Warsaw, 08 December 2023
Opinion-Nr.: LEGIS-UZB/480/2023 [NS]

FOLLOW-UP ASSESSMENT OF THE LEGISLATIVE PROCESS IN THE REPUBLIC OF UZBEKISTAN

UZBEKISTAN

This Follow-up Assessment was prepared by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in collaboration with Dr. Marta Achler, Expert with the Centre for Judicial Co-operation, European University Institute, Italy; Dr. Alan Page, Emeritus Professor of Public Law, University of Dundee, United Kingdom; and Prof. Hanna Suchocka, Professor of Constitutional Law, Adam Mickiewicz University, Poland.

Based on an unofficial English translation of the relevant legislation commissioned by ODIHR.

OSCE Office for Democratic Institutions and Human Rights
Ul. Miodowa 10, PL-00-251 Warsaw
Office: +48 22 520 06 00, Fax: +48 22 520 0605
www.legislationline.org

EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

Since the Preliminary Assessment of the legislative process carried out by ODIHR in 2019 (hereinafter "2019 ODIHR Preliminary Assessment") some important changes to the normative framework governing the lawmaking process in the Republic of Uzbekistan have been adopted. Some of them constitute positive developments that address recommendations made in the Preliminary Assessment, in particular, in terms of introducing some improvements of the policy-making stage and of mechanisms for evidenced-based and more participatory lawmaking. Whilst such changes largely inspired by the 2018 Presidential Decree "On Approval of the Concept of Improving Law-making" *prima facie* demonstrate the stated commitment to move forward with fundamental reforms for more democratic governance, accountability and transparency, the revised normative framework governing the lawmaking process in Uzbekistan still presents, in many respects, shortcomings similar to those described in the 2019 ODIHR Preliminary Assessment. These include, in particular:

- the need to more clearly define the hierarchy of norms and the respective material scope of primary and secondary legislation, to avoid the tendency to overuse sub-legislative regulation rather than primary laws adopted by the parliament;
- a weak co-ordination of lawmaking activities within the Government, and between the Government and the *Oliy Majlis (Parliament)*;
- the lack of a clearly defined procedure for a qualitative and evidence-based policy-making process;
- some weaknesses in the process of preparing draft laws, in particular, at the stages of policy formation, impact assessment and public consultations;
- a low effectiveness of parliamentary scrutiny of draft laws and the absence of a proper and effective regulatory oversight mechanism, including in terms of capacities of the *Oily Majlis* to conduct scrutiny of draft laws coming from the executive.

Against the background of these concerns, and as a follow-up to the 2019 Preliminary Assessment, with the aim to reflect on the latest amendments to the normative framework governing the legislative process in Uzbekistan, ODIHR makes the following recommendations to further improve the lawmaking process:

A. Regarding the normative framework and sources of law:

1. to provide, in Article 6 of the new 2021 Law on Normative Legal Acts (hereinafter "2021 Law"), an exhaustive list of all types of normative acts, including constitutional laws, and specify where they stand in the hierarchy of legal norms, while defining in Article 9 the parameters of "constitutional laws", in particular elaborating what constitutional laws are, which matters they regulate, as well as the manner in which they should be adopted; [para. 28]
2. to define more clearly in the Constitution or 2021 Law on areas or matters

where the overarching framework should be set out by a primary law to ensure an efficient parliamentary scrutiny, while further details can be regulated by secondary rules; [para. 26]

3. to define precisely in the Constitution and the new 2021 Law on Normative Legal Acts the material scope of regulation of presidential decrees, as well as their place in the hierarchy of normative legal acts; [para. 33]

B. Regarding legislative initiatives: to consider excluding the courts and the Prosecutor General from the list of bodies/institutions with the right to legislative initiative; [para. 37]

C. Regarding legislative planning and policymaking: to require in the legislation the development and approval of policy papers recognizing and defining an issue which requires government action before initiating a draft law or including it into the legislative programme; [para. 48]

D. Regarding regulatory impact assessments (RIAs):

1. to review the scope and methodology of RIA in accordance with the principle of proportionality and inclusiveness and consider distinguishing between different types of RIA – such as a "full RIA, "simplified"/"basic"/"initial" RIA, or a RIA focusing on specific, limited impacts, while specifying their respective scopes and standards of analysis for each type, and ensuring mandatory RIA of draft legislation of high importance, in particular, those having significant impact on fundamental rights of individuals, not only citizens (including the equal rights of women and men, rights of persons with disabilities, and of minority or other groups); [para. 51]
2. to ensure that RIA reports are prepared at the early stages of scrutiny and selection of policy proposals, and posted on the portal for public consultations before any draft legal act is even prepared; [para. 58]
3. to define in the Regulation the precise consequences of revealing a detrimental effect of a given legal act, in case of unacceptable impact on human rights and fundamental freedoms; [para.60]
4. to explicitly provide that both ex ante and ex post RIAs should evaluate the economic, environmental, social, human rights, equality, gender and other impacts; [para. 54]

E. Regarding legal drafting:

1. to consider developing unified drafting manuals applicable to all legal drafters to ensure consistency of the format, structure and style of laws, and other technical elements; [para. 70]
2. to clearly define, in the Law on Normative Legal Acts, the verification procedure, including the bodies authorised to do the verification and in which circumstances, as well as specify the consequences when draft laws have received a negative opinion from the verifying body or have failed to be verified; [para. 72]
3. to supplement Article 25 of the Law on Normative Legal Acts by expressly referring to mandatory gender expertise of draft legislation and cross-referencing the Law on Guarantees of Equal Rights and Opportunities for Women and Men; [para. 74]

F. Regarding consultations:

1. to more clearly outline in the 2021 Law on Normative Legal Acts and/or in the

Law on Public Discussions clear criteria to determine when and for which types of legislation public discussions are mandatory, which as a rule should be done with respect to drafts that are of high importance or impact on the population, and when they may not be necessary, while requiring the government or other bodies with legislative initiative to justify why skipping the public discussion of a bill would be permissible; [para. 78]

2. to more clearly envisage that consultations take place at different stages of the lawmaking process so that interested and affected groups could follow the developments and participate throughout the lawmaking process; [para. 76]
3. to provide for mechanisms to involve experts and civil society, including minority, gender and other diverse groups, in the consultation process, including in cases of urgency; [para. 77]

G. Regarding regulatory oversight mechanisms:

1 to elaborate the provisions to ensure effective scrutiny by the Legislative Chamber and the Senate of the technical quality of draft laws initiated by the Cabinet of Ministers or the President and compliance with the legislative procedure; [para. 89]

2. to consider stronger role of the parliamentary committees in carrying out post legislative scrutiny, including through ex post RIA of laws and/or other tools; [para. 93]

H. Regarding gender and diversity considerations:

1. to clearly define the consequences of non-compliance of a draft law with the principles of gender equality and concrete next steps and time-frame for possible revision of the draft; [para. 97]
2. to ensure in the legislation provisions requiring legal drafters to adopt and use a gender-sensitive and diversity-inclusive approach when formulating legal provisions; [para. 99] and
3. to ensure participation of women, persons with disabilities, other under-represented and marginalised groups in targeted public consultations on draft policies and laws. [para. 101]

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing legislation as well as legislative processes to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

TABLE OF CONTENTS

I. INTRODUCTION

1. This Follow-up Assessment examines the legislative process in the Republic of Uzbekistan as a follow up to the *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* published in 2019, to reflect the latest legislative changes to the normative framework governing lawmaking in Uzbekistan up until 31 August 2023, including the recent constitutional reform. It is part of the combined efforts of the OSCE Office for Democratic Institutions and Human Rights (hereinafter "ODIHR") and the OSCE Project Co-ordinator in Uzbekistan to provide assistance to strengthen and improve the lawmaking process in the country pursuant to the Memorandum of Understanding (hereinafter "MoU") of 22 November, 2018 between ODIHR, the OSCE Project Co-ordinator in Uzbekistan and the *Oliy Majlis* of the Republic of Uzbekistan.[1]
2. This Assessment was preceded by a Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan (hereinafter "Preliminary Assessment") which was conducted in 2019 during a period of reform of the legislative framework governing the lawmaking process in Uzbekistan.
3. This Follow-up Assessment aims to update the key findings and recommendations from the Preliminary Assessment based on the latest normative changes assessed against the benchmark of international democratic governance and human rights standards and OSCE human dimension commitments. It is primarily based on a desk review and analysis of the applicable constitutional, legislative and sub-legislative legal texts governing the legislative process in the country, as amended; some of the findings and recommendations from the Follow-up Assessment may be revisited and fine-tuned should a country visit be organized to assess the practice of lawmaking following the latest reforms. For ease of cross-reference, this Follow-up Assessment generally follows the structure of the Preliminary Assessment and, unless indicated otherwise, must be read together with the Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan.
4. ODIHR conducted this assessment as part of its mandate to assist OSCE participating States in the implementation of key OSCE commitments in the human dimension.[2]

---

[1] As envisaged in the MoU, the Assessment examines the overall regulatory framework within which lawmaking takes place in the country, including "*the regulatory framework, the structure, methods, and levels of interaction between the chambers of the Oliy Majlis of the Republic of Uzbekistan, as well as the mechanisms and procedures in place for preparing, drafting, adopting, assessing (by conducting regulatory impact assessment), publishing and monitoring the implementation of legislation*", and makes recommendations for reform.

