATION OF THE IMPACT ASSESSMENT AND PUBLIC CONSULTATIONS AT LOCAL LEVEL IN BULGARIA

Abstract: On November 4, 2016, regulatory reform in Bulgaria was launched with the introduction of regulatory impact assessment (RIA) and public consultations in a structured form, integrated as imperative mechanisms in the national legislative process.

Despite the lack of an explicit obligation to carry out RIAs on normative acts at the local level, the decision-makers have expected its implementation as a practical tool to be "extended" to the local governments, ensuring higher quality of normative acts. The other key element of the regulatory reform in Bulgaria - public consultations - are undoubtedly mandatory for municipal authorities as well.

This analysis examines for the first time the issue of implementing the key elements of regulatory reform at the local level. The findings and conclusions from the analysis will provide policy-makers with the basis for future ideas for actions and measures in this area.

Keywords: regulatory reform, impact assessment, public consultations, local government, Bulgaria

Sofia, 2021



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Delyana Doseva was born in Burgas, where she graduated from Goethe High School with German language instruction, and then obtained a Master's degree in Law at St. Kliment Ohridski University, Sofia. Since the beginning of 2020 she is a full-time PhD candidate in Sociology of Law at the Institute of State and Law at the Bulgarian Academy of Sciences.

A member of the Bar Association of Burgas since 2015, she is part of the team of the Centre for Legislative Impact Assessment, a Bulgarian independent non-governmental organisation of expert type, whose mission is to promote the implementation of the rules of better regulation, good governance and the rule of law in Bulgaria. She has worked on a significant number of ex-ante and ex-post impact assessments of legislation and strategic documents at national level in the field of youth policies, provision of accessible environment for people with disabilities, children's rights and social sphere. She has experience in developing methodological documents on the application of tools for better legislation - impact assessment and public consultation.

In the period 2019-2020, she is coordinator of the project "Think Small First!", funded by OPSP, which examines whether and how good approaches of involving business (and in particular SMEs) in policymaking processes are reflected at national level and assesses what the effects of the implementation of the 2016 amendments to the Law on Regulatory Acts are in this regard. The project concludes by proposing a new mechanism for administrations to proactively engage business, in particular SMEs, in policy formulation, implementation, monitoring and evaluation processes.

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Fluent in English and German.



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List of abbreviations used

| | |
|---------------|---|
| ACoMin | Administration of the Council of Ministers |
| EA | Environmental assessment |
| RA | Regulations Act |
| SPA | Spatial Planning Act |
| IPA | Institute of public administration |
| RSMIA | Regulation on the scope and methodology of impact assessment |
| NA | National Assembly |
| PPIA | Partial preliminary impact assessment |
| IA | Impact assessment |
| PC | Public consultations |
| RPNA | Rules of Procedures of the National Assembly |
| LSPDSM | Law on the Spatial Planning and Development of Sofia Municipality |

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I. INTRODUCTION

1. Relevance and importance of the chosen topic

On 4 November 2016, the regulatory reform in Bulgaria was launched with the entry into force of the most far-reaching amendments to the Regulations Act (RA) since its adoption, related to the introduction of mandatory impact assessment (IA) and public consultation (PC) in a structured form, integrated as imperative mechanisms in the national standard-setting process. At the end of 2019, the Council of Ministers approved a new Manual for conducting preliminary impact assessments, which updated the methodological framework for the preparation of preliminary impact assessments, in line with the RA, the Regulation on the Scope and Methodology of Impact Assessment (RSMIA) and the Rules of Procedure of the Council of Ministers and its Administration. At the end of 2020, substantial amendments to the RSMIA were introduced, which took a further step in improving the legal and methodological framework for impact assessments carried out by the executive authorities in Bulgaria. The first officially recognised Bulgarian State guidance on ex-post impact assessment was also adopted.

Against this backdrop of the development of the institution of impact assessment in central administration, two questions stand out more and more clearly: "How is impact assessment carried out in the National Assembly?" and "How (and whether) is impact assessment carried out at local level?" While the first question is relatively more frequently commented on, the second remains seriously neglected and no research has been done to date on the extent to which the practices of this mechanism have been implemented at the local level.

Indeed, with regard to sub-legislative acts, the RA provides for the obligation to carry out ex-ante and ex-post impact assessments only with regard to sub-legislative acts of the Council of Ministers (arg. Article 20 and Article 22(1) of the RA). At the same time, in general terms (in Art. 18a and 18b of the RA) it provides for the requirements that a preliminary impact assessment be carried out when drafting a normative act and that PCs be conducted and that the results of the implementation of a normative act be verified by means of a subsequent impact assessment, and such acts are also the regulations that are issued for the organization of local authorities (art. Article 7, paragraph 1, sentence III of the RA) and the ordinances of the municipal councils, which regulate public relations of local importance (Art. 8 of the RA). Moreover, according to Article 22, paragraph 4 of the Act, "Where a local government body

has carried out a subsequent impact assessment, it shall be published on the municipality's website within 30 days of its preparation."

The other key element of the regulatory reform in the country - public consultations - are undoubtedly obligatory for municipal authorities as well (arg. Article 26(3) of the RA).

The focus of the present analysis, entitled "Implementation of Impact Assessment and Public Consultation at Local Level in Bulgaria", is particularly topical because it is the first time that the issue of implementation of the key elements of regulatory reform at local level will be examined. A comparison will be made between the two approaches of the legislator: the obligation to carry out public consultations and to carry out an impact assessment, the verification of the effectiveness of the regulation; the existence of good practices in carrying out impact assessment, which will be the subject of the study. The results and conclusions of the analysis will provide the basis on which future ideas for action and measures in this area can be built by the State.

2. General and specific objectives of the analysis

General objective of the analysis will be to answer the question whether and to what extent the regulatory reform launched in 2016 in Bulgaria has reached local authorities and administrations and has found its place in their work.

Specific objective of the analysis include a comparison between the two approaches of the legislator: the obligation to conduct public consultations and the possibility to conduct impact assessment; an examination of the effectiveness of the regulation; an examination of the assumption that impact assessment has "naturally" permeated the local level; an examination of the existence of good practices in conducting impact assessment

3. Scope

The research covers the following activities:

Table 1. Scope of analysis

| Activity | Sub-activity | Objectives |
|---------------------------------------|---|---|
| Activity 1. Monitoring and | 1.1. Selection of Bulgarian municipalities to generate a preliminary list of 16 | The activity is aimed at ascertaining the current level of knowledge and application of the Regulations Act, in its |



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| <p>review of the current situation</p> | <p>municipalities: 5 small, 5 medium and 5 large municipalities and Sofia Municipality for inclusion in the analysis.</p> | <p>part concerning the carrying out of ex-ante and ex-post impact assessments and public consultations with stakeholders as elements of the local standard-setting process.</p> |
| | <p>1.2.Submission of the preliminary list of 16 municipalities for approval by the Institute of Public Administration (IPA).</p> | |
| | <p>1.3.Monitoring and review of current status</p> | |
| <p>Activity 2. Conducting a survey among municipalities</p> | <p>2.1. Preparation of a dedicated consultation document with an integrated focused questionnaire 2.2. Submission of the consultation document to IPA for approval 2.3. Distribution of the consultation document to the selected municipalities 2.4. Ensuring feedback is received</p> | <p>The activity aims to collect data, opinions and findings on the current level of knowledge and implementation of the Regulations Act, in its part on conducting ex-ante and ex-post impact assessments and public consultations with stakeholders as elements of the local standard-setting process, while demonstrating and establishing good practice of conducting targeted public consultation with key stakeholders.</p> |
| <p>Activity 3. Drafting the report</p> | <p>3.1. Structuring the report 3.2. Drafting the report</p> | <p>After finalizing Activity 1 and Activity 2, the collected data and information will be structured, summarized and analyzed. On this basis, key conclusions and recommendations will be drawn on the</p> |



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application of the Regulations Act in its part on carrying out a preliminary impact assessment and public consultation when drafting regulations of local significance, as well as on the preparation of a subsequent impact assessment of the effects of the implementation of such regulations.

The study covers the period 2018-2020. The public consultations on the draft regulations considered in the study have been completed by the end of 2020.

A detailed description of the methods and tools used in the implementation of each of the activities is provided immediately prior to the presentation of the results obtained.

4. Opportunities for using the results of the analysis for the development of public administration

Research results will provide a snapshot of the implementation of impact assessment and public consultation at local level and will highlight the existing gaps in the legal framework and the practice of administrations, on the basis of which recommendations will be made on the implementation of the RA in its part on conducting a preliminary impact assessment and public consultation in the elaboration of draft legal acts of local significance, as well as for the preparation of a subsequent impact assessment.

II. MONITORING AND REVIEW OF THE CURRENT SITUATION

1. Selection of Bulgarian municipalities to be monitored and review of the current situation.

1.1. Methodology of selection

According to the terms of reference, a total of 16 municipalities were to be selected - 5 small, 5 medium and 5 large municipalities, which together with Sofia Municipality were to be surveyed through



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a review of the main normative documents, observation of their websites and direct contact on the knowledge and application of the Regulations Act, in its part on the conduct of pre- and post-impact assessment and public consultations with stakeholders as elements of the local normative process.

The following criteria were used for the selection of the municipalities:

- *Geographical location - it is sought to cover all geographical areas in Bulgaria;*
- *Availability of a well-developed website - this is important in terms of preliminary data on whether and to what extent the municipality has carried out impact assessments and public consultations;*
- *Participation of the municipality's staff in trainings on impact assessment, including those organized by IPA - this criterion will ensure a certain knowledge of the issues under study and will create preconditions for more in-depth answers;*
- *Participation of municipalities in initiatives and projects dedicated to improving civic participation, civic culture and public activism at the local level - similar to the previous one, this criterion guarantees interest and a certain knowledge of the topic by the specific municipality and constitutes a prerequisite for more detailed comments.*

Regarding the distinction between "small", "medium" and "large" municipalities, given the lack of a statutory or at least widely accepted definition, the team preparing the analysis identified the leading criterion as the number of inhabitants in the municipality. The choice is justified by the fact that the subject of the analysis is essentially related to the tools for citizen participation in the policy-making process, i.e. the number of citizens affected by policies at the local level and the number of citizens actively using the tools to influence the policy-making process will be directly related to the population of the given municipality.

- Taking into account the Bulgarian demographic specificities, the division of municipalities according to population criteria is made as follows:
 - "large municipalities" - with a population of more than 100 000 people;
 - "'medium-sized municipalities' - with a population between 30 000 and 100 000;
 - "'small municipalities' - with a population below 30 000.



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1.2. Performing the selection

Taking into account the factors described above, the analysis team prepared and obtained the approval of the Client IPA for the following list of municipalities to be studied:

Table 2. List of IPA-approved municipalities under analysis, ordered by size

| Municipality category | Municipality |
|--|--------------------------------------|
| | Sofia Municipality |
| <i>Large municipalities</i> (population above 100 000 people) | 1. Plovdiv Municipality |
| | 2. Varna Municipality |
| | 3. Burgas Municipality |
| | 4. Pleven Municipality |
| | 5. Ruse Municipality |
| <i>Medium-sized municipalities</i> (population between 30 000 and 100 000 people) | 1. Blagoevgrad Municipality |
| | 2. Kardzhali Municipality |
| | 3. Vidin Municipality |
| | 4. Lovech Municipality |
| | 5. Smolyan Municipality |
| <i>Small municipalities</i> (population under 30 000 people) | 1. Gotse Delchev Municipality |
| | 2. Troyan Municipality |
| | 3. Duloovo Municipality |
| | 4. Popovo Municipality |
| | 5. Lom Municipality |

The size of the municipalities was determined on the basis of the current data as of 31.12.2019, published on the website of the National Statistical Institute.¹

Appendix 1 to the report details the specific reasons for selecting each municipality according to the criteria set out above.

2. Monitoring and review of the current state

2.1. Regulatory framework for impact assessment and public consultation regarding local authorities

According to the RA, the impact assessment is of two types - ex-ante and ex-post. The ex-ante impact assessment, in turn, can be partial and comprehensive. A partial ex-ante impact assessment precedes the drafting of any law, code, and subordinate normative act of the Council of Ministers. A full ex-ante impact assessment shall be carried out when:

1. drafting of new laws and codes;
2. the drafting of legal acts for which the partial ex-ante evaluation has shown that significant effects can be expected.