[2] ODIHR conducted this assessment within its general mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments and specific human dimension commitments relating to lawmaking, including the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), which states: "*Among those elements of justice that are essential to the full expression of the inherent dignity and of the equal and inalienable rights of human beings are (…) legislation, adopted at the end of a public procedure, and regulations that will be published, that being the conditions of their applicability. Those texts will be accessible to everyone*" (para. 5.8); and Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (1991), which provides: "*Legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives*" (para. 18.1). OSCE participating States also specifically committed to ensure equal opportunities for the effective participation in political and public life of women, persons belonging to national minorities, Roma and Sinti, especially of Roma and Sinti women, persons with disabilities; see e.g., OSCE, *Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 44(d); *2003 OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, para. 88; OSCE Ministerial Council, *Decision No. 4/13 on the enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, With a Particular Focus on Roma and Sinti Women, Youth and Children* (2013), para 4.2; *Report of the CSCE Meeting of Experts on National Minorities* (Geneva, 1991); OSCE/CSCE *1991 Moscow Document*, para. 41..

II. SCOPE OF REVIEW

5. This Follow-up Assessment covers only the Constitution, laws and secondary legislation of Uzbekistan that were considered relevant for the purpose of updating the Preliminary Assessment and that are listed in the Annex. Thus limited, the Assessment does not constitute a full and comprehensive review of the entire legal and institutional framework regulating the legislative process in Uzbekistan and implementation in practice.

6. The Assessment raises key issues and provides indications of areas of concern, identifying some particularly critical aspects for reform. In the interest of conciseness, it focuses more on areas that require amendments or improvements than on the positive aspects of the legislative process. The recommendations are based on international and regional standards, norms and practices as well as relevant OSCE human dimension commitments. The Assessment also highlights, as appropriate, good practices from other OSCE participating States. When referring to national legislation, ODIHR does not advocate for any specific country model; it rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should always be approached with caution since it cannot necessarily be replicated in or transplanted to another country but has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.

7. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women[3] (hereinafter "CEDAW") and the 2004 OSCE Action Plan for the Promotion of Gender Equality[4] and commitments to mainstream gender into OSCE activities, programmes and projects, this Assessment integrates, as appropriate, a gender and diversity[5] perspective.

8. The analysis of the changes to the normative framework governing lawmaking is based for the most part on unofficial English translations of the relevant constitutional, legislative and other instruments, listed in the Annex, commissioned by ODIHR. Errors from translation may result. Should the assessment be translated in another language, the English version shall prevail.

9. ODIHR and its experts did not have an opportunity to organize a study visit prior to drafting this Follow-up Assessment, to confirm how the legal framework is implemented in practice. This Follow-up Assessment is therefore without prejudice to any further analysis or written and oral recommendations and comments on related legislation or lawmaking process in the Republic of Uzbekistan that ODIHR may make in the future.

3 See *UN Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter "CEDAW"), adopted by General Assembly resolution 34/180 on 18 December 1979. The Republic of Uzbekistan acceded to the Convention in June 1995.

4 See the *OSCE Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

5 For the purpose of this Assessment, a guiding definition of "diversity" encompasses both "workplace diversity" (i.e., fair representation in public bodies and staff of the different groups of society within a setting that recognizes, respects and reasonably accommodates differences, thereby promoting full realization of the potential of all its members and employees) as well as respect for and promotion of diversity in their procedures and practices, and in the outcomes of their work. This does not preclude other diversity considerations, as contextually appropriate and possible, to be taken into account by public bodies when regulating their working environment and reforming their work procedures, and more generally when performing all their functions.

III. ANALYSIS AND RECOMMENDATIONS

1. BACKGROUND

10. To a great extent, the reform efforts described in the Preliminary Assessment were spurred by the Decree of the President of the Republic of Uzbekistan "On Approval of the Concept of Improving Lawmaking" No. 5505 of 8 August 2018 (hereafter "2018 Presidential Decree"). This Presidential Decree recognized that the laws and regulations in place at that time and the regulatory process for their development and adoption did not meet the needs of society. As was mentioned during ODIHR assessment visit in March 2019, there is a tendency for Ministries to over-use sub-legislative regulation rather than primary laws adopted by the parliament, which has led to the adoption of a large swathe of regulations which were not subject to the ordinary legislative scrutiny applicable to primary laws and are often overlapping and/or redundant.

11. The Preliminary Assessment provided a description of the legislative process as it then stood in the Republic of Uzbekistan and primarily focused on providing recommendations regarding those areas, identified as being the most in need of reform. During the four years since the publication of the Preliminary Assessment, many legislative changes have been introduced in the Republic of Uzbekistan (listed, among other, in the Annex). These include a fundamental constitutional reform.

12. These reform initiatives demonstrate that there is a shared understanding that further consolidation is needed for the entire lawmaking process to improve and become more effective. Reforms are still in progress according to the new Resolution "On Measures to Improve the Enforcement of Legislation on the Basis of Modern Legal Monitoring Mechanisms", No. 4505 of 2 November 2019, issued by the President based on the Action Strategy for Five Priority Development Areas of the Republic of Uzbekistan in 2017-2021.

13. Another important new Decree of the President "On Measures to Improve the Business Environment by Introducing a System for the Revision of Outdated Legislation", No. 6075 of 27 September 2020 notes that the Ministry of Justice together with the departments concerned have "*identif[ied] about 2,500 outdated and obsolete acts that cause unnecessary regulatory burden, bureaucratic hurdles and obstacles, and result in conflicting law enforcement practices"* (para. 1). From the issuance of this Decree, the Ministry had been given two months to submit proposals to the Cabinet of Ministers for revocations of relevant acts. Despite the significant number of legal acts that have been repealed,[6] the ongoing reform of administrative procedures and public services which envisions considerable systematization of the applicable legislation may lead to further repeal.

14. The Decree No. 6075 also required the Ministry of Justice together with the *Oliy Majlis* to delimit more clearly in the law the respective scope of the acts passed by the various bodies empowered with the right of legislative initiative, while introducing the practice

[6] In total, it is estimated that the review of the outdated secondary legislation resulted in the repeal of approximately 2,765 sub-legislative normative legal acts, though since the process is still ongoing, the final statistics might be different.

of adopting a new legislative act instead of a new version of such act, and recognizing the existing legislative act as invalid after having organized the revision of such previously adopted legislative acts. The Decree also stipulates that regulatory impact assessment of local authorities' acts shall be carried out using the electronic legal monitoring platform "E-Qaror".[7] This portal appears to be operational and covers regulatory measures and some administrative acts.

15. In accordance with the Decree of the President of Uzbekistan "On Measures for the Future Improvement of the Activities of the Authorities and Institutions of Justice in the Implementation of the State Legal Policy" No. 5997 of 19 May 2020, the responsibilities of the Ministry of Justice, as the central co-ordinating agency in the lawmaking system, have been extended to cover regulatory and other forms of impact assessments, including post-legislative scrutiny, gender and anti-corruption assessments, as well as the revision of outdated legislation.

16. One of the most important developments in the time period covered by this Follow-up Assessment is that a new Law on Normative Legal Acts, replacing the previous Law of 2012, entered into force in 2021 (hereinafter "the 2021 Law").[8] It is the fundamental act governing the rule-making in the Republic of Uzbekistan regulating in particular: a) the concept of a normative legal act and different types of legal instruments; b) the system of planning, initiation, drafting, expert assessment, approval, adoption and publication of the acts; c) modalities for ensuring their implementation.

2. DEVELOPMENTS SINCE THE 2019 PRELIMINARY ASSESSMENT

2.1. Constitutional Framework and Political System

17. The legal framework governing lawmaking and regulatory policy in Uzbekistan should be analyzed taking due account of the applicable constitutional framework and political system in Uzbekistan.