A full ex-ante impact assessment may also be carried out at the discretion of the drafter.

An ex-post impact assessment is by definition always comprehensive.

Certainly, ordinances adopted by municipal councils, although statutory acts under Article 8, in conjunction with Article 7(2) of the RA, do not fall within the scope of acts the drafting of which must be accompanied by a prior impact assessment.

At the same time, the wording of Article 22(4) of the RA states:

"Where a local authority has carried out a ex-post impact assessment, it shall be published on the municipality's website within 30 days of its preparation."

Again, this is not a statutory obligation to carry out an ex-post impact assessment, but an option entirely at the discretion of the local authority.

However, the presence of an explicit reference to the local authorities gives grounds to assume that, although by 2016 the legislator had not introduced an obligation for municipalities to use the impact

¹ <https://www.nsi.bg/bg/content/2975/население-по-области-общини-местоживее-и-пол>.



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assessment tool in the drafting of local legislation, there was an expectation that municipalities themselves would recognise its usefulness and start applying it as a good practice. If the drafting of a legislative act or an impact assessment has been entrusted by the municipality to a natural or legal person, this information, as well as the amount of the remuneration paid, should be entered in a specially created section of the central public web-based information system "Portal for public consultations".¹

The matter of public consultation is different. According to Article 26(2) of the RA, public consultations with citizens and legal entities shall be held in the process of drafting a normative act. Before submitting a draft legislative act for issue or adoption by the competent authority, the drafter publishes it on the website of the relevant institution, together with the reasons, respectively the report, and the preliminary impact assessment. Where the drafter is a local authority, the publication shall be made on the website of the municipality and/or municipal council concerned. Pursuant to §1 of the Additional Provisions of the RA, local self-government bodies also have the possibility to publish the draft legal acts they have prepared on the Portal for Public Consultations².

The period for proposals and opinions on the drafts published for public consultation is not shorter than 30 days. In exceptional cases and where the reasons are explicitly stated in the explanatory memorandum or the report, the draftsman may set a different deadline, but not shorter than 14 days.

After the end of the public consultation and before the adoption or issue of the regulatory act, the draftsman shall publish on the website of the institution concerned a summary of the proposals received, together with a justification for the proposals not accepted.

2.2. Terminological and practical distinctions

For the purposes of this research, it is important to make a clear distinction between the procedure for public consultations on draft regulations regulated in Article 26 of the RA and public consultations conducted by municipalities on other legal grounds.

While public consultations under Article 26 of the RA are always in writing, announced online and lasting at least 30 days (except in exceptional cases where the period may be shortened to no less than 14 days), public consultations are usually more immediate and take the form of meetings-discussions

² <https://www.strategy.bg/Publications/View.aspx?lang=bg-BG&categoryId=&Id=276&y=&m=&d>



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with citizens on a given issue and the like. An explicit obligation to hold public discussions is provided for in certain special laws (e.g. the Spatial Planning Act, the Public Finance Act, the Ordinance on the Conditions and Procedure for Environmental Impact Assessment, etc.).

This research focuses on the conduct of PC under Article 26 of the RA, and the regulation of public discussions at the local level and its implementation are not examined. Fact is that such exists, and in some cases it can be found in the Regulations on the organization and activities of the respective municipal council³, in other cases, specific provisions can be found in special ordinances.⁴ For the sake of completeness, explicit reference is made below to the Ordinance on the Procedure and Method for Conducting Public Discussions in the Field of Spatial Development and Spatial Planning of Sofia Municipality, but the ordinance is presented in terms of the degree of detail of the regulation of the instruments for citizen participation in the policy-making process at the local level, not in terms of substance.

Insofar as municipalities have a long-established practice of conducting public discussions as a tool for obtaining direct feedback from citizens on a variety of issues of relevance to the municipality, there is no legal obstacle to their results being used in the process of drafting local legislation.

It should be explicitly underlined, however, that the holding of public consultations could only complement, but not replace, the holding of mandatory public consultations under Article 26 of the RA.

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The websites of the 16 selected municipalities were reviewed.

The review was carried out in the period: from March 29, 2021 to April 09, 2021.

Taking into account the requirements of the RA and the technical specification, the following questions for each of the municipalities were included in the scope of the monitoring:

³ For example, this is the approach of the municipality of Ruse.

⁴ See, for example, Article 29-31 of the Municipal Council - Plovdiv on the conditions and procedure for drawing up a three-year budget forecast for local activities and for drawing up, adopting, implementing and reporting on the budget of Plovdiv Municipality.



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1) Are public consultations conducted? On their own website, on the Public Consultation Portal or both? For what period? Are summaries of proposals received published with justification for proposals not accepted?

2) Is there a bylaw at municipal level dedicated to PC and IA?

3) Is there any information on completed IA? Preliminary (partial or complete) or follow-up?

4) Has the preparation of IAs been outsourced?

The summary results of the monitoring and review of the current situation are presented below and the full data is presented in Appendix 2.

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1. Sofia Municipality

1.1. Regulatory and methodological framework for public consultation and impact assessment at local level

1.1.1. Ordinance on public consultations on the territory of Sofia Municipality

In fulfillment of its obligations to conduct public consultations under the Regulations Act, by Resolution No. 442 of Minutes No. 37 of 20.07.2017, effective from 15.09.2017, the Sofia Municipal Council has adopted the Regulation on Conducting Public Consultations on the Territory of Sofia Municipality⁵, which aims to ensure an open and clear decision-making process for citizens by the local government, resulting in the adoption of more sustainable and publicly recognized decisions and policies at the local level.

According to the Ordinance, the Metropolitan Municipality shall establish a single electronic portal of public consultations to its website. All documents subject to public consultation, the accompanying documents, the opinions of citizens and organisations received on the occasion of and during the public consultation, as well as the impact assessments, where available, must be published on the single electronic portal of public consultations. The main forms of public consultation are written consultations and public discussions.

⁵ <https://sofia.obshtini.bg/doc/3151910>



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The arrangements for written consultation are fully in line with the requirements of the RA. The time limit for sending written opinions, comments and proposals may not be shorter than 30 days. In exceptional cases and where the reasons for this are explicitly stated in the explanatory memorandum or the report, the draftsman may set another time limit for suggestions and comments, but not shorter than 14 days. The written consultations shall start with the publication on the single portal for public consultations of the Sofia Municipality of the draft document, together with the report and the explanatory memorandum, the preliminary impact assessment, and other documents that have been developed in the course of the preliminary studies, if any.

While Article 26 of the RA defines as a mandatory form of public consultation only written consultations via the internet, the Ordinance provides for several other possible forms to complement them.

Public discussions are described as a form of public consultation through which interested parties have the opportunity to discuss, together with the proponent and the municipal administration, options for solutions or amendments to a proposed document or concept of a document or solution. In the case of decisions on the adoption of a legal act and amendments thereto which are expected to have significant consequences, on the adoption of strategies, concepts and other acts for the development and management of Sofia Municipality, or on decisions on other issues of public importance affecting a large number of citizens in different areas of the municipality, the proposer of the project shall determine the need to hold a public discussion in addition to the written consultations.

The public discussion may take place in different formats, which are intended to give the widest possible opportunity for different views and opinions to be expressed. It may be conducted at the level of the Metropolitan Municipality, district or town hall, depending on the scope of the issue to be consulted. A record shall be kept of the discussions and, where possible, an audio or video recording shall be made. The minutes shall be published on the single public consultation portal of Sofia Municipality, together with a list of the participants and the comments and suggestions received, no later than 5 working days after the event.

The Ordinance explicitly specifies that sociological surveys, polls, interviews, inclusion in workshops, focus groups and other additional forms of consultation at the idea/concept level, which are



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not mandatory and are organised and paid for by the proposer of the draft resolution, may also be conducted in the public consultation process. The results of the activities carried out are published on the single portal for public consultations and are part of the background information to the specific public consultation process.

After the end of the public consultations and before the consideration of the draft resolution at a meeting of the Sofia Municipal Council, the petitioner, assisted by the responsible persons from the administration of the Sofia Municipality, shall prepare a summary of the proposals received. Here again, the content of the summary, as defined by the Ordinance, is broader than required by the RA, as in addition to the proposals received, together with a justification for the proposals not accepted, it should also include an analysis of the results of the public consultation process, describing the activities and forms of consultation carried out.

1.1.2. Ordinance on the procedure and method for conducting public consultations in the field of spatial development and spatial planning of Sofia Municipality

Pursuant to Article 5, paragraph 4 of the Law on Spatial Planing and Development of Sofia Municipality (LSPDSM)⁶, the Ordinance on the Procedure and Method for Conducting Public Discussions in the field of spatial planing and development of the Capital City Municipality was adopted by Resolution No. 661 of the Capital City Municipal Council dated 12.10.2017.

The Ordinance regulates the public relations regarding the procedure for conducting public discussions, for determining the interested communities, for announcing the public discussion and for

⁶ Art. 5. (1) The General Spatial Plan of the Sofia Municipality shall be public.

(2) The general spatial plan, the specialized programs, the proposals for amendments to the plan, as well as other data and information related to the spatial planning shall be published on the website of the Capital City Municipality. Amendments to the general spatial plan shall be published no later than 7 days from the entry into force of the decisions on their approval.

(3) The conditions and procedure for the provision of data and the issuance of reports on the provisions of the general development plan shall be determined by an ordinance adopted by the Metropolitan Municipal Council.

(4) The procedure and manner for conducting public hearings in the Metropolitan Municipality, for determining the interested communities, for announcing the public hearings and for determining the results thereof shall be determined by an ordinance of the Metropolitan Municipal Council.

(5) (Supplemented, SG No. 31/2018) State bodies and operating companies shall provide the Sofia Municipality with the information contained in their information systems, necessary for the planning and management of the spatial development, in a timely manner and free of charge.



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determining its results in the field of spatial development and spatial planning of the territory of the Capital City Municipality⁷.

A public discussion shall be held in all cases provided for in a regulatory act, such as:

1. the framework programme, the structural and specialised programmes referred to in Article 14, par. 1 and 2 of the LSPDSM on the basis of Art. 14 para. 3 of the LSPDSM⁸;
2. the draft general spatial plans and their amendments on the basis of Art. 127 par. 1 of the Spatial Planning Act (SPA)⁹;
3. the draft zoning and development plans for the redevelopment of the housing estate on the basis of Article 22(4) of the SPA¹⁰;

⁷ <https://sofia.obshtini.bg/doc/3206222>

⁸ Art. 14. (1) The Council of Ministers shall adopt a framework programme for the implementation of the general spatial development plan on the proposal of the Sofia Municipal Council.

(2) The Metropolitan Municipal Council shall, on the proposal of the Mayor of the Sofia Municipality, adopt structural and specialized programs for the implementation of the general spatial plan in accordance with the framework program under par. 1.

(3) The programmes referred to in par. (1) and (2) shall be subject to public discussion prior to their adoption in accordance with the procedure laid down in the ordinance referred to in Article 5, paragraph 4.

⁹ Art. 127. (1) (amend. - 82 of 2012, in force as of 26.11.2012, suppl., issue 27 of 2013) The draft general spatial development plans shall be published on the website of the respective municipality and shall be subject to public discussion prior to their submission to the expert councils on spatial development. The project promoter shall organise and conduct the public hearing by announcing the place, date and time of the hearing by a notice which shall be placed at the designated places in the municipality, district or town hall building, as well as at other previously announced publicly accessible places in the respective territory - subject of the plan, and shall be published on the website of the promoter and the municipality, in a national daily and in a local newspaper. A written record of the public discussion shall be kept and annexed to the documentation for the examination board and the municipal council. In towns with a district division, public discussions must be organised in all districts. The public discussion shall be combined with and form part of the consultation procedure for the environmental assessment and/or the compatibility assessment which the project promoter organises and conducts under the Environmental Protection Act and/or the Biodiversity Act

¹⁰ Art. 22. (4) (New, SN edition 106/06, amend., edition 82/12, in force from 26.11.2012) New construction in the existing residential complexes shall be envisaged on the basis of a detailed development plan under Art. 110, par. 4 - a plan for regulation and construction for the restructuring of the residential complex in the scope of at least the territory of one district with complex construction. The draft plans for the regulation and development of the restructuring of the residential complex shall be subject to public consultation in accordance with the procedure laid down in Article 127, paragraph 1. 1 prior to their submission to the expert councils on spatial planning.