18. A new Constitution was adopted by referendum on 30 April 2023.[9] It goes beyond the scope of this Follow-up Assessment to comment on the process leading to the adoption of the new Constitution and to analyse the new constitutional provisions, beyond those defining the right to legislative initiative and having an impact on the lawmaking process and balance of powers.

19. The current political system in Uzbekistan concentrates most decision-making and executive powers in the office of the President, who shares legislative power with the Parliament. While the legislative power is vested in the *Oliy Majlis* (Article 91 of the new Constitution), the President also exercises legislative powers through initiating laws (Article 98) and is allowed to adopt decrees, resolutions and orders that are binding on the entire territory of Uzbekistan (Article 110). The President's dominant role in the system of power is further increased by her/his involvement in the nomination of judges of the Constitutional Court, Supreme Court and the Head of the High Judicial Council (Article 109(13)).

---

7 See <E-qaror (gov.uz)>.

8 See the Law of the Republic of Uzbekistan № LRU-682 on Normative Legal Acts (20 April 2021).

9 The new edition of the Constitution of the Republic of Uzbekistan was adopted by popular vote at a referendum of the Republic of Uzbekistan held on 30 April 2023.

20. The new Constitution has further extended the presidential powers over the appointment and dismissal of the Prime Minister and of the members of the Cabinet of Ministers, compared to the previous version of the Constitution.[10] The Constitution does not provide for a solution as to what may happen if the approval of the Legislative Chamber of the *Oliy Majlis* for the appointment of the members of the Cabinet of Ministers is not given. The establishment of a process which would foresee the absence of consent is fundamental in ensuring checks and balances between the branches of power.[11] In addition, according to the new Constitution, the President will also be able to appoint and dismiss the heads of committees, agencies and other state bodies. In such conditions, the powers of the President to appoint and dismiss almost all key position-holders in the state administration may lead to a lack of accountability, undermine healthy democratic political processes and may be prone to abuse.

21. According to the new Constitution, the President also has an unconditional right to suspend and cancel acts of governmental bodies and "*khokims*" (this was only possible before in case of their non-compliance with the legislation). This strengthens the President's powers in terms of regulatory decision-making even further. In this framework, the Cabinet of Ministers largely serves as a transmission vehicle ensuring the collection of regulatory proposals from agencies and implementation of the President's law-drafting and other rule-making tasks assigned to agencies.

22. In light of the foregoing, when the President's legislative powers are considered in light of her/his overly prominent role and prerogatives over the executive, her/his role in judicial appointment processes as well as the weakened role for the Parliament, this suggests from the outset a certain imbalance between the different branches of power contrary to the principle of separation of powers, which is generally essential to the quality of the legislative process and of adopted legislation.[12]

2.2. Normative Framework and Sources of Law

23. A precise, coherent and consistent legal framework is essential for democratic lawmaking where legal drafters need to respect the hierarchy of laws, and, consequently, need to ensure that the legal texts that they are preparing are in line with the constitution, with other legislation, and with relevant international instruments that their respective country has signed and ratified. Both the procedure and the substance of laws should comply with higher-ranking law, including applicable international legal obligations, and such compliance should be assessed at different stages of the legislative process.

24. The constitutional provisions on the supremacy of the Constitution and law (Chapter III) have been further elaborated in the Constitution as adopted in 2023 and somewhat clarify the hierarchy of norms applicable in Uzbekistan. Beyond the statement that *"[t]he Constitution and laws of the Republic of Uzbekistan shall have an ultimate*

[10] In particular, the new Constitution authorizes the President to appoint, with the approval of the Legislative Chamber of the *Oliy Majlis*, the members of the Cabinet of Ministers (Article 109(9)), without a proposal of the Prime Minister, which was needed under the previous version of the Constitution, as well as to dismiss them from office. In accordance with the previous version of the Constitution, for appointment of the candidate for the position of Prime Minister, an approval by both chambers of the *Oliy Majlis* was needed, whilst the Prime Minister's dismissal from office was strictly conditioned to the case of resignation, or expression of a motion of no confidence in the Prime Minister, adopted by both chambers of the *Oliy Majlis*, or other cases provided for by law. With the new Constitution, the President can appoint the Prime Minister with the approval of only one (Legislative) chamber of the Parliament, as well as dismiss the Prime Minister on a wider number of grounds which are not exhaustively listed in the Constitution. The Constitution does not specify the kind of "approval" of the Parliament which the President must receive for appointment of the members of the Cabinet of Ministers, which would need further elaboration in terms of whether it means a vote and by what majority.

[11] See ODIHR and Venice Commission, *Joint Opinion on the Draft Constitution of the Kyrgyz Republic* (19 March 2021), para. 67.

[12] See ODIHR, *Guiding Principles of Democratic Lawmaking and Better Laws* (9 October 2023), Principle 1.

supremacy in the Republic of Uzbekistan" (Article 15(1)) that was also mentioned in the previous Constitution, Article 15(2) now further provides for the direct effect of the Constitution and explicitly mentions its supremacy in the legal order, which is positive. At the same time, keeping in Article 15(1) the vague language that would seem to equate the importance of the norms set out in the Constitution with ordinary "laws" of Uzbekistan[13] may create confusion. It is advised to consider amending the wording contained in Article 15(1) **to make it clear that the Constitution is supreme and that all other laws are subordinate to the Constitution.**

25. The new Article 15(3) also recognizes the legally binding force in the domestic legal order of international treaties in force in the Republic of Uzbekistan, prevailing over laws that may contradict them (Article 15(4)). Another welcome feature of Article 15(3) of the new Constitution is the inclusion of "*generally recognized principles and norms of international law*" in the provision, acknowledging that not only treaties but also human rights norms of customary international law and, as a sub-category of them, *jus cogens* norms are an inherent part of the domestic legal order.

26. At the same time, as for the previous Constitution, the new constitutional provisions do not clearly state that certain matters can only be regulated by law (and not secondary legislation). Article 9 of the 2021 Law on Normative Legal Acts specifies that laws "*shall regulate the most important and stable social relations*", which is a rather vague formulation. As recommended in the Preliminary Assessment Report, it is advisable **to specify in the 2021 Law and/or the Constitution the areas of public life and societal relationships where the overarching framework should be set out by a primary law to ensure an efficient parliamentary scrutiny, while further details can be regulated by secondary rules.**

27. The new 2021 Law sets its purpose as, among others, defining the types of normative legal acts, their legal force and correlation between them. Article 6 of the 2021 Law provides a list of legal acts, which does not include "constitutional laws", and "codes and procedural codes", mentioned later in Article 9 of the 2021 Law.

28. Article 9 of the 2021 Law states that *"[t]he laws of the Republic of Uzbekistan can be adopted in the form of constitutional laws*" and that "*[t]he laws of the Republic of Uzbekistan, providing for the introduction of amendments and additions to the Constitution of the Republic of Uzbekistan, are adopted in the form of constitutional laws"*. This provision provides the possibility to amend the Constitution through "constitutional laws" but it is unclear whether constitutional laws may regulate other matters. The 2021 Law also does not clarify what these constitutional laws are and what majority is needed in order to adopt them. Article 154 of the Constitution provides that "*The Constitution of the Republic of Uzbekistan shall be amended by constitutional law adopted by a majority, not less than two thirds of the total number accordingly of deputies of the Legislative Chamber and members of the Senate of the Oliy Majlis of the Republic of Uzbekistan, or by referendum of the Republic of Uzbekistan*" and Articles 93 and 96 of the Constitution elaborate that they are adopted jointly by the Legislative Chamber and the Senate of the Oliy Majlis with the presence of at least two thirds of the total number of all deputies and senators. In the interest of legal certainty, **it is recommended to provide in Article 6 of the new 2021 Law an exhaustive list of all types of normative acts, including constitutional laws, and specify where they stand in the hierarchy of legal norms, as well as to define in the 2021 Law the**

[13] Article 15(1) of the Constitution provides: "*The Constitution and laws of the Republic of Uzbekistan shall have absolute supremacy in the Republic of Uzbekistan*."

parameters of "constitutional laws" (i.e., what constitutional laws are and whether they may regulate matters other than amending the Constitution), as well as the manner in which they should be adopted.

29. Given the important volume of secondary legislation in Uzbekistan which is often overlapping or redundant, the Preliminary Assessment also recommended to clarify that all secondary legislation should be based on primary law, indicating or referring to the specific primary legislation that created the legal basis for their adoption, and its role should be confined to implementing principles of law rather than establishing them.[14]

30. The new 2021 Law somewhat addresses the issue in Article 11 by explicitly stating that *"[t]he by-laws shall not allow the establishment of norms on issues subject to regulation at the level of legislative acts"*. At the same time, since neither the new 2021 Law nor the Constitution clearly defines the matters that can be governed only by primary laws, this leaves room for the possibility to use by-laws for making new rules by means of providing specific and detailed regulation based on general and abstract regulation established by primary laws.

31. Compared to the previous version of the Law analysed in the Preliminary Assessment, the new 2021 Law establishes a clearer normative legal order where presidential decrees and resolutions are treated as a distinct category of normative legal acts that are subordinate to the Constitution and laws but superior to the resolutions of the Cabinet of Ministers and ministerial and other acts.[15] Article 12 of the new 2021 Law on Normative Legal Acts states that "*the President of the Republic of Uzbekistan on the basis of and in pursuance of the Constitution and laws of the Republic of Uzbekistan adopts legal instruments in the form of decrees and resolutions*". A similar provision provides that the resolutions of the chambers of the *Oliy Majlis* of the Republic of Uzbekistan can be issued on the basis of and pursuant to the Constitution and laws (Article 10 of the 2021 Law), although Article 7 (2) of the 2021 Law specifies that such resolutions constitute legislative acts whereas decrees and resolutions of the President are deemed to be by-laws (Article 7 (3) of the 2021 Law).

32. Importantly, the rules on how different legal instruments can correlate with each other in terms of their respective legal force remain unchanged in the 2021 Law.[16] As mentioned in the Preliminary Assessment, in practice, given the amount of secondary laws being generated, conflicts may not be easily resolved simply through applying these rules.

33. The differentiation between decrees and other acts of the President is still not clearly regulated by the Constitution and the new version of the Law on Normative Legal Acts. The President may still potentially issue decrees in various significant areas within presidential competence.[17] In some cases, they require joint approval by the Legislative

---

[14] See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), Recommendation C.

[15] See Articles 12 to 14 of the new 2021 Law: Article 12 states that "*the President of the Republic of Uzbekistan on the basis of and in pursuance of the Constitution and laws of the Republic of Uzbekistan adopts legal instruments in the form of decrees and resolutions*"; Article 13 establishes that the Cabinet of Ministers of the Republic of Uzbekistan adopts legal instruments *in the form of resolutions* on the basis of and in pursuance of the Constitution and laws of the Republic of Uzbekistan, resolutions of the chambers of the *Oliy Majlis* of the Republic of Uzbekistan, decrees and resolutions of the President of the Republic of Uzbekistan; Article 14 specifies that ministries, state committees and departments can adopt regulatory legal acts if they are given the authority to adopt relevant regulatory legal acts by legislative acts, decrees and resolutions of the President and resolutions of the Cabinet of Ministers of the Republic of Uzbekistan.

[16] See Article 18 of the new Law on Normative Legal Acts and Article 16 of the previous version of the Law.

[17] In practice, Presidential decrees very often directly prescribe drafting and adoption of certain statutes among other measures implementing a reform that places presidential decrees on a higher level of importance than other by-laws and even than some laws. In fact, most primary laws are actually being initiated by the President.

Chamber and the Senate of the *Oliy Majlis*[18] or by the Senate of the *Oliy Majlis* exclusively.[19] In light of the above, and following the recommendation made in the Preliminary Assessment, **it would be beneficial if the Constitution and the 2021 Law define precisely the material scope of regulation of presidential decrees, as well as their place in the hierarchy of normative legal acts,** At the same time, **the parameters of the lawmaking power vested in the *Oliy Majlis* should be more fully defined by listing areas or matters which should be governed by primary laws, and thus go through the legislative procedures of the Legislative Chamber and the Senate of the *Oliy Majlis*.**

RECOMMENDATION A.

1. To provide, in Article 6 of the new 2021 Law on Normative Legal Acts, an exhaustive list of all types normative acts, including constitutional laws, and specify where they stand in the hierarchy of legal norms, while defining in Article 9 the parameters of "constitutional laws", in particular elaborating what constitutional laws are, which matters they regulate, as well as the manner in which they should be adopted.

2. To define more clearly in the Constitution or 2021 Law on areas or matters where the overarching framework should be set out by a primary law to ensure an efficient parliamentary scrutiny, while further details can be regulated by secondary rules.

3. To define precisely in the Constitution and the new 2021 Law on Normative Legal Acts the material scope of regulation of presidential decrees, as well as their place in the hierarchy of normative legal acts.

2.3. Legislative Initiative

34. Article 98 of the newly adopted Constitution vests the right of legislative initiative, through the introduction of a "bill" before the Legislative Chamber of the *Oliy Majlis*, in:

- the President of the Republic of Uzbekistan;
- the Republic of Karakalpakstan, through its highest representative body;
- deputies of the Legislative Chamber of the *Oliy Majlis*;
- the Cabinet of Ministers; and
- for issues falling within their respective fields of competence, the Constitutional Court, the Supreme Court, and the Prosecutor General.

35. Furthermore, Article 98 of the new text of the Constitution reads that "*Citizens of the Republic of Uzbekistan with the right to vote, in the amount of at least one hundred thousand people, the Senate of the Oliy Majlis of the Republic of Uzbekistan, the*

[18] See Article 93 (17) and (18) of the Constitution, in cases of decrees of the President on announcement of state of war in case of attack on the Republic of Uzbekistan or necessity of implementation of contractual obligations on mutual defence from aggression; announcement of general and partial mobilization, as well as introduction, prolongation and discontinuance of a state of emergency.

[19] See Article 95 (6) of the Constitution, regarding the ratification of decrees of the President on the establishment and abolition of ministries and other republican bodies of executive power; and Article 109 (11) of the Constitution regarding the appointment and dismissal from the position of Prosecutor General and Head of the Accounting Chamber, with the approval of the Senate of the *Oliy Majlis* (or after consultation with the Senate for the appointment and dismissal of the Head of the State Security Service, see Article 109 (12) of the Constitution).

Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsperson), the Central Election Commission of the Republic of Uzbekistan shall have the right, in the manner of a legislative initiative, to submit to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan legislative proposals."

36. The Preliminary Assessment had raised some concerns with respect to the legislative initiative of the Constitutional Court, Supreme Court and the Prosecutor General noting the risk of politicization potentially detrimental to judicial independence.[20] The new provisions of the Constitution now limit the scope of the right of legislative initiative to issues falling within their respective jurisdiction.

37. ODIHR has previously commented[21] on giving legislative initiative powers to the courts in matters falling within their fields of competence. A strict interpretation of the principle of separation of powers implies that judicial power interprets laws and does not initiate them.[22] If the highest courts participate in the drafting of laws, this may also raise doubts as to their objective impartiality when they are called upon to interpret and apply that law in a given case before them.[23] This should however not prevent the judiciary from providing comments, being consulted and participating in an ongoing process of drafting laws by the legislative or executive which concern them, or indeed any laws which would concern the legal system as a whole.[24] **As already recommended in the Preliminary Assessment,[25] consideration may be given to possibly excluding the courts and the Prosecutor General from the right to legislative initiative.**

38. Importantly, Article 98 of the new Constitution allows at least one hundred thousand citizens of the Republic of Uzbekistan with electoral rights, to submit their legislative proposals to the Legislative Chamber of the *Oliy Majlis* of the Republic Uzbekistan. Empowering citizens to initiate new legislation was recommended in the Preliminary Assessment Report and is commendable as it, in principle, contributes to more participatory democracy and enhances civil society's active role in the lawmaking process. At the same time, state constitutions and relevant legislation should ensure that the thresholds for submitting citizens' legislative initiatives are not unduly high. Compared to the registered number of voters which amounts to approximately 19.5 million[26] and is in any case lower than the number of citizens with electoral rights, the required threshold may still be considered as being rather high compared to other countries,[27] also considering that in practice, gathering such a number of supports may prove difficult and render the mechanism ineffective. Moreover, the legal framework

---

20 See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), para. 50.

21 See ODIHR and Venice Commission, *Joint Opinion on the Draft Constitution of the Kyrgyz Republic* (19 March 2021), para. 94.

22 See Venice Commission, *Report on Legislative Initiative*, CDL-AD(2008)035, para. 59.

23 See ODIHR and Venice Commission, *Joint Opinion on the Draft Constitution of the Kyrgyz Republic* (19 March 2021), para. 94.