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4. the draft detailed development plans for construction with the structures referred to in Art. 12 of the LSPDSM¹¹ in the development zones and separate sites of the green system within the meaning of the LSPDSM;

5. others.

The public discussion shall be conducted by:

1. surveys;
2. professional consultation;
3. presentation of the document or project and final discussion.

The public consultation shall necessarily include a presentation of the document or project and a final discussion, and may include other of the methods referred to in paragraph 1. 1.

The Chief Architect of Sofia Municipality shall determine the methods of conducting the public discussion.

1.1.3. The Public Consultation Manual of Sofia Municipality

[The Public Consultation Manual of Sofia Municipality](#) is adopted on the basis of § 5 of the Final Provisions of the Regulation for Conducting Public Consultations on the Territory of Sofia Municipality, adopted by Resolution No. 442 of the Sofia Municipal Council on Minutes No. 37 of 20.07.2017, in accordance with the legal regulation under Article 26 of the Regulations Act, in compliance with the principles of the Standards for Consultation Management of the Council of Ministers.

The methodological document regulates the overall process of public consultation in the adoption of legal acts and strategic documents of the Capital City Municipality. The aim of public consultation is to ensure an open and clear decision-making process for citizens by the local authority, resulting in the

¹¹ Art. 12. In the spatial development zones and in the separate areas of the green system, after public consultation, the following development is allowed:

1. technical infrastructure networks and facilities;
2. maintenance of the green system;
3. (amend. - SN, edition 31/2018) outdoor facilities for sports or cultural activities;
4. (amend. - SN, edition 31/2018) playgrounds;
5. (new - SN, edition 31/18) relocatable objects under Article 56 of the Spatial Planning Act, which may not occupy more than 10 per cent of the area of the property;
6. (new - SN, edition 31/2018) monumental-decorative and informative elements under Art. 57 of the Law on Spatial Planning.



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adoption of more sustainable and publicly accepted local decisions and policies. The envisaged public consultation procedures aim to create the conditions and preconditions for a wider and more effective involvement of citizens and organisations in the process of elaboration, discussion and adoption of municipal decisions and policies in different areas.

The Handbook explains the procedures set out in the Ordinance on Public Consultations on the Territory of Sofia Municipality, giving detailed instructions on how to go through their main steps, as well as making recommendations for the implementation of good practices.

1.1.4. Conclusions

Sofia Municipality has established a detailed regulatory and methodological framework governing the public consultations conducted on its territory.

To the extent that the Regulation on the Procedure and Method for Conducting Public Consultations in the Field of Spatial Development and Spatial Planning of the Metropolitan Municipality establishes a specific process, in implementation of area-specific legislation, and covers acts that could not be defined as normative, its application remains outside the scope of this study.

The Ordinance on Public Consultations on the Territory of the Capital City Municipality and the Manual to it have clarified in detail, and as stated above, expanded and built upon the content of Article 26 of the RA, thus creating the necessary preconditions for conducting quality public consultations.

Given the absence of an obligation for local authorities to carry out an IA, there is predictably no subordinate legislation on the matter. However, the PC Ordinance and its Handbook refer to the IA as part of the documentation required to be published for the PC prior to the adoption of a legal act. Moreover, §1 of the Final Provisions of the Ordinance on the conduct of PC in the territory of the Capital City Municipality explicitly provides for a follow-up evaluation of the implementation of the Ordinance, including the results of the activities of information provision, public consultation and partnership with citizens in decision-making processes, to be carried out three years after its entry into force and every three years thereafter. In other words, the legislator's expectation that the IA instrument should be extended to local authorities as a good practice has been fulfilled to some extent at the normative level in Sofia Municipality.



1.2. Conduct of public consultations on draft regulations in the period 2018-2020

The monitoring of the public consultations on draft regulations on the territory of Sofia Municipality in the period 2018-2020 showed the following results.

There is a public consultation portal, available at: <https://www.sofia.bg/portal-public-consultations>, which has two main subsections, according to the two different procedures under the Ordinance on the Procedure and Manner of Conducting Public Consultations in the Field of Spatial Development and Spatial Planning of the Territory of Sofia Municipality and the Ordinance on Conducting Public Consultations on the Territory of Sofia Municipality.

In the section dedicated to public consultations under the RA, the individual PC records are arranged in chronological order, with the most recent coming first. In its optimal version, an entry includes the following components:

1. Title of the legislative act under discussion
2. Methods of sending comments and opinions
3. Form of the PC
4. PC period
5. Content of documentation
6. Contact details
7. All original contributions received within the PC
8. A summary of contributions received

According to the Portal, in the period 2018-2020, a total of 64 public consultations on draft regulations were held in Sofia Municipality, distributed by year as follows:

Table 3. Number of public consultations on legal acts held on the territory of Sofia Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened durations | Published summaries of opinions received |
|------|--|--------------------------------|---|
| 2020 | 35 | 5 | 10 |
| 2019 | 11 | - | 7 |
| 2018 | 18 | 8 | 7 |



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In justifying the shortened deadlines, the drafters are usually laconic and in 2020 they mainly refer to the "crisis situation" without going into much detail. In 2018, the most frequently cited reason for shortening the deadline was the illegality of the proposed provision to be amended and its challenge before the Sofia City Administrative Court.

The increasing tendency not to comply with the obligation to publish a summary of the opinions received is striking. In 2018, such summaries were prepared for less than 39% of the PCs held, in 2019 - for almost 64%, and in 2020 - for only 29% of the completed PCs. In some of the cases, although there is no summary in the summary sheet to show whether the proposals made were accepted or not and why the submissions received were published on the website of the specific PC ¹².

Where they are available, the summaries are structured in a tabular format, following the example of those produced by the executive authority, and contain information on the proposal received, whether it has been accepted and, if not, a brief justification as to why. Although they comply with the requirements of Article 26 of the RAA, they do not comply with the provisions of the Ordinance on the Conduct of PCs on the Territory of Sofia Municipality, insofar as they do not contain an analysis of the results of the public consultation process describing the activities and forms of consultation carried out.

1.3. Conduct impact assessments of legislation in the period 2018-2020

According to the Portal's data, in the period 2018-2020, a total of 46 preliminary impact assessments were carried out in Sofia Municipality in the framework of all 64 public consultations on draft regulatory acts. This means that in almost 72% of cases, municipal councillors have recognised the IA as a necessary additional effort to find the best approach to solve a local problem.

¹² See e.g. PC on: [draft Ordinance amending and supplementing the Ordinance on the order and manner of conducting public hearings in the field of spatial development and spatial planning of Sofia Municipality](#); [Draft Ordinance on amendment and supplement to the Ordinance on the terms and conditions of travel by public transport on the territory of Sofia Municipality](#); [Draft Ordinance on amendment and supplement to the Ordinance on the organization of traffic on the territory of Sofia Municipality](#); [Draft Ordinance on amendment and supplement to the Ordinance on the terms and conditions of travel by public transport on the territory of Sofia Municipality](#); [Draft Ordinance on amendment and supplement to the Ordinance on the admission of children to municipal kindergartens and preparatory groups in municipal schools](#); [Draft Ordinance amending and supplementing the Ordinance on prices in real estate transactions of Sofia Municipality](#) , etc.



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Below is a breakdown of the IAs carried out by year, by type and by the form used to structure them:

Таблица 4. Брой предварителни оценки на въздействието, извършени на територията на Столична община за периода 2018-2020 г.

| Year | Number of regulatory acts (regulations and rules) | Number of preliminary IA | |
|------|--|---|--|
| | | Partial | Full |
| 2020 | 35 | 26 (14 - form RSMIA, 10 – form HC, 2 – free text) | 1 (following the model used by the executive authority before there was a form) ¹³ |
| 2019 | 11 | 8 (2 – form RSMIA, 4 – form HC, 2 – free text) | None |
| 2018 | 18 | 11 (5 – form RSMIA, 6 – form HC) | None |

In 21 of the cases, the Partial preliminary IA form was used, as per RSMIA Appendix 1. In 20 of the cases, the IA form of 44th NA under RPNA was used. There was an even distribution among the preferred templates for conducting IA in the Metropolitan Municipality.

In the 4 cases of 'free form' IA, it is noticeable that a hybrid approach was adopted - on the one hand, the main questions from the RSMIA form were included, but on the other hand, without the methodological explanations included in the form, the final result resembles the rather laconic and superficial way of completion observed in the IA that followed the NA form. In the case of the draft

¹³ A comprehensive IA was carried out for the [draft Ordinance on the procedure for the establishment and exercise of the rights of the municipality in public enterprises and commercial companies with municipal participation in the registered capital](#)



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amendment to the Rules of Procedure of the Metropolitan Municipal Council¹⁴, the most typical and defining feature of the preliminary impact assessment is missing, namely the consideration of different options for action. Thus, the so-called "impact assessment" is completely meaningless. Similarly, to [the draft Ordinance on the procedure for the management of forest territories owned by Sofia Municipality](#) a "partial preliminary impact assessment" has been prepared, the first section of which is entitled "Need for the adoption of the Ordinance", which presupposes the outcome of the analysis in the first place and speaks of a preliminary decision that the assessment will aim to support.

In the only comprehensive preliminary assessment carried out, it is stated that it was prepared on the basis of Article 20, paragraph 4 of the RA as it relates to a brand new normative act - the draft Ordinance on the procedure for establishing and exercising the rights of the municipality in public enterprises and commercial companies with municipal participation in the registered capital. However, there is no established practice of carrying out comprehensive assessments of draft entirely new normative acts. This can partly be explained by the use of the NA form. In some cases, it has been erroneously stated that a 'full ex-ante IA'¹⁵ has been carried out using the NA form regulated in the Rules of Procedure of the National Assembly, which does not distinguish between 'partial' and 'full' impact assessments, and is considerably lighter in content and less thorough than the RSMIA partial IA form.

Given the lack of a statutory obligation for local authorities to carry out IAs at this stage and the use of IAs only as good practice, the number of preliminary impact assessments carried out is extremely high.

There is no information available on the website of the Sofia Municipality on subsequent assessments carried out in the period 2018-2020.

2. Large municipalities

2.1. Plovdiv Municipality

The draft bylaws are posted on the council's website, but there is no notice attached to the bylaws indicating the PC period and the contacts to whom comments on them can be sent. In some cases, this

¹⁴ <https://www.sofia.bg/web/guest/regulations-sofia-council-8733>

¹⁵ See also PC on: [Draft Ordinance amending and supplementing the Ordinance on relocatable objects, advertising, informational and monumental-decorative elements and advertising activity on the territory of Sofia Municipality](#)



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information is placed at the beginning of the draft legislation itself or the report accompanying it, or in the "Public Consultation" section of the IA. There is no possibility to publish comments on the sub-page of each individual draft legislative act. That is, interested parties should first read the report or the IA to find out what deadline they have for submitting their comments, then they should calculate when it expires according to the date of publication of the draft legal act and finally they should send their comments to the Municipality of Plovdiv in any way they see fit.

Table 5. Number of public consultations on legal acts held on the territory of Plovdiv Municipality for the period 2018-2020.

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|---|----------------------------|--|
| 2020 | 15 | 3 | 8 |
| 2019 | 14 | 1 | 6 |
| 2018 | 22 | None | 17 |

In a number of cases, due to the lack of a clearly described regulation for the specific public consultation and the lack of a reference to the contributions received, it is impossible to determine in what timeframe the PC ¹⁶ was conducted.