24 *Ibid.* para. 94. See also, as a comparison, Consultative Council of European Judges (CCJE), *Opinion no. 18 (2015) on the Position of the Judiciary and its Relation with the Other Powers of State in a Modern Democracy*, 16 October 2015, para. 31, where the CCJE has expressly stressed "*the importance of judges participating in debates concerning national judicial policy*" and the fact that "*the judiciary should be consulted and play an active part in the preparation of any legislation concerning their status and the functioning of the judicial system*"; see also the *European Charter on the Statute for Judges* (Strasbourg, 8-10 July 1998), adopted by the European Association of Judges, DAJ/DOC (98)23; para. 1.8, which also specifically recommends that judges be consulted on any proposed change to their statute or other issues impacting their work, to ensure that judges are not left out of the decision-making process in these fields.

25 See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), Recommendation G.

26 During the last early presidential election that took place on 9 July 2023.

27 Corresponding to 0.51% of the electorate compared to e.g., the Kyrgyz Republic (10,000 citizens compared to the number of registered voters of approximately 3.7 million, i.e., 0.27%), Italy (50,000 voters compared to the number of registered voters of approximately 46 million, i.e., 0.11%), Northern Macedonia (10,000 citizens compared to the number of registered voters of approximately 1.8 million, i.e., 0.5%) although acknowledging that a number of other countries have higher thresholds such as Albania (20,000 citizens compared to the number of registered voters of approximately 3.5 million, i.e., 0.57%), Hungary (100,000 citizens for popular referendum compared to the number of registered voters of approximately 8.2 million, i.e., 1.22%).

does not seem to envisage any mechanism of assistance in the formulation of the citizens' legislative proposals. Article 20 (2) of the 2021 Law only provides that *"[p]hysical persons and legal entities shall have the right to submit proposals on the preparation of draft normative legal acts to the relevant state bodies*", without further elaboration. This provision would seem to imply that such citizens' initiatives require the intermediation of a state body, which may mean that the said body may not agree or be willing to have it being further debated, which would be unduly limiting.[28] It is generally recognized as a good practice that support mechanisms are in place to ensure that draft laws submitted by a statutory number of citizens are drafted according to the applicable legal and drafting standards.[29] These may include support from certain government bodies, or from a special unit within parliament.[30] This should generally help ensuring that the exercise of this prerogative to initiate popular initiatives does not remain burdensome and/or ineffective. **It is therefore recommended to further elaborate the framework governing citizens' legislative initiatives to ensure that the mechanism is effective in practice, while at the same time providing for support modalities to ensure that such initiatives are further considered in the parliament.**

39. Compared to the previous Constitution, the list of potential initiators of legislation is also further expanded to include, beyond the citizens' legislative initiatives, the Senate of the *Oliy Majlis* (upper House of Parliament), the Authorized Person of the *Oliy Majlis* for Human Rights (Ombudsperson), and the Central Election Commission of the Republic of Uzbekistan (Article 98 (3) of the Constitution), which may submit "legislative proposals" to the Legislative Chamber of the *Oliy Majlis*. The procedure for the introduction and consideration of "bills" and "legislative proposals" shall be further determined by law.

40. The Preliminary Assessment Report had addressed the issue of the upper house not being vested with the power to initiate laws, although noting that any expansion of the powers of senators in this respect should be seen in the context of the system in place and a consideration of wider constitutional changes which should ensure that the Senate, as a legislative body, is not subject to excessive influence from the executive. It is unclear why the legislative initiatives originating from the Senate, Ombudsperson or Central Election Commission are treated any differently from the other legislative initiatives or "bills". In principle, and as underlined in the Preliminary Assessment, legislative initiatives submitted by senators should receive the same scrutiny and go through the same process as a bill submitted by members of the lower house or the government.[31]

RECOMMENDATION B.

To consider excluding the courts and the Prosecutor General from the list of bodies/institutions with the right to legislative initiative.

[28] See e.g., ODIHR, *Preliminary Opinion on the Legal Framework Governing the Legislative Process in Montenegro* (2023), para. 74.
[29] See e.g., ODIHR, *Preliminary Opinion on the Legal Framework Governing the Legislative Process in Montenegro* (2023), para. 77; and *Assessment of the Legislative Process in the Republic of Armenia* (2014), para. 53.
[30] See e.g., ODIHR, *Assessment of Lawmaking and Regulatory Management in North Macedonia*, as revised in 2008, p. 29. See also e.g., the case of Canada: Private Members' Business - Introduction (ourcommons.ca).
[31] See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), para. 54.

2.4. Legislative Planning

41. The main instrument governing legislative planning is the 2021 Law on Normative Legal Acts. Its Chapter 3 is titled "Planning, Initiation and Preparation of Draft Normative Legal Acts" and provides a more comprehensive regulation of the planning process compared to the previous version of the Law. In particular, it is clearly stated that planning for the preparation of draft regulatory legal acts should be carried out within the framework of plans (programs) of normative work, which are prepared based on the identified and analysed problems that require legal regulation (Article 19 (1)). It is commendable, therefore, that the planning process is directly linked to the policymaking stage assessing the necessity of legislative interventions as such and analyzing alternative solutions.

42. At the same time, some of the aspects in the 2021 Law concerning the bodies responsible for developing and approving plans could be improved. In particular, Article 19 (2) of the new Law states that the respective bodies which adopt normative legal acts i.e., those listed in Article 4 of the 2021 Law,[32] "*can develop and approve current (semi-annual and annual) and long-term (for a period of more than one year) plans (programs) for the preparation of draft regulatory legal acts*". Apart from the fact that proper legislative planning should be mandatory rather than just a faculty as currently stated in the Law, this provision would imply a multiplicity of various legislative plans, without envisaging a mechanism whereby the Government, as the main policy-making body, would develop a consolidated legislative plan regarding bills initiated by the executive, which will be adopted by the *Oliy Majlis*. **It would be, thus, advisable for the government to have a consolidated legislative plan and to inform the *Oliy Majlis*early on about the bills that will be submitted within the coming months and years**.

43. This is especially relevant given the current state of affairs whereby the Presidential Administration is the primary policymaking body in charge of the regulatory policy in Uzbekistan. Since the Cabinet's current role in the law-drafting process is to supervise the implementation of President's law-drafting assignments as planned in annual State programs and some other programmatic acts of the President, **it is recommended to strengthen the Government's policy-making and legislative planning functions**. This cannot be achieved, however, without a strong Government separate of the President, which would imply reconsidering the President's overly prominent role and prerogatives over the executive, including by withdrawing excessive legislative planning functions from the Presidential Administration.

44. It is also mentioned that legislative plans should be published on official websites of the bodies responsible for adopting normative legal acts (Article 19 (5) of the 2021 Law). At the same time, governmental legislative plans (even in case when a particular Ministry develops a draft law to be adopted by the *Oliy Majlis* and theoretically is not considered as the "body responsible for adopting normative legal acts") should ideally also be published, to enhance transparency of the overall process.

45. Finally, it is important to define the manner of implementing, amending and monitoring legislative plans, which is not currently addressed in Article 19 of the 2021 Law.

[32] i.e., the chambers of the Oliy Majlis of the Republic of Uzbekistan, the President of the Republic Uzbekistan, the Cabinet of Ministers of the Republic of Uzbekistan, ministries, state committees and departments, local government bodies.

Regular monitoring of the implementation of legislative plans is useful to ensure the effectiveness of the next cycle of legislative planning and to provide timely and reasonable changes to the current plan. In this regard, the development of an electronic and user-friendly tool may help facilitate the tracking of draft laws at different stages of the legislative process by both lawmakers and civil society representatives, or the public in general.

2.5. Policymaking

46. Policymaking at the pre-legislative stage is being increasingly considered as a separate and distinct stage, worthy of particular attention and which should be clearly separated from law drafting,[33] i.e., the translation of the agreed policy into law. Early stakeholder engagement and consultation process during the policymaking stage, before a draft is tabled, contribute to a more open, transparent, accountable and inclusive lawmaking process, in particular through the involvement of the wider public, ultimately contributing to better quality laws. A qualitative and evidence-based policymaking permits a thorough assessment of the impact of the proposed policy and contemplated options, and actually whether a new law, or other legislative action is needed at all.[34]

47. It is positive that Article 20 of the 2021 Law states that "*initiation of the preparation of draft legislative acts, decrees and resolutions of the President of the Republic of Uzbekistan, resolutions of the Cabinet of Ministers of the Republic of Uzbekistan is allowed only if there are no legal mechanisms in the current legislation, administrative procedures designed to regulate public relations related to the sphere of activity of state bodies initiating the adoption of legal instruments*". This provision is expected to prevent duplication of regulations and to avoid a legislative overload in practice. At the same time, there does not seem to be an effective mechanism in place to ensure the dismissal of regulatory initiatives inconsistent with this provision.

48. It is therefore, recommended **to further elaborate and enhance the provisions of the 2021 Law governing the policy development stage. This could be done by requiring, the development and approval of policy papers recognizing and defining an issue which requires government action before initiating a draft law or including it into the legislative programme. This policy paper should outline the possible legislative and non-legislative approaches and solutions to the issue, justifying the chosen option as the best approach, also ensuring that relevant regulatory impact assessments are integrated into the early stages of the policymaking process.** This should allow a prior assessment of the need for legislative intervention, before a regulatory initiative may be endorsed by the President, thereby offering a chance to discard poor policies before they even appear in the official plans.

RECOMMENDATION C.

To require in the legislation the development and approval of policy papers recognizing and defining an issue which requires government action before initiating a draft law or including it into the legislative programme. .

[33] See also ODIHR, *Assessment of Lawmaking and Regulatory Management in North Macedonia*, as revised in 2008, p. 30.
[34] See ODIHR, *Guiding Principles of Democratic Lawmaking and Better Laws* (9 October 2023), Principles 4, 5 and 7.

2.6. Regulatory Impact Assessments (RIAs)

49. Article 21 of the new Law on Normative Legal Acts explicitly lists the conduct of a regulatory impact assessment (hereinafter "RIA") among the stages of the preparation of a draft normative legal act, which is a positive development compared to the previous version of the Law. Article 35 of the Law further provides that RIA is "*a set of measures aimed at identifying and assessing the possible consequences of the adoption of a draft normative legal act, achievement of the envisaged normative objectives, as well as the effectiveness and efficiency of the impact of the current normative legal act on the regulated public relations*".

50. According to Article 35 (2) of the 2021 Law, RIA shall be carried out for normative legal acts and their drafts affecting entrepreneurial activity, the rights, freedoms and legitimate interests of citizens, as well as the environment. In accordance with the principle of proportionality and to avoid extensive burdens on the state and policy- and lawmakers, full RIA should not necessarily be undertaken with respect to all draft laws, but mainly in those cases where this is deemed necessary,[35] for instance for main policy proposals with major impacts, policies or draft laws covering new topics or those that are expected to impose considerable administrative or regulatory burdens, or otherwise have wide-ranging effects on significant parts of the population, the economy, the state budget, or the environment, though the particular threshold is up to each individual country itself.[36] Several countries have elaborated criteria to help them decide whether RIA is necessary for a given piece of legislation or not. Some countries have formal threshold tests for determining whether RIA should be applied (e.g., depending on the expected costs/resources or on the overall economic, social or environmental impact).[37] Whilst it is positive that Article 35 (2) of the 2021 Law[38] defines criteria to determine whether RIA is necessary for a given piece of legislation,[39] it should be noted, however, that the provision only refers to the rights and freedoms of citizens, thereby potentially excluding draft legal acts affecting the rights of foreigners and stateless persons.

51. In addition, **it may also be useful to distinguish between different types of RIAs – such as a "full RIA, a so-called "simplified"/"basic"/"initial" RIA, or a RIA focusing on specific, limited impacts.** This would help ensure that the most significant regulatory proposals, such as those that are likely to have significant impacts on the public administration, individuals, fundamental rights and businesses, receive more attention by the scrutiny body throughout the process, from the initial analysis and policy development to the final quality check, for more optimal planning and allocation

---

35 See OECD, *Recommendation of the Council on Regulatory Policy and Governance* (2012), Annex, stating that states shall "*adopt ex ante impact assessment practices that are proportional to the significance of the regulation*", and OECD: *Regulatory Impact Assessment, OECD Best Practice Principles for Regulatory Policy*, 2020, Best Practice Principles for Regulatory Impact Assessment, Annex: A closer look at proportionality and threshold tests for RIA. See further ODIHR Assessment of the Legislative Process in the Republic of Armenia, 2014, para. 48; and Venice Commission, *Rule of Law Checklist*, CDL-AD(2016)007, 18 March 2016, Benchmark A.5.v. for a general requirement stating that where appropriate, impact assessments shall be made before laws are adopted.

36 See e.g., ODIHR, *Preliminary Opinion on the Legal Framework Governing the Legislative Process in Montenegro* (2023), para. 56; see also e.g., OECD: *Better Regulation Practices Across the European Union*, 2019, Chapter 3: Regulatory Impact Assessment Across the European Union.

37 See e.g., OECD: *Better Regulation Practices Across the European Union*, 2019, Chapter 3: Regulatory Impact Assessment Across the European Union.

38 Article 35 (2) of the 2021 Law on Normative Legal Acts provides: "*The regulatory impact assessment shall be carried out with respect to normative legal acts and their drafts affecting entrepreneurial activity, rights, freedoms and legitimate interests of citizens, as well as the environment.*"

39 See ODIHR Assessment of the Legislative Process in the Republic of Armenia, 2014, para. 49, which proposes to include the following elements in guidelines for conducting RIA: problem analysis with a brief description of the issue; an outline of the purpose of intervention by a draft law; addressees and stakeholders of the intervention; the justification of an intervention along with a risk assessment; a brief description of the available intervention (or non-intervention) options, while weighing their justification, effect and feasibility; the impacts for citizens (including the impact on both men and women), businesses, the Government and the environment; cost and benefit analysis.

of resources. In such case, **the scope and standards of analysis for different types of RIAs, as well as the criteria and thresholds for identifying the most significant regulatory proposals, should be clearly established within the regulatory and methodological frameworks,**[40] in accordance with the principle of proportionality and inclusiveness. **This should in particular ensure mandatory RIA of draft legislation of high importance, in particular those having significant impact on fundamental rights of individuals, not only citizens (including on the equal rights of women and men, rights of persons with disabilities, and of minority or other groups).** Fewer and more focused RIAs should lead to a more efficient process and better results, both in terms of improving the quality of RIA assessments in the daily policy- and lawmaking practice and of achieving policy objectives.

52. The Decree of the President of Uzbekistan "On measures to improve the business environment in the country by introducing a system of revision of legal acts" No. 6075 of 27 September 2020[41] further elaborated on RIA by appointing the Ministry of Justice (hereinafter "MoJ") as the "special co-ordination authority" for RIA of normative legal acts and their drafts, as well as approved the establishment of a RIA Office consisting of ten employees within the Ministry to co-ordinate RIA activities of state agencies, local executive authorities and other organizations and provide them with methodological assistance. The MoJ is also supposed to organise workshops and training for lawmakers on the RIA methodology and process, which is a positive development, given the necessity to conduct RIA in a proper and effective manner.

53. Newly adopted legislation of Uzbekistan also seems to link the RIA process with public consultations, which is commendable in principle. The aforementioned Decree No. 6075 of 27 September 2020 provides that RIAs of draft normative legal acts should be carried out by law-drafting bodies and organizations, using the online portal www.regulation.gov.uz (hereinafter "portal") for the discussion of draft laws, or using the electronic legal monitoring platform for existing regulatory legal acts. It also provides that analytical materials that served as the basis for carrying out RIAs should accompany draft legal acts at the stages of public discussion, interagency co-ordination and legal expertise. The Resolution of the President of Uzbekistan No. 5025 of 15 March 2021 "On measures to further improve regulatory impact assessment system" (hereinafter "2021 Presidential Resolution on the RIA System")[42] further requires mandatory public consultations on all draft regulatory legal acts as part of the implementation of the RIA system. The 2021 Resolution makes it mandatory to summarise proposals and comments received during the public consultations on draft legal acts, and to include them in RIA reports, which shall then be submitted to the respective bodies adopting the regulatory legal acts and published on the consultation portal. The aforementioned Resolution also specifies that the respective adopting bodies shall return to the initiators/developers the draft legal act that has not been subject to public consultations. What is fundamental, however, is **to have such RIA reports prepared at the early stages of scrutiny and selection of policy proposals, and posted on the portal for public consultations before any draft legal act is even prepared.**[43]

---

[40] See e.g., ODIHR, *Preliminary Opinion on the Legal Framework Governing the Legislative Process in Montenegro* (2023), para. 57.