For the last quarter of 2019, the practice has been to publish the reports under separate headings of the draft legislation, which also makes it difficult for stakeholders to follow the development and results of PC ¹⁷

¹⁶ See for example: [Draft Ordinance amending and supplementing the Ordinance on determining the amount of local taxes on the territory of Plovdiv Municipality](#); [Draft Ordinance amending and supplementing the Ordinance on the initial amount of rental prices of properties - municipal property](#); [Ordinance amending and supplementing the Ordinance on the procedure for acquisition, management and disposal of municipal property](#); [Ordinance amending and supplementing the Ordinance on the determination and administration of local fees and prices of services on the territory of Plovdiv Municipality](#); [Ordinance amending and supplementing the Ordinance on determination and administration of local fees and prices of services](#);

¹⁷ See e.g., <https://www.plovdiv.bg/pna-archive/>



Table 6. Number of preliminary impact assessments carried out on the territory of Plovdiv Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | Number of preliminary IA | |
|------|--|-------------------------------------|------|
| | | Partial | Full |
| 2020 | 15 | 10 (7 form RSMIA, 3 form RPNA) | None |
| 2019 | 14 | 11 (7 form RSMIA, 4 form RPNA) | None |
| 2018 | 23 | 25 (15 form RSMIA, 10 form RPNA) | None |

While most of the IA prepared have followed the RSMIA template model, in a number of cases there has been a sustained simplification. The 'positive impacts' and 'negative impacts' fields have been replaced by 'benefits' and 'costs' respectively, resulting in a considerably more limited examination of the impacts of the options, limited to their economic manifestations and consequently ignoring the social and environmental ones.

The higher number of IAs carried out in 2018 compared to the number of normative acts is due to the fact that three impact assessments were published to the [draft Ordinance on amendment and addition to the Ordinance on determination and administration of local fees and prices of services on the territory of Plovdiv Municipality](#), published on 20.12.2018 and to the [draft Ordinance on amendment and addition to the Ordinance on determination and administration of local fees and prices of services on the territory of Plovdiv Municipality](#), published on 26.10.2018.

There is no information on the website of the Plovdiv Municipality about comprehensive preliminary assessments or subsequent assessments carried out in the period 2018-2020.

2.2. Varna Municipality

On the official website of the Varna Municipality (<https://www.varna.bg/bg/2>) there is no information about the PC. The sub-section "Draft documents" is poorly developed - it contains only 4 Mayor's proposals from 2020.



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A thorough examination of the website shows that the Municipal Council has a separate website (<https://varnacouncil.bg/>) where the draft regulations are published.

Table 7. Number of public consultations on legal acts held on the territory of Varna Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 13 | 3 | 3 |
| 2019 | 13 | 6 | 2 |
| 2018 | 11 | None | None |

In most cases, it is explicitly noted under the entry of each draft regulation in case the PC period is shortened. The reasons for the shortening are given in the explanatory memorandum(s) to the act.

References to opinions received are rarely published.

During the period under review, a total of 24 partial preliminary assessments were carried out, all under the NA form. There are no records of full ex-ante or ex-post evaluations.

2.3. Burgas Municipality

On the official website of the Municipality of Burgas there is a separate section where the draft normative and general administrative acts are published by year.

Table 8. Number of public consultations on legal acts held on the territory of Burgas Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 49 | 11 | 4 |
| 2019 | 28 | 10 | 5 |
| 2018 | 18 | None | 4 |



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In the record of each act there is a brief announcement of the beginning and end of the announced PC, as well as the way in which submissions can be sent. If the period is shortened, again there are reasons for this. In many cases, the shortening of the time limit remains absolutely unmotivated, and when reasons for shortening the time limit are given, they are limited to statements about "the need to secure the activity" of a municipal enterprise or "the need for the Municipal Council - Burgas, mandate 2019 - 2023 to take timely measures to take urgent decisions important for the citizens of the city of Burgas" without any further specifications.

In addition to being the municipality that conducted the most PCs among the surveyed municipalities for the period 2018-2020, the Municipality of Burgas is the only one that has a long-standing practice of publishing acts of public consultation in parallel on the Public Consultation Portal of the Council of Ministers. The number of reports prepared on the opinions received is very low. In one case, only a 'list of submissions received' ¹⁸is published, with no description of the submissions themselves, still less whether they were accepted or not and why.

There is no practice in the municipality of Burgas of drawing up an IA.

2.4. Pleven Municipality

In the period under review, a total of 35 draft regulations were published on the website of the Municipality of Pleven. At the end of the draft itself or of the explanatory memorandum, it is explained in smaller print as a "remark" that on the basis of Article 26(4) of the RA the interested parties may express their opinion on the draft within a certain period of time. In some cases even this explanation is missing¹⁹. In the only case of a shortened time limit of the PC, no reasons are given for the necessity²⁰.

There are no published statutory summaries of the opinions received within the PC.

There is no practice of drafting the IA

¹⁸ See also the [Draft Ordinance for supplement and amendment of the Ordinance on the determination and administration of local fees and prices for services on the territory of the Municipality of Burgas](#), adopted by the Municipal Council - Burgas, published on 14.07.2018.

¹⁹ See for example: [draft AA of Ordinance 33 on financial support for sports clubs on the territory of the Municipality of Pleven](#) dated 13.11.2020; [draft new Ordinance No. 11 the symbols, signs, official holidays and awards of the Municipality of Pleven](#) dated 28.02.2018; [proposal for the adoption of a new Ordinance No. 9 on the use of pastures and meadows](#) dated 15.10.2018

²⁰ See for example: [Draft amendment to Ordinance No. 2 of the Municipal Council](#) dated 22.05.2018 г.



Low number of reports on comments received.

No practice on the preparation of IA.

3. Medium-sized municipalities

3.1. Blagoevgrad Municipality

On the website of the municipality of Blagoevgrad there is a subsection "Draft Ordinances".

Table 10. Number of public consultations on legal acts held on the territory of Blagoevgrad Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 21 | 3 | 6 |
| 2019 | 6 | 1 | 1 |
| 2018 | 5 | None | 1 |

The deadlines for submitting comments are set out in the consultation documentation itself. The manner in which contributions should be sent is not always described.

On 4 occasions in 2020,²³ [1 case in 2019](#) and [1 case in 2018](#) the timing and manner of the public consultation is not mentioned at all.

For example, in Proposal No. B-00-322 on June 11, 2020, we understand that a 30-day public consultation was conducted only from the published [record of comments received](#).

[on the determination and administration of local fees, prices of services and rights on the territory of the municipality of Ruse of 01.05.2018; Adoption of the Regulation amending the Regulation on the organization and activities of the Municipal Council - Ruse, its committees and its interaction with the municipal administration of 16.03.2018. ; Adoption of the Ordinance amending and supplementing the Ordinance on the terms and conditions for the use of the social service "Social Housing" of 16.03.2018; Adoption of the Ordinance amending Ordinance No. 16 on the determination and administration of local fees, prices of services and rights on the territory of the Ruse Municipality of 16.02.2018; Adoption of the Ordinance amending Ordinance No. 18 on public order in the use of vehicles on the territory of the Ruse Municipality of 06.02.2018.](#)

²³ See also: [Motion by the PP Group "Green Party" regarding the draft Ordinance on the organization of work and conditions of keeping dogs in temporary shelters dated 12.10.2020](#), [Motion No. P-00-339/09.11.2020](#), [Motion No. 69-00-1144/12.11.2020](#) and [Motion No. I-00-391/07.12.2020](#).



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In the three-year period under review, there has been one partial preliminary IA using the NA form, i.e. there can be no question of an established practice of carrying out IA. There is no information on any full ex-ante or ex-post assessments carried out in the period 2018-2020. There is a low number of reports on the opinions received.

3.2. Kurdzhali Municipality

The draft regulations are posted in a separate subsection. There is no notice visible from the website explaining the conditions for the PC, the information is in the documentation of the draft legislation.

Table 11. Number of public consultations on legal acts held on the territory of Kurdzhali Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 6 | 1 | 4 |
| 2019 | 4 | 1 | 1 |
| 2018 | 21 | None | None |

In the case of the [draft Ordinance on the symbols of the municipality of Kurdzhali](#) with the relevant reasons of June 5, 2020, the deadline of the PC is shortened to 14 days, but without an explanation of what makes this necessary.

In 2019, the [Draft Ordinance on Waste Management on the Territory of the Municipality of Kurdzhali](#) was published without the text of the proposal and the reasons for it, and without any instructions on how and when the PC would be held.

A relatively low level of published references is found.

On 9 February 2021 it was announced that within the framework of the “Citizen Access” project of the Civic Participation Forum Network, the Municipality of Kurdzhali, in partnership with the “Kurdzhali Decides” Association, is implementing the innovative online public consultation platform



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CONSUL, used in over 30 countries worldwide and by more than 130 public institutions. The initiative aims to improve the municipality's interaction with citizens by creating a unified and accessible section on Kardzhali Municipality's website with information on upcoming and ongoing consultations, how to participate, forms for submitting comments and opinions and the results.²⁴

Data shows that there is an established practice in the municipality of Kardzhali of preparing preliminary impact assessments. Even 2 comprehensive ex-ante assessments were carried out in the period. There is no information on subsequent assessments carried out in the period 2018-2020.

Таблица 12. Брой предварителни оценки на въздействието, извършени на територията на община Кърджали за периода 2018-2020 г.

| Year | Number of regulatory acts (regulations and rules) | Number of preliminary IA | |
|------|--|--------------------------|---|
| | | Partial | Full |
| 2020 | 6 | 3 (3 form RSMIA) | None |
| 2019 | 4 | 1 (1 form RSMIA) | None |
| 2018 | 21 | 3 (3 form RSMIA) | 2 (on the model used by the executive authority before there was a form) ²⁵ |

²⁴ https://www.kardjali.bg/?pid=2.2&id_news=7848

²⁵ The comprehensive IAs are to the Draft Ordinance on Determination of Local Taxes on the Territory of the Municipality of Kardzhali of 25 May 2018, Draft New Ordinance on Determination and Administration of Local Fees and Services on the Territory of the Municipality of Kardzhali of 25 June 2018.



3.3. Vidin Municipality

On the municipality's website there is a separate sub-section "Draft legislation", and there is a search engine allowing to specify the time period and search by keywords. The problem is that apparently the site was updated in May 2019, with the result that even older draft regulations were published then and not all entries explicitly specify the correct date of original publication. Therefore, there may be slight discrepancies between the 2019 and 2018 numbers below.

There is not always a justification for shortened PC deadlines ²⁶.

Table 13. Number of public consultations on legal acts held on the territory of Vidin Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 10 | 3 | None |
| 2019 | 12 | None | None |
| 2018 | 2 | None | None |

In [the draft amendment to the Regulations on the organisation and activities of the Municipal Council - Vidin and interaction with the municipal administration](#) dated 23.06.2020, [the draft Ordinance on the conditions and procedure for establishing the housing needs of citizens, rental accommodation and sale of housing](#) dated 22.05.2020 it is stated that the project has been published for PC in accordance with Article 26 of the RA, but the start date, duration and modalities for participation in the PC are not specified. A similar practice was observed in 2019.²⁷ Similarly in [the draft Ordinance on the conditions and procedure for public discussion, incurring, servicing and management of municipal debt of Vidin Municipality](#) dated 05.05.2020, although an e-mail address is provided for sending the submissions, the

²⁶ See for example: [Draft Ordinance of Vidin Municipality on the Conditions and Procedures for Accommodation and Use of Social Housing in Vidin Municipality](#) dated 06.01.2020.

²⁷ See also: [Draft Amendment to the Ordinance on Determination of the Amount of Local Taxes of Vidin Municipality](#); [Draft Amendment to the Ordinance on Determination and Administration of Local Fees and Prices](#); [Draft Amendment to the Ordinance on Conditions and Procedure for Establishing the Housing Needs of Citizens](#); [Draft Amendment to the Ordinance on Waste Management on the Territory of Vidin Municipality](#);



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deadline of the PC is not specified. In a third case, there is no mention of the PC at all in the documentation uploaded to the draft legislative act²⁸.

In 4 cases, together with the documentation on the draft regulations, a "Comments and proposals form" is attached in the form of a blank table in which the proposals and opinions received are to be entered. However, it is not clear whether the form was left blank, because no opinions have been received or uploaded for information at the beginning of the consultation. The production of the report required by the RA implies explicit reporting in the absence of comments, which has not been done in this case.

No practice of carrying out IA.

3.4. Lovech Municipality

On the municipality's website there is a separate subsection "Draft Statutory Documents", where each draft is published in separate files with the attached documents. In general, there is a separate file with a notification of the timing and manner of the PC.

Table 14. Number of public consultations on legal acts held on the territory of Lovech Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 3 | None | 2 |
| 2019 | 11 | 6 | 7 |
| 2018 | 13 | 8 | 1 |

²⁸ See for example: [Draft Amendments to the Regulations on the Organisation and Activities of the Municipal Council - Vidin and Interaction with the Municipal Administration](#) dated 05.05.2020; [Draft Ordinance on the order of management of the forest territories - municipal property of Vidin Municipality](#); [Draft Ordinance No. 1 on the protection and maintenance of public order in Vidin Municipality](#); [Draft amendment to the Regulations on the organization and activities of the Municipal Council - Vidin and interaction with the municipal administration](#); [Draft Ordinance on the order of acquisition, management and disposal of municipal property](#); [Proposal for amendment to the Ordinance on the order of ownership and keeping of domestic dogs](#);



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In 2019 and 2018, more than half of the PCs were conducted under shortened timelines, and in only one of these cases were reasons given for the need to do so. In one case, [the draft Ordinance on amendment and addition to the Ordinance on local taxes in the municipality of Lovech](#) dated 17.02.2020 does not contain any mention of the PC.

On 23.12.2020 the Ordinance on public consultations by Lovech Municipality was adopted, effective from 07.01.2021. The draft Ordinance on public consultations was developed by municipal experts with the help of experts from the Civic Participation Forum and the Bulgarian Center for Nonprofit Law. It is also the result of the overall joint work of Forum Civic Participation and the Bulgarian Center for Nonprofit Law with the Municipality of Lovech and the Association "Civic Initiatives - Lovech" in the framework of the initiative "Citizens Access"²⁹.

The municipality of Lovech is one of the municipalities that consistently carry out preliminary impact assessments. There is no information on comprehensive ex-ante or ex-post assessments carried out in the period 2018-2020.

Table 15. Number of preliminary impact assessments carried out on the territory of Lovech Municipality for the period 2018-2020.

| Year | Number of regulatory acts (regulations and rules) | Number of preliminary IA | |
|------|--|--------------------------|------|
| | | Partial | Full |
| 2020 | 3 | 2 (2 form RSMIA) | None |
| 2019 | 11 | 8 (8 form RSMIA) | None |
| 2018 | 13 | 3 (3 form RSMIA) | None |

3.5. Smolyan Municipality

On the municipality's website there is a separate subsection "Public Discussions", where information about the public consultations is also published. It is noticeable that 'community consultation'

²⁹ <https://www.fgu.bg/blog/nov-vhod-za-grazhdani-otvarya-obshtina-lovech/>



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is often used as a synonym for 'public consultation'. In addition to terminological inconsistency, this practice does not correspond to the terminology of the RA, which refers to 'public consultations'.

Table 16. Number of public consultations on legal acts held on the territory of Smolyan Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 9 | 1 | 8 |
| 2019 | 7 | None | 5 |
| 2018 | 6 | 1 | 4 |

Smolyan Municipality has one of the highest shares of published reports in relation to the total number of PCs conducted.

Table 17. Number of public consultations on legal acts held on the territory of Gotse Delchev Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | Number of preliminary IA | |
|------|--|--------------------------|------|
| | | Partial | Full |
| 2020 | 9 | 7 (7 free form) | None |
| 2019 | 7 | 4 (4 free form) | None |
| 2018 | 6 | None | None |

In the municipality of Smolyan it has become a practice to include as part of the motives to the draft normative acts a point "Partial preliminary and subsequent impact assessment". A 'partial ex-ante impact assessment' is understood as a statement of the objective, followed by a 'No Action' option and an 'Adoption of the legislation' option, each described in one sentence. In some cases, this 'assessment'



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is expanded with an equally brief reference to stakeholders, potential risks and an assessment of the need to carry out a full IA.³⁰

The approach of equating the impact assessment of a motivation section to a legislative act is conceptually flawed. The explanatory memorandum to a draft legislative act expresses the opinion of the proposer as to why his proposal should be adopted, i.e. it is by definition subjective and one-sided and presents only the arguments in favor of the proposed amendment. The impact assessment, on the other hand, should identify the existing problems, consider different options to address them and, on the basis of an objective analysis carried out in accordance with scientifically unquestionable methods, reasonably propose the most appropriate way to deal with the existing problem, and the chosen favorite option does not necessarily have to involve regulatory intervention. That is to say, reasoning and impact assessment are completely opposite thought activities in their nature and purpose. Reasoning is entirely subjective, whereas impact assessment claims to be objective and data-driven.

The term "ex-post impact assessment" provides for a time limit for the ex-post assessment of the draft act under consideration, which coincides with the 5 years set in the RA after its entry into force. Insofar as such content does not correspond in any way to the objectives and format of the ex-post impact assessment, it has not been taken into account in the census.

4. Small municipalities

4.1. Gotse Delchev Municipality

In the section "Public Consultations" the draft legal acts are published, together with the reasons for them and the regulation (time and manner) for holding the PC, although the term "public consultation" is not mentioned anywhere. There is no possibility to publish comments directly under the draft legal act itself.

The references are published in separate entries from the legal acts themselves, which is not optimal from the point of view of the convenience of citizen-users of the website. Given the relatively

³⁰ See for example: [Draft Amendment and Supplement to Ordinance No. 2 on the Determination and Administration of Local Fees and Service Prices in the Municipality of Smolyan](#) from 13.11.2020; [Draft Amendment and Supplement to Ordinance No. 3 on Determination of the Amount of Local Taxes on the Territory of the Municipality of Smolyan](#) from 13.11.2020; [Draft Ordinance No. 16 on the objects and elements of urban furniture under Art. 56 of SPASPA](#) from 19.11.2019; [Draft Ordinance No. 3 on determining the amount of local taxes on the territory of the Smolyan Municipality](#) from 19.11.2019.



low legislative activity of Gotse Delchev Municipal Council, this shortcoming does not create a real problem.

Table 18. Number of public consultations on legal acts held on the territory of Gotse Delchev Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 2 | None | 2 |
| 2019 | 2 | None | 1 |
| 2018 | 2 | None | 2 |

No practice of carrying out IA.

4.2. Troyan Municipality

On the Troyan municipality website there are two subsections dedicated to draft regulations: 'Draft Ordinances' (in the municipal administration section) and 'Draft Ordinances, Regulations and Programmes' (in the Municipal Council section). It is not clear on what basis the information in the two subsections is divided. There are some overlaps in the content of the draft regulations, for which there is a reference to Article 26 of the RA in the entry (and not in the draft documentation itself), but it is not clear what criterion distinguishes these drafts from the others. The data presented in the table represent the summarised results of the two-page review.

Another shortcoming of the website is the publication of the references under Article 26(1)(a) and (b). 3 of the RA in a separate sub-section "Public Consultation Reports" in the section of the Municipal Council, which is again a disconnection of information and a prerequisite for user difficulty. This is largely pointless as the references are also published with the draft regulations themselves.

This fragmentation of information, without an explicit explanation of the logic behind it, implies a relatively large effort on the part of citizens, first to orient themselves in the organisation of the site and then to find the draft act that interests them.



Table 19. Number of public consultations on legal acts held on the territory of Troyan Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 6 | None | None |
| 2019 | 12 | None | 2 |
| 2018 | 14 | None | 1 |

In 2020, of the 3 draft regulations prepared by the Mayor, only 1 has instructions on the time and manner of holding the PC under Article 26 of the RA. Of the 3 draft ordinances prepared by municipal councillors, 1 does not have any instructions for PC.

In 2019, out of 12 draft bylaws, 2 have no instructions on the time and manner of holding PC under Article 26 of the RA.

In 2018, out of 13 draft legal acts, only 4 have instructions on how to conduct PC under Article 26 of the RA, and 3 of them do not specify the time period in which the proposals will be accepted.

There is no practice on conducting the IA.

4.3. Dulovo Municipality

There is a subsection on the municipality's website called "Draft Regulations". There is no possibility to post comments on the site itself. The references (and sometimes the reasons for the regulations) are published in separate entries from the drafts themselves. When a shortened PC is announced, there is no justification for the need to do so.

Table 19. Number of public consultations on legal acts held on the territory of Dulovo Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 5 | 2 | 2 |
| 2019 | 1 | None | 1 |
| 2018 | 3 | 2 | None |



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There is no practice of preparing IA.

4.4. Popovo Municipality

On the website of the municipality, in the section dedicated to the work of the Municipal Council there is a subsection "Draft new regulations of the Municipal Council". It is likely that the website is relatively new because the most recent data available is from late 2019.

Таблица 20. Number of public consultations on legal acts held on the territory of Popovo Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|--|-------------------------------|---|
| 2020 | 5 | None | 4 |
| 2019 | 1 | None | 1 |
| 2018 | No data | No data | No data |

There are 3 PPIAs prepared in 2020 and 1 in 2019 using the 44th NA formula. There is no evidence of comprehensive ex-ante or ex-post IAs being performed.

4.5. Lom Municipality

On the website of the municipality, in the section dedicated to the work of the City Council there is a subsection "Draft Ordinances, Programs and other documents for public discussion". In a number of cases, the entire drafts, the reasons for them and the references under Art. 26, para. 3 of the RA are published directly on that page (and not in attachments or through referring links), which makes it difficult to navigate through the chronology. In addition, the references are published in separate entries at the time of their drafting instead of in the entry with the draft legislative act, which leads to fragmentation of information.



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Таблица 21. Number of public consultations on legal acts held on the territory of Lom Municipality for the period 2018-2020

| Year | Number of regulatory acts (regulations and rules) | PC with shortened duration | Published summaries of opinions received |
|------|---|----------------------------|--|
| 2020 | 8 | None | 8 |
| 2019 | 10 | 2 | 8 |
| 2018 | 8 | None | None |

There is a discrepancy between the 30-day PC period specified in the Reasons for Adoption and the draft updated [Lom Municipal Fire Safety Ordinance](#) dated June 4, 2019 and the published June 25, 2019 reference.

There is no practice of preparing the IA

IV. ANNUAL REPORTS ON THE STATE OF THE ADMINISTRATION

Pursuant to Article 62(2) of the Law on Administration, the Prime Minister shall submit to the Council of Ministers annually by 30 April a report on the state of the administration (including municipal administrations), which shall be approved by the Council of Ministers.

Some of the issues on which the administrations provide information to the Council of Ministers annually for the purpose of preparing the report are devoted to impact assessment. Insofar as the [Annual Reports on the State of the Administration](#) present aggregated information for all municipalities, the specific relevant data for the municipalities under consideration were provided by the Administration of the Council of Ministers at the request of the Institute of Public Administration for the purposes of this study. The charts below present the relevant data for the period 2018-2020.

Only five of the municipalities (Blagoevgrad, Dulovo, Kardzhali, Popovo and Ruse) responded positively to the question whether they have implemented rules and methodologies for monitoring, control and ex-post impact assessment in the implementation of legislation and policies. The information available on the municipalities' websites suggests that these are methodologies for assessing progress on



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strategic programmes, which follow the principles of operational programme evaluation rather than ex-post impact assessment within the meaning of the RA.

Only four of the municipalities surveyed claimed to have carried out impact assessments prepared on the basis of the RA and RSMIA:

Таблица 22. Number of IAs carried out on the basis of the RA and RSMIA in the period 2018-2020 by municipality

| <i>Municipality</i> | Year | | |
|---------------------|-------------|-------------|-------------|
| | 2018 | 2019 | 2020 |
| <i>Varna</i> | 1 | 1 | 10 |
| <i>Vidin</i> | 12 | 0 | 0 |
| <i>Dulovo</i> | 3 | 1 | 2 |
| <i>Sofia</i> | 27 | 8 | 9 |

The differences in results between the review of the current situation carried out above and the data claimed by the municipalities to ACoMin can be explained by several factors:

- 1) Reporting on the number of IAs prepared on the basis of the RA and RSMIA, the municipal administrations also reported on IAs prepared on non-statutory acts (strategies, plan-accounts, programs, award statutes, etc.), while the review of the current state only considered the process of creating regulations (bylaws and ordinances) at the municipal level.
- 2) The Present Status Review unequivocally found that the municipality conducts the IA using the template described in the 44th NA and RPNA. Given that in their report to ACoMin, the municipality cited as examples of IA prepared under the NA and RSMIA regulations where the IA was apparently prepared using the RPNA template, it is most likely a matter of ignorance of the existence of more than one template.
- 3) The question arises, if Vidin Municipality and Dulovo Municipality have prepared impact assessments, why they have not been uploaded on their websites for public consultations,



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together with the rest of the documentation on the draft legal acts and why the impact assessments in question are not even mentioned as an annex to the draft legal acts or the explanatory notes to them.