[41] Available at < УП-6075-сон 27.09.2020. О мерах по улучшению деловой среды в стране путем внедрения системы пересмотра утративших свою актуальность актов законодательства (lex.uz)>.

[42] Available at < ПП-5025-сон 15.03.2021. О мерах по дальнейшему совершенствованию системы оценки регуляторного воздействия (lex.uz)>.

[43] See e.g., OECD, *Recommendation of the Council on Regulatory Policy and Governance* (2012), Recommendation I. 4.

54. Paragraphs 11-12 of the 2021 Presidential Resolution details the content of the said RIA, including "the subjects whose interests are affected by the proposed draft" and the "consequences (positive, negative or neutral) of a draft's impact", but does not really elaborate the various types of impact that should be analysed. Article 25 of the 2021 Law on Normative Legal Acts refers generally to a mandatory legal and anti-corruption expertise of draft normative legal acts, and additionally to the possibility of "*economic, financial, scientific, linguistic, environmental, as well as other types of expertise*". At the same time, the legal framework does not specify the types of impacts that should be assessed when carrying out a RIA. As an essential component of evidenced-based lawmaking, impact assessments need to evaluate the likely **economic, environmental, social, human rights, equality, gender and other impacts, as well as the budgetary, regulatory and bureaucratic implications of the planned legislation**.[44] **The relevant provisions on RIAs should be supplemented accordingly.** Paragraph 48 of the 2021 Resolution also lists the state bodies that should review the RIA Report, which does not explicitly refer to the national machinery for the advancement of women. It is generally recommended **to envisage a mechanism whereby the national machinery for the advancement of women is systematically and meaningfully involved in the policy- and lawmaking processes, including *ex ante* and *ex post* impact assessments, while also allocating adequate resources for this purpose.**[45]

55. The aforementioned Resolution otherwise contains useful guidance and seeks to ensure greater transparency necessary for effective RIAs. In particular, it introduces a methodology on how and when to conduct both *ex ante* and *ex post* RIAs, and based on which criteria. If appropriately applied in practice, this should contribute to more evidence-based policy- and lawmaking, better justifying the need to amend or introduce new legislation, support tailoring the content of new legislation appropriately and should ultimately help increase accountability and public trust in public policies and laws.

2.6.1. Ex ante RIAs

56. Paragraph 5 of the 2021 Presidential Resolution on the RIA System lists the circumstances where RIAs shall not be carried out, including when draft regulatory legal acts or adopted regulatory legal acts are aimed at preventing emergencies or eliminating their consequences, introducing restrictive measures (quarantine) to prevent the spread of infectious and parasitic diseases. In this case, the initiator/developer of the draft legal act must justify the refusal to carry out RIA in the explanatory note. It should be recalled, however, that exceptions to regular lawmaking procedures in urgent cases need to be kept to a minimum and should be limited to what is strictly required by and proportionate to the exigencies of the situation.[46] In this context, it is important that decisions to derogate from ordinary legislative procedures are properly justified. The absence of RIA may lead to insufficiently planned, assessed and vetted legislation, particularly in extraordinary circumstances where there is little domestic precedence in terms of normative responses and in cases of urgency, where legislation might be drawn up and adopted in a hasty manner.

57. The 2021 Presidential Resolution on the RIA System (para. 7) also provides that, at the request of the Administration of the President of the Republic of Uzbekistan and the

[44] See ODIHR, *Guiding Principles of Democratic Lawmaking and Better Laws* (9 October 2023), Principle 5.
[45] See e.g., ODIHR, *Preliminary Opinion on the Legal Framework Governing the Legislative Process in Montenegro* (2023), para. 150.
[46] See ODIHR, *Guiding Principles of Democratic Lawmaking and Better Laws* (9 October 2023), Principle 11.

Cabinet of Ministers, as well as on the initiative of the initiator/developer of the draft legal act, RIA of a draft legal act in its concept phase may be carried out before its development (i.e., at the planning stage). As underlined above, it is good practice to carry out *ex ante* RIAs during the early stages of the policy-making process before the formulation of new regulatory proposals.[47] However, according to the 2021, this requirement does not seem to be mandatory, nor is it regularly implemented in practice.

58. Given the President's extensive rule-making powers, the regulatory policy in Uzbekistan is actually steered by the Presidential Administration and endorsed by the President.[48] In practice, as soon as a regulatory proposal is included in a state program or an action plan endorsed by a presidential act, it becomes a mandatory law-drafting task, which is binding for all subjects of the legislative process. Under such conditions, most RIA tools would be applied formally without any significant impact on regulatory policy decision-making and assessment of various policy options, including the non-regulatory option. **It is, therefore, crucial that a proper RIA is conducted already at the early stages of policymaking and legislative planning before the regulatory policy is devised**.

59. At the same time, the 2021 Presidential Resolution (para. 7) also states that a draft law developed based on a concept that was subject to a RIA shall not require a repeated RIA, unless it introduces regulatory instruments that were not included in the initial concept. It should be noted, however, that **additional RIAs may also be conducted at other stages of the lawmaking process**, e.g., after a law has been drafted or after substantial amendments to a draft law, or several times during the process, especially if the content of a draft law has changed in the course of discussions.

2.6.2. Ex post RIAs

60. Apart from draft legal acts, the 2021 Presidential Resolution on the RIA System also applies to adopted legal acts and introduces a separate procedure for *ex post* impact assessments. According to the 2021 Presidential Resolution, *ex post* RIAs should apply to legal acts that were subject to *ex ante* RIAs and to those drafts affecting entrepreneurial activity, rights, freedoms and legitimate interests of citizens, as well as the environment. While the procedure for conducting *ex post* RIAs seems to reflect internationally acknowledged methodology and practices (i.e., by specifying selected cases when *ex post* evaluation is mandatory and making the process public to enhance transparency), it still leaves room for improvement. The 2021 Presidential Resolution (para. 56) entitles the Cabinet of Ministers to approve a "road map" aimed at implementing the results of the RIA or to take measures to include proposals for necessary legislative amendments into the respective legislative programs and plans. However, this may not be enough in case where *ex post* RIAs reveal detrimental effects on human rights and fundamental freedoms requiring immediate response. **It is, thus, recommended to define in the 2021 Presidential Resolution, the precise consequences of revealing a detrimental effect of a given legal act, in case of unacceptable impact on human rights and fundamental freedoms.**

61. Furthermore, the 2021 Presidential Resolution implies that the developers of legal acts shall conduct *ex post* RIAs themselves, which may put an extensive burden on them given the necessity to conduct both *ex ante* and *ex post* evaluations. While carrying our

[47] See OECD: *Recommendation of the Council on Regulatory Policy and Governance*, 2012, Recommendation I. 4. See also ODIHR Assessment of the Legislative Process in the Republic of Armenia, 2014, para. 47.

[48] See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), para. 55.

ex post evaluation is a recognized evolving good practice – although still rather underdeveloped in most countries,[49] this should also not create an unreasonable burden on policy- and lawmakers in light of current capacities. Depending on an assessment of the existing practice of carrying out *ex post* evaluations, **the scope and methodology of *ex post* evaluation of adopted laws could be more clearly defined and should be better linked with *ex ante* RIAs of the draft amendments to them.**[50] Some countries have separate agencies dealing with *ex post* evaluation of laws, at times the same agencies that oversee the quality of RIAs, or even special parliamentary evaluation committees. Whilst acknowledging the central role of the Ministry of Justice in co-ordinating the process and overseeing the quality of RIA reports prepared by developers, the lawmakers should discuss and assess whether **setting up a separate body or agency to conduct *ex post* evaluation may be preferable, to render it more neutral, in particular with respect to politically or otherwise sensitive legislation.**[51] Furthermore, given the fact that the RIA Office within the MOJ should consist of only ten employees, this may also help decreasing the burden put on the MoJ in that respect.

62. Furthermore, as part of their general oversight role, parliaments (generally respective parliamentary committees) should also engage in *ex post* RIA of adopted laws falling within their sphere of competence, or, due to their often limited capacities, ask the government to do so. The results of such *ex post* evaluations could then be debated in parliament (see more in Sub-Section 2.9 on Regulatory Oversight).

63. Finally, as for *ex ante* evaluations, *ex post* RIAs should always integrate a gender and diversity perspective, meaning that such assessment should analyse how the adopted legislation have actually impacted women and men, gender roles, relations, responsibilities and gender equality, as well as other specific identifiable groups. Currently, this is not properly addressed in the *ex post* RIA methodology defined by the 2021 Presidential Resolution.

RECOMMENDATION D.