V. SURVEY AMONG MUNICIPALITIES

1. Methodology of the survey among municipalities

The survey among municipalities under **Activity 2** was carried out in the period 11.05.2021-25.05.2021. An official letter from the Institute of Public Administration was sent to the municipalities, providing a brief description of the content and objectives of this analysis and a link to participate in the survey.

The survey itself was conducted in the form of a questionnaire of 13 main questions. 10 of the main questions were of the "closed" type. A positive answer to 3 of the questions "unlocked" additional specific questions which implied a free response with no predefined options.

The questionnaires were completed by the municipalities anonymously (via Google Forms) to ensure maximum directness and frankness of answers.

2. Results of the survey among municipalities

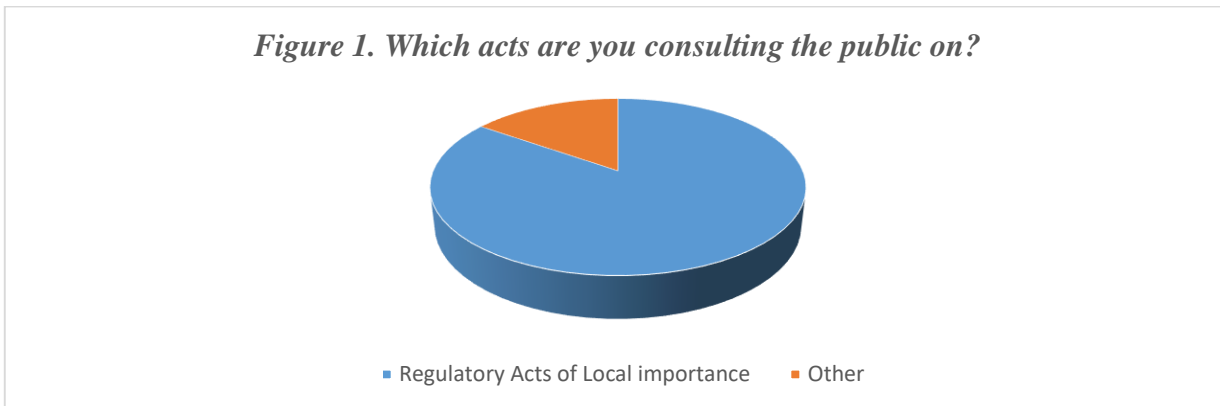
A total of 13 completed questionnaires were received from the 16 municipalities to which the questionnaire was sent.

When asked whether representatives of the municipality had participated in trainings, masters programmes, postgraduate courses or other training events on impact assessment and public consultation in Bulgaria, only one municipality indicated that two of its officials had attended an Impact Assessment course organised by the IPA in 2018.

All responding municipalities state that they conduct public consultations in compliance with the requirements of the RA, providing the opportunity to submit free form comments.

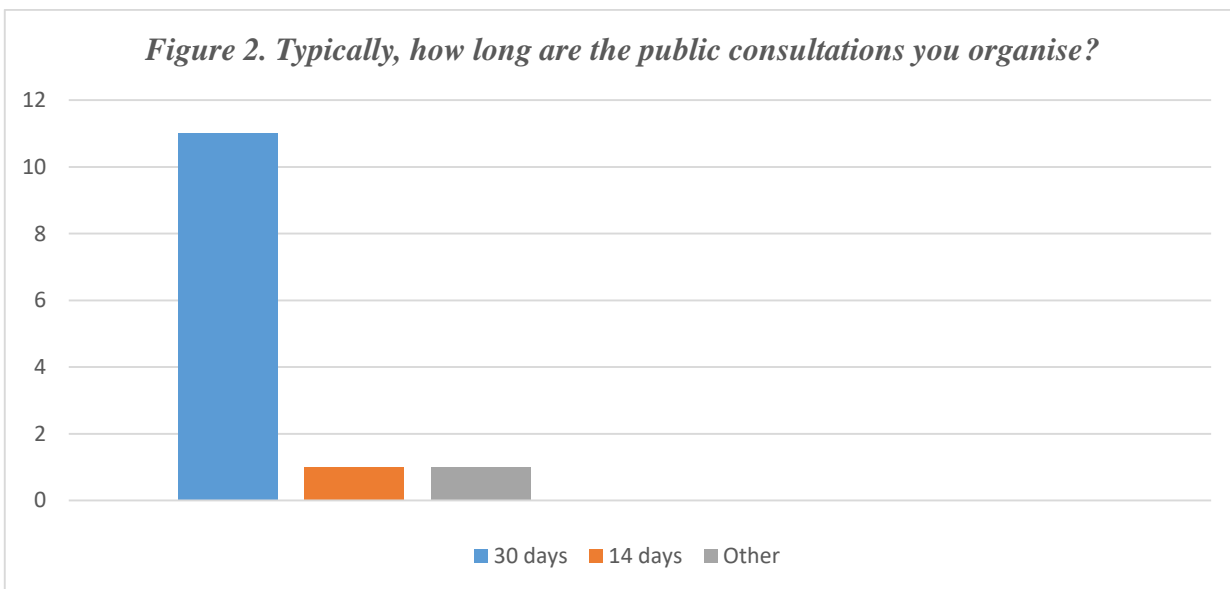


Figure 1. Which acts are you consulting the public on?



85% (11 respondents) indicated that they perform PC on locally relevant regulations. One municipality stated that they carry out public consultations on municipal programmes. Another answer states that *"Municipal consultations are held for legal acts of local importance, municipal programmes, strategies, assumption of municipal debt, a plan-account for the revenue from the municipal waste tax and the costs of services for the collection, removal and disposal of municipal waste and cleanliness on the territory of the municipality."*

Figure 2. Typically, how long are the public consultations you organise?



Only one respondent indicated that the usual timeframe for holding a PC in their municipality is 14 days. In one case it was indicated that the timeframes were different.



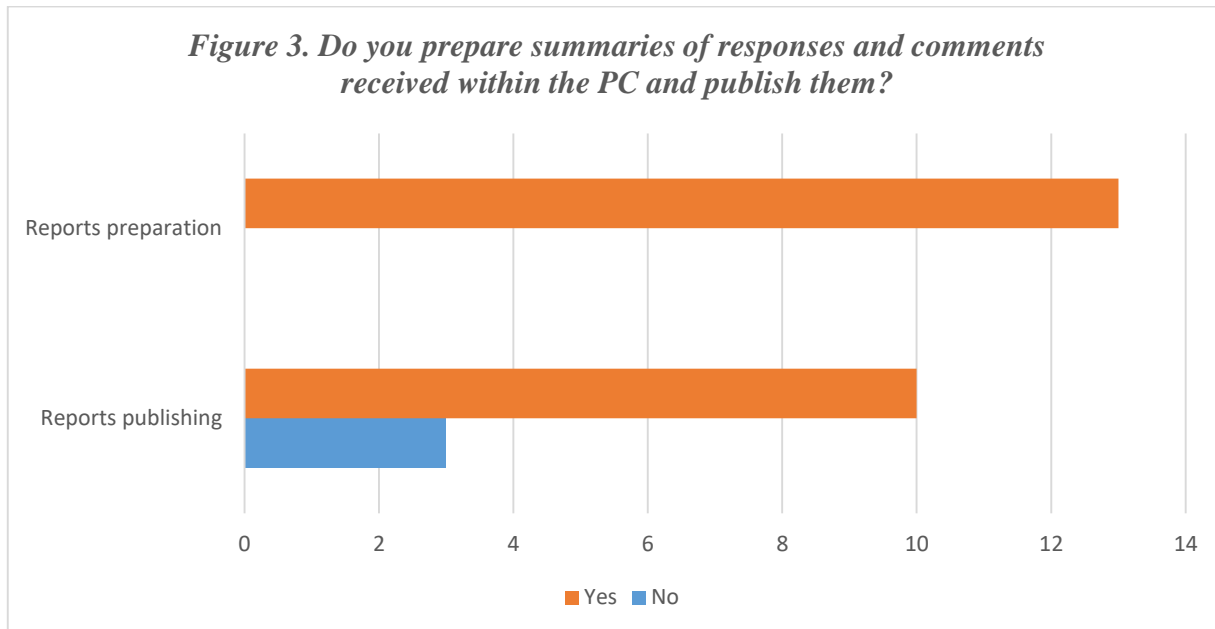
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With regard to the obligation under Article 26(5) of the RA, all respondents stated that they make a reference to the proposals received together with a justification for the proposals not accepted. Three of the respondents stated that they do not regularly publish them.

Ten out of thirteen representatives of municipalities responded affirmatively that they have an established practice of participating in consultations conducted by the executive branch in the framework of the partial preliminary impact assessment process and/or in public consultations under Article 26 of the RA as potential stakeholders.

Just over 60% of respondents stated that they have a practice of carrying out impact assessments. When asked what methodology they used when carrying out the IA and why they chose it, the answers varied:



Table 23. Comparison of the choice of methodology for performing the IA and the rationale for choosing this particular methodology

| Number of respondents indicating this answer | What methodology and what form do you use for the partial ex-ante evaluation?? | What were your considerations for this choice of methodology and form?? |
|--|--|---|
| 2 | <i>"Regulation on the Scope and Methodology for Impact Assessment, Annex 1"</i> | <p><i>"Art. 19 and Art. 3 of the Regulations Act."</i></p> <p><i>"The Regulation on the scope and methodology for impact assessment is issued on the basis of the Regulations Act and the methodology included in it is in line with the current legislation. In the regulations adopted by the ...,³¹ there is no specific impact assessment form."</i></p> |
| 2 | <i>"Partial ex-ante impact assessment form"</i> | <p><i>"No comprehensive impact assessment required"</i></p> <p><i>"The preliminary impact assessment is not seen as a tool for generating arguments for the choice of a particular solution, but as a duplicate form of presentation of a text intended for the explanatory memorandum to the draft legislative act."</i></p> |
| 1 | <i>"Assessment of rationale, stakeholders and analysis of benefits and costs, changes and impacts"</i> | <i>"To carry out as comprehensive an assessment as possible."</i> |

³¹ The name of the specific municipal council is indicated in the original reply.



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| 1 | <i>"System of indicators included in programme documents"</i> | <i>"Programming document developed with the participation of city society structures, approved by the city council"</i> |
| 1 | <i>"Drafting of a report"</i> | <i>"Ability to provide more complete information"</i> |
| 1 | <i>"Stakeholder consultations"</i> | <i>"As required by the regulatory document"</i> |

Four respondents unequivocally indicated that comprehensive impact assessments had been carried out in their municipalities. The main reasons given for the preparation of a comprehensive IA were 'public perception of the proposed project', 'The impact of the act on the administration, citizens and its interaction with other RAs' (regulatory acts) and 'measuring the potential costs, consequences and side effects of future changes'.

In one case, the answer to the question of whether comprehensive ex-ante impact assessments have been carried out is ambiguous: 'An ex-ante impact assessment has been carried out in connection with the amendment of the Ordinance on Local Taxes and Fees.' The main reason given for carrying it out is 'To study the effects of making changes to the legal act.' Taken together, the two answers rather lead to the conclusion that the respondent did not pay attention to the fact that it was a 'comprehensive' IA and answered in principle.

When asked what methodology was used to carry out a comprehensive IA, a variety of answers were given, such as 'assessment of rationale, stakeholders and cost-benefit analysis, change and impact', 'indicator system', 'cost-benefit analysis' and 'public consultation'.

When asked whether follow-up impact assessments have been carried out, negative responses were overwhelming (in 77% of cases).

One answer was: *"Yes! Subsequent IAs have been carried out on strategic documents at the local level."* According to 2 others, *"Assessments have been carried out on the revenues collected, based on the draft adopted."* The responses received have been used for *"forthcoming analyses and future proposals"* and *"drawing conclusions about the positive and negative aspects of regulations at the local level."* The answers to the question "How do impact assessments support the standard-setting process in your municipality?" were entirely positive, with answers even from municipalities that stated that they do not prepare impact assessments:

"In preparing impact assessments, questions are answered to help stakeholders understand the nature of the proposed projects or changes, and to explain the municipality's policies, cause-effect relationships, and mechanisms for implementing national legislation at the local level."

"Informed decision making on the adoption of the legislation, definition of affected parties, focus groups, etc."

"Ensure effective impact and interaction with all other acts."

"Constructive approach defining expected outcomes and risk prevention"

"Transparency is achieved"

"enable judgement on the impact of future projects"

"The impact assessment allows for the definition of the stakeholders/affected entities of the implementation of the relevant regulation, the identification of their interests and the degree of protection/impairment of their interests. The assessment of the social justice and social acceptability of the relevant provisions of the bylaw guides the decision to propose the specific provisions, in line with the legal delegations of the higher level bylaws. The impact assessment shall also include a procedure for assessing the relevance of the adopted regulation to the existing legal framework at regional, national and European level, with a goal of harmonising the legal framework at all levels of the standard-setting process."

"They are a means of gathering information and analysing the situation."

When asked whether there are cases of municipalities commissioning the drafting of regulations and carrying out impact assessments for the benefit of natural and legal persons, most municipalities answer in the negative. One respondent specified that *"The drafting of a normative act is a complex and difficult process, which should take into account the specificities of each municipality. The external contractor may propose a generic version that does not meet the objectives and needs of the legislator and the wide range of persons it affects, i.e. it will have to be "refined".*

Other municipality noted *"So far, the drafting of regulations and the carrying out of impact assessments by the Municipality for the benefit of individuals and legal entities has not been commissioned, but will be set as a goal."*



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In three cases, respondents indicated that there had been outsourcing of the preparation of the IA in their municipality. The reasons given were: *"project funding programmes for civil society organisations"* and *"The choice of an external contractor is due to the specificity of the activities."*

VI. ANALYSIS OF THE COLLECTED DATA, OPINIONS AND OBSERVATIONS

1. Public consultations

The results of both the survey among the municipalities and the monitoring of their official websites clearly show that the municipalities systematically and consistently conduct public consultations both on the draft legal acts at local level and on other types of acts, such as municipal programmes, plans, strategies, etc.

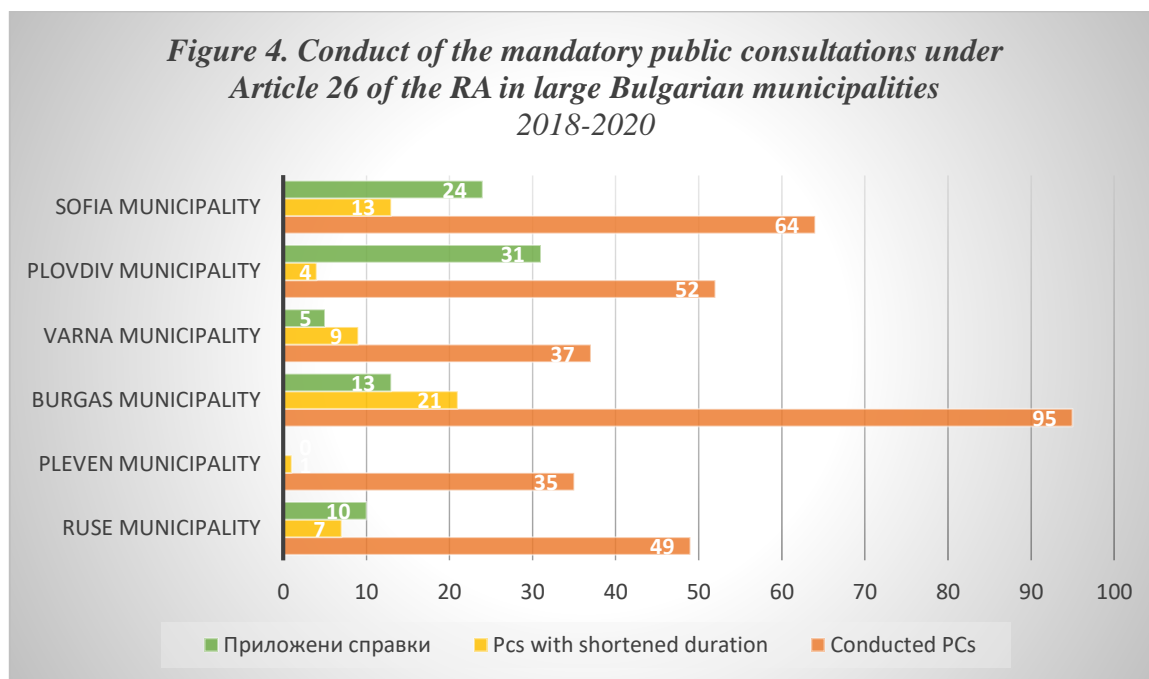




Figure 5. Conduct of the mandatory public consultations under Article 26 of the RA in medium-sized Bulgarian municipalities 2018-2020

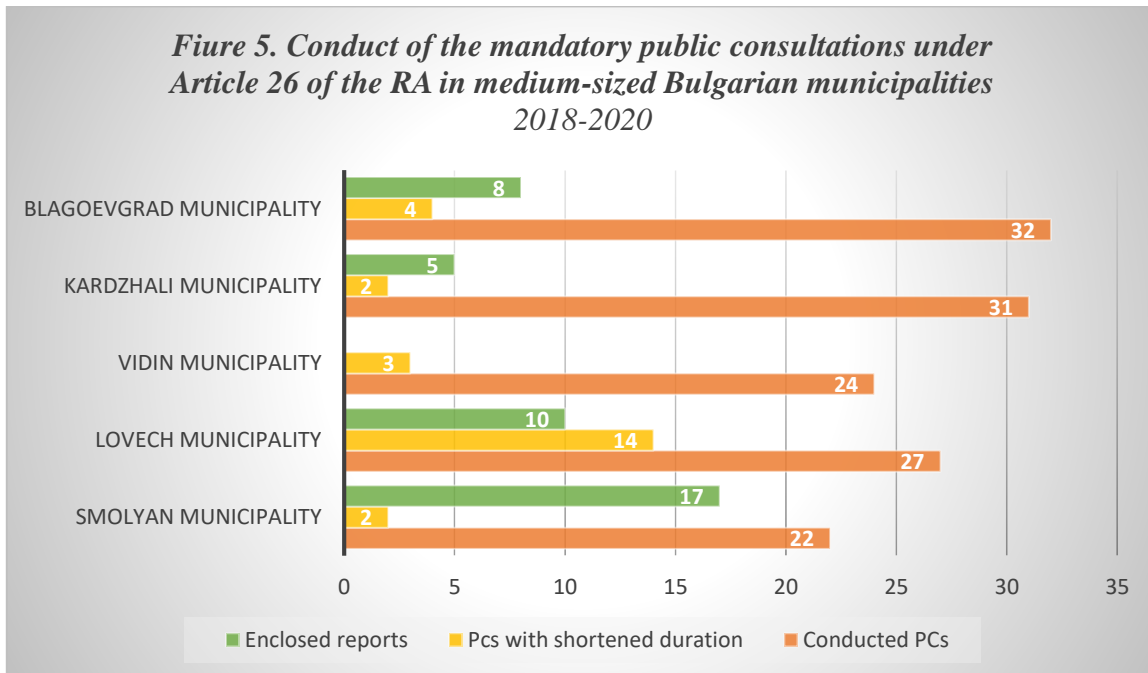
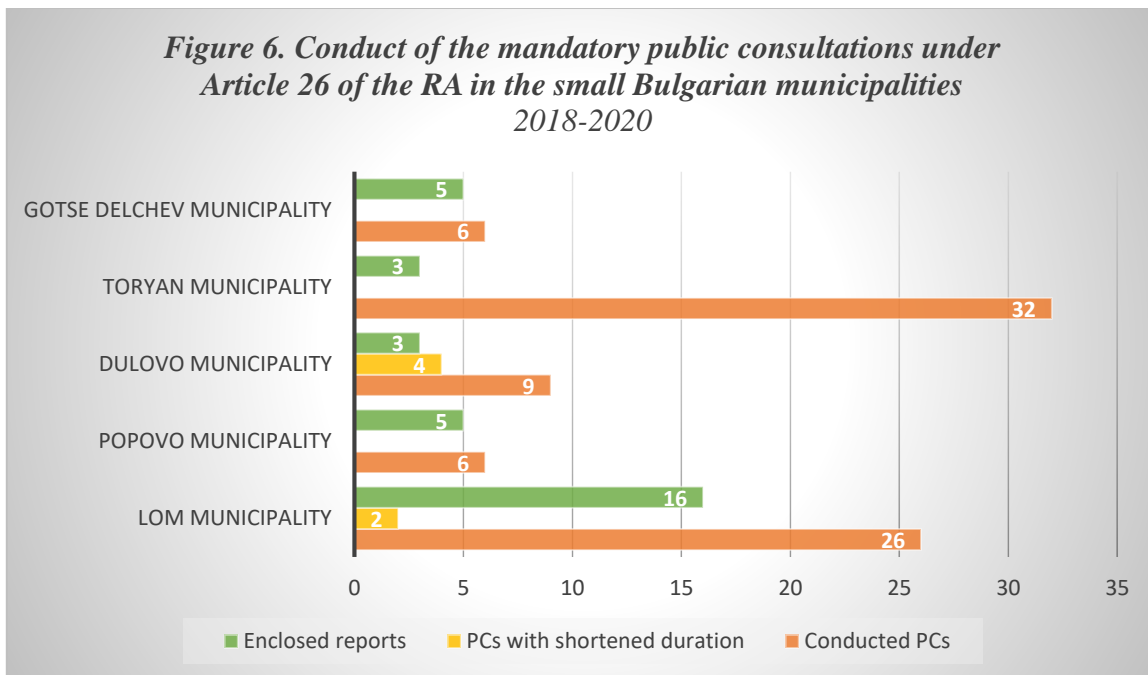


Figure 6. Conduct of the mandatory public consultations under Article 26 of the RA in the small Bulgarian municipalities 2018-2020



The data aggregated by category of municipality clearly shows that the implementation of PC under shortened timeframes at the municipal level exists, but within reasonable limits. On the positive side, overall the COVID-19 pandemic has not influenced the number of shortened PC in a major way.



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What is worrying is the almost universal absence of a well-established, consistent practice of reports reflecting the submissions received from stakeholders and how they were (not) taken into account and possibly why they were not accepted. There is a contradiction between the information available on the official websites of the municipalities and the answers they gave in the anonymous survey. A possible reason for this discrepancy could be the mistaken belief of municipal administrations that reports should only be produced and published when comments are received. Even in the absence of contributions received from stakeholders, a report stating the absence should be duly published.

In addition to being a violation of Article 26(5) of the Regulations Act, the lack of references is a serious flaw in the public consultation process insofar as it deprives citizens of feedback from the body conducting the consultation. The dialogue that gives meaning to the PC procedure has not taken place: the municipal administration has put a draft legal act up for discussion, civil society has been actively involved in the policy-making process, but the administration has not answered how this participation has been taken into account, how it has influenced, what results it has led to. Such unilateral interruption of dialogue by the administration leads to demotivation for future participation and a decline in the levels of civic engagement.

As a point of difficulty for users, it should be noted that public consultations are published under a variety of headings and in a variety of formats, which implies extensive research by the user into the structure of the municipality's website and an investment of time and effort in finding the consultation section as a whole. Navigating between individual consultations is then made even more challenging by the fact that often the documentation for the same initiative is scattered across several entries, or the reference for an initiative is published not in the original consultation entry but separately.

A further inconvenience is created by the lack (with some exceptions) of the possibility to search through the public consultations and filter them by certain criteria (e.g. period of publication or name of the act consulted). The user is thus forced to explore lists of PC records until they find the one they need.

2. Impact assesment

The practice of conducting impact assessments at the municipal level is not widespread. However, it should be noted as a positive fact that in half of the large municipalities and in almost all of the medium-



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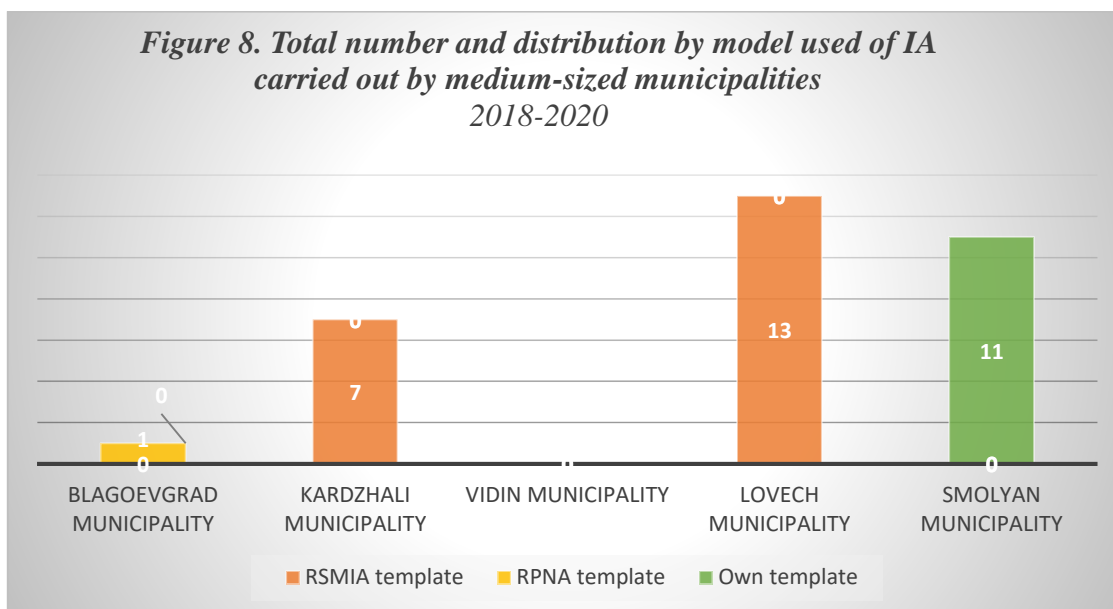
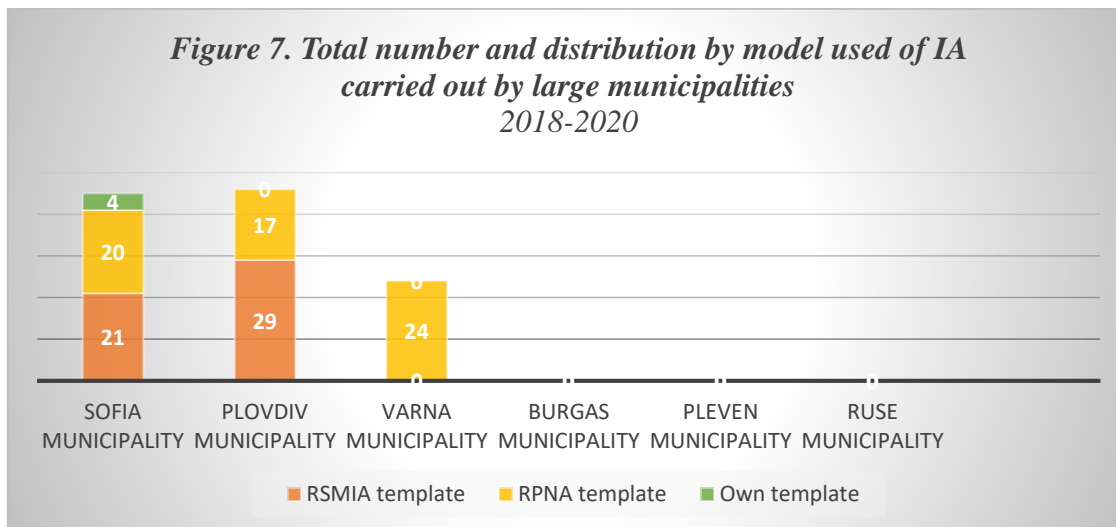


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sized municipalities surveyed it is still possible to speak of such a practice. There is no published data on IA being carried out in any of the smaller municipalities.



The distribution between the forms used (by RSMIA and by RPNA of the 44th NA) was more or less even - 70 PPIA by RSMIA versus 62 by RPNA.



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Of interest are the opinions of the representatives of the municipal administrations regarding the methodology used and the reasons for its choice. Two types of responses are observed. On the one hand, there are municipalities that have deliberately chosen the RSMIA form, insofar as the latter was prepared in implementation of the RA. The responses of the remaining municipalities sound confused, in terms of either retelling the content of the RPNA IA template, referring to a "system of indicators included in programme documents" or referring to "report preparation" or "stakeholder consultation". In addition to the arguments put forward for the choice of this particular methodology, it can be concluded that there is a lack of knowledge of the available methodological frameworks and templates (under RSMIA and RPNA) and that the choice is made rather arbitrarily.

Particularly concerning is the finding of a study participant that: *„The preliminary impact assessment is not seen as a tool for generating arguments for the choice of a particular solution, but as a second form of presentation of a text intended for the explanatory memorandum to the draft legislative act.“* I.e., the particular administration uses the IA instrument as a formality.

Such a tendency is dangerous because it vitiates and frustrates the process and the IA becomes really nothing more than a repetition or addition to the reasoning for a decision already taken. Last but not least, such formalisation is unexpected insofar as IA at the municipal level is carried out not as a legal obligation but as good practice.

Directly related to the choice of template and methodology used is the quality of the IAs carried out due to the significant differences between the two templates.

Overall, the RSMIA template is precise, detailed and thorough. Moreover, there are follow-up questions to each section of the template, which largely guide the IA compiler to the type and the thoroughness of the information they are expected to present. There are typical mistakes made, such as considering only two options, "no action" and "enactment" and the relatively biased consideration of each. However, this is to be expected in an onboarding and training process in the optimal use of a tool. Moreover, similar mistakes continue to be made in the administration of the executive branch, which has much more often performed and been much more extensively trained in performing IA.

The issue of drafting the IA on the basis of the 44th NA RPNA template is different. In general, it suffers from a number of shortcomings, perhaps the most significant of which are its extremely general



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structure, the laconic methodological explanations to each section of the assessment, as well as the lack of an options analysis, which do not allow for an in-depth study of the problem, its possible solutions, their expected impacts and, consequently, the selection of the most appropriate option, and in practice lead to the creation of "hollow" documents called "impact assessment", which bring absolutely no added value to the legislation process .

This is particularly evident when looking directly at the IAs produced under the RSMIA and RPNA forms, even when comparing the volume in the most superficial way: an assessment under the RPNA form is in the order of half to a maximum of 3 pages, whereas under the RSMIA form it is between 5 and 15 pages.

Given that the point of conducting an IA is to add value in terms of the validity of the data proposal, the question arises as to why, in nearly half of the cases, council or municipal administration representatives would choose the less than perfect NA form, which does not have the objective advantages of a genuine, bona fide IA, but still requires the commitment of additional time and resources by the proponent in its preparation.

VII. RECOMMENDATIONS

According to the data collected, the municipal administrations have no difficulty in interpreting the legal framework of PC and IA under the RA and are fully aware of what they are obliged to do (PC) and what they are not (IA). In this sense, it can be said that there is no ongoing need for change in the statutory framework.

The identified deficits are mainly due to issues related to the practical implementation of the legal provisions. This specificity of the problems determines the nature of the recommendations set out below. With the exception of the recommendation to strictly comply with the legal requirement to publish the reports on the opinions received in the framework of the PC, all the other recommendations are more of a matter of expediency, with a view to streamlining and facilitating the PC and IA processes, both for the administrations themselves and for the citizens who are willing to be active participants in the local policy-making process.



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1. Public consultations

The first recommendation regarding public consultation at municipal level relates to **improving user accessibility to online consultations**. As explained above, the different approaches to the arrangement of municipal websites make it seriously difficult to find the section dedicated to public consultations, and there is no widespread practice of duplication on the municipal PC and on the Public Consultation Portal. In order to solve this problem, one could think in the direction of unifying the section dedicated to public consultations (analogous to the sections on "Buyer Profile" and "Access to Public Information").

Secondly, **all pages on a municipality's website dedicated to individual public consultations on draft acts must follow the same structure**. For example: a brief description of the subject matter, objectives and timing of the consultation, and the project documentation to be uploaded as separate attachments, appropriately titled (e.g. "Draft Amendment to Ordinance", "Report", "Partial Preliminary Impact Assessment", etc.). It is particularly important that the timing of the consultation is clearly stated and in a place where it is easily visible, rather than being 'hidden' in the documentation of the project under consultation.

The main recommendation to the municipalities regarding the public consultations can be synthesized in the call for strict implementation of the obligations under Article 26(5) of the RA and **regular publishing of reports on contributions received**.

The following recommendations can be made as guidelines for the preparation of the reports:

- A briefing note should be prepared and published whether or not contributions have been received to the consultation. If there are none, this should be explicitly stated in free form;
- In the event that submissions are received, each submission should be divided into separate proposals and it should be specifically stated whether each proposal is accepted or not;
- If the proposal is not accepted, the refusal should be duly reasoned;
- The report should be published with the consultation pack, otherwise it creates unnecessary difficulties for interested parties to search for it.



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Good examples for structuring and presenting information related to the consultation include [The public consultation portal of the Council of Ministers](#) и [The Public Consultation Portal of Sofia Municipality](#).

2. Impact assesment

Evidence clearly shows that the instrument of ex-ante impact assessment is gradually emerging as a good practice not only in the development of legislation but also in the broader policy-making process at local level. This means that local authorities and administrations have recognised ex-ante impact assessment as a useful tool to add value to their proposals and to enhance their overall quality. This positive attitude is also clearly evident from the responses received in the municipalities survey.

At the same time, the results of the observation and review of the current situation and the survey among the municipalities point to a poor knowledge of the IA framework and an incomplete understanding of its substantive elements and objectives. These deficiencies have the potential to lead, on the one hand, to a depletion of the identified enthusiasm for IA due to the mediocre results that will be achieved if it is poorly implemented. On the other hand, it is possible to lead to the creation of persistent erroneous practices in the preparation of the IA, which again would largely frustrate its implementation.

In this sense, the main recommendation that can be made is to **raise awareness and training of** local authorities and their administrations, including:

- dissemination of clear and synthesised information on the legal framework for impact assessment;
- drawing attention to the different methodologies available and explaining the advantages of the RSMIA methodology;
- disseminating the current Council of Ministers' guidelines for conducting ex-ante and ex-post impact assessments to gain a deeper knowledge and guidance on conducting an IA;
- encouraging municipal administrations to participate in IA trainings organised by IPA.

Through a smooth and gradual build-up of knowledge and understanding of the objectives and possibilities of the ex-ante IA tool, capacity will be created in municipal administrations to produce increasingly complete and thorough assessments.

The big challenge that municipalities are about to face is called "ex-post impact assessment". At the end of 2021, 5 years will have elapsed since the entry into force of the amendments to the RA regulating IA and PC and, on the basis of Article 22(2) of the RA, the central administration will be "forced" to start the ex-post evaluation process. Similar to the process of 'penetration' of the ex-ante IA at municipal level commented above, the same can be expected to happen gradually with the ex-post evaluation. Conducting ex-post evaluations is likely to cause significantly greater difficulties among administrations at all levels for several reasons:

- the lack of specific, quantitative data on relevant indicators on which to base subsequent evaluation;
- the methodology for ex-post impact assessment is much less intuitive than that for ex-ante impact assessment. Moreover, qualitative ex-post evaluation presupposes qualitative ex-ante impact assessments (especially when defining the objectives of the initiative) and a detailed knowledge of the ex-post evaluation process in order to be able to objectively assess to what extent the expectations associated with an initiative have been achieved and what exactly the results are due to.

In this sense, municipal administrations are privileged compared to central administrations insofar as they will be able to draw on their experience. In any case, it would be useful for municipalities to think ahead and early (before they have an explicit legal obligation to carry out an IA, because then it will be too late) to orient themselves both towards the training of staff in their administrations and towards **building systems to monitor the implementation of policies and in particular legislation at local level**. Only in this way, when required (either by legal obligation or at the discretion of the individual municipality), will the necessary data be available to serve as a starting point for subsequent evaluation.

The specific proposals are largely aimed at unifying (to a reasonable extent) the PC and IA processes in local administrations. Therefore, should they be adopted, thought could be given to putting them into practice through a recommendation by the IPA to the National Association of Municipalities in Bulgaria to prepare a common standard for the conduct of PC, including guidance on the design of a



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common website format and consultation document, as well as clarification of existing templates for IA and guidance on which is more appropriate for municipal purposes and why.

VIII. APPENDIXES

1. **Appendix 1: List of IPA-approved study municipalities and rationale for their selection**
2. Error! Bookmark not defined.
3. Error! Bookmark not defined.
4. Error! Bookmark not defined.