1. To review the scope and methodology of RIA in accordance with the principle of proportionality and inclusiveness and consider distinguishing between different types of RIA – such as a "full RIA, "simplified"/"basic"/"initial" RIA, or a RIA focusing on specific, limited impacts, while specifying their respective scopes and standards of analysis for each type, and ensuring mandatory RIA of draft legislation of high importance, in particular those having significant impact on fundamental rights of individuals, not only citizens (including the equal rights of women and men, rights of persons with disabilities, and of minority or other groups).

2. To ensure that RIA reports should be prepared at the early stages of scrutiny and selection of policy proposals, and posted on the portal for public

[49] For instance, within the EU, as of 2019, out of 28 EU Member States, 14 countries have provisions for mandatory periodic evaluation of existing primary laws in place, while 11 countries do so for subordinate regulations. This largely confirms the general picture across OECD members: only 26% require periodic ex post evaluation for existing primary laws and 21% for subordinate regulations. In most of the 14 EU countries, the ex post evaluation requirement only applies to primary laws in specific policy areas. Only Austria, Denmark, Germany, Hungary, Italy, the Netherlands and the United Kingdom have a requirement in place to conduct periodic ex post evaluation across all policy areas. See OECD, *Better Regulation Practices across the European Union*, 2019, p. 104.

[50] OECD, *Better Regulation Practices Across the European Union*, 2019, Chapter 4: Ex Post Review of Laws and Regulations Across the European Union.

[51] OECD, *Better Regulation Practices Across the European Union*, 2019, Chapter 4: Ex Post Review of Laws and Regulations Across the European Union.

consultations before any draft legal act is even prepared.

3. To define in the Regulation the precise consequences of revealing a detrimental effect of a given legal act, in case of unacceptable impact on human rights and fundamental freedoms.

4. To explicitly provide that both *ex ante* and *ex post* RIAs should evaluate the economic, environmental, social, human rights, equality, gender and other impacts.

2.7. Preparation of Draft Laws

64. The preparation of draft laws by the Cabinet of Ministers is governed by the Law No. 60 of 11 October 2006 "On Rules for Drafting and Submitting Bills to the Legislative Chamber of the *Oliy Majlis*" *(*hereinafter "2006 Law") and the 2021 Law. Another important text impacting the preparation of draft laws is the Resolution of the Cabinet of Ministers on Organisational Measures to Implement a Unified System for Development and Approval of Draft Legal Acts No. 284 of 8 April 2019,[52] which aims to ensure the use of a unified electronic database for all draft regulations and for the collection and storage of relevant analytical and statistical data, to also promote more transparency of the process of review and clearance of draft laws, among others.[53] The preparation of draft laws begins with consideration and approval of a proposal to draft a law (Article 7 of the 2006 Law and Article 21 of the 2021 Law on Normative Legal Acts).

65. As in most OSCE participating States, in Uzbekistan, the law drafting takes place primarily within the executive, that is, the Ministry of Justice and specialized ministries. The Ministry of Justice is tasked with the legal review/expertise of all draft normative legal acts. This applies equally to primary laws and by-laws. However, it is not clear what consequences unsatisfactory conclusions of the legal review conducted by the Ministry of Justice would imply.

66. The legislative framework governing the preparation of draft laws has not changed much since the Preliminary Assessment, except for the positive changes noted above regarding the requirement to conduct RIA as part of the stages of the preparation of a draft normative legal act and the new Article 20 of the 2021 Law which should in principle allow a better assessment of the need for legislation before approval for law drafting is granted, although the mechanism should be enhanced as underlined above to ensure proper policymaking.

67. According to the new Law on Normative legal Acts and practice, in Uzbekistan, government agencies are responsible for drafting legislation that falls within their fields

[52] Available at <284-сон 08.04.2019. Об организационных мерах по внедрению Единой электронной системы разработки и согласования проектов нормативно-правовых актов (lex.uz)>.

[53] As per the Resolution, the Unified Electronic System set up by this Resolution is expected to provide for the implementation of the following priority tasks:
- creating the possibility of sending draft laws and regulations for review and endorsement using an electronic digital signature to all related agencies, also for their broad public and professional discussion;
- ensuring the transparency of the process of review and clearance of draft laws through automatic recording of all actions;
- verifying the authenticity of electronic digital signatures;
- collecting and storing available data, proposals and comments;
- maintaining a unified electronic database of draft regulations;
- using the unified electronic database in the process of drafting and collecting analytical and statistical data;
- real-time management, monitoring and oversight of the process of development and endorsement of draft laws with agencies.

of competence. There are no central government drafting services, for instance within the government cabinet, taking on this task.

68. The drafting rules, containing information about the proper drafting technique and style in use to draft legal acts, seem to be different for different lawmakers in Uzbekistan.[54] It is important to have unified drafting manuals that should apply to all legal drafters, who should be obliged to follow the basic rules and principles set out therein to ensure that policies and laws are drafted in a consistent manner, with the same structure and using the same terminology. Legal drafters in the government and parliamentary sectors (and beyond), and government staff responsible for verifying draft policies and laws should adhere to the same drafting manual and instructions or checklists outlining legislative techniques.

69. Where parliamentarians have a right to draft laws, internal parliamentary directives should also oblige them to adhere to existing drafting manuals that is also missing in the Laws on the Rules of Procedure of the Legislative Chamber of *Oliy Majlis* and in the 2006 Law. Relevant parliamentary support staff should be familiar with the instructions and guidelines set out in such manuals and have the necessary skill-set and capacities. Parliamentary support staff could also be in regular contact with government ministries or other government agencies involved in legislative drafting to share knowledge on drafting techniques and processes.

70. **It is, thus, advisable to consider developing unified drafting manuals applicable to all legal drafters to ensure consistency of the format, structure, style of laws, basic common terminology and other technical elements.** Whilst manuals provide guidance, they should not limit the ability of legislative drafters to make the decisions that best serve the effectiveness of their drafts. Manuals, while helping drafters to develop a homogeneous drafting style, need to be flexible documents that also allow for innovation and change.

71. The instructions governing the processes of how policies and laws are prepared need to be sufficiently clear and understandable in terms of procedures and responsibilities of individual actors,[55] drafted in a manner that avoids potential abuse due to unclear or ambiguous language. In most countries, draft policies and laws habitually go through various verification procedures and channels for approval within the initiating body and are then circulated among the different ministries, and also the prime minister's office. In most cases, the initiators of a draft law need to consult, at a minimum, the ministry of finance on budgetary matters, and the ministry of justice on legal matters, to ensure a realistic allocation of funds to later implement the law, once adopted, and consistency with the constitution and other legislation respectively. In some countries, a first draft of a law is even sent to the competent parliamentary committee for early feedback.

72. It is commendable that Article 30 of the 2021 Law on Normative Legal Acts defines some verification mechanisms before the draft laws are being submitted to the body having the right to adopt them. In particular, the Law provides that the drafts should be agreed with "interested state bodies and organizations" and "other state bodies and organizations in cases provided for by law". This system of scrutiny, instilled into the

[54] For example, the Resolution of the Cabinet of Ministers "On Measures to Ensure the Legality of Legal Instruments/Normative Legal Acts of Ministries, State Committees and Departments/Agencies", No. 469 of 9 October 1997 and the MoJ Order No. 2565 of 28 February 2014 define the requirements and rules for drafting and adopting legal instruments of different government agencies. In addition, there are Legal and Technical Rules for Drafting Bills submitted to the Legislative Chamber of the *Oliy Majlis* of the Republic of Uzbekistan, and Bills submitted to the Senate of the *Oliy Majlis* of the Republic of Uzbekistan. At the same time, it is not clear which drafting rules apply to draft acts initiated by the President.

[55] See ODIHR Assessment of Lawmaking and Regulatory Management in North Macedonia, as revised in 2008, p. 33.

preparation process itself, is essential to ensure that draft policies and laws are compliant with the Constitution, with other laws, and with a state's international obligations, and do not go beyond the scope and authority of the drafting body.[56] At the same time, the precise list of the bodies which should verify the drafts and consequences of verification procedures appear not to be clear enough. Normally, negative opinions by the ministries of finance and justice respectively on the financial impact or the compliance of a draft law with other legislation or international obligations should lead to revisions of the draft laws before further processing, which does not seem to be the case in Uzbekistan. **It is, therefore, recommended to clearly define in the Law on Normative Legal Acts the verification procedure, including the bodies authorised to do the verification and in which circumstances, as well as specify the consequences when draft laws have received a negative opinion from the verifying body or have failed to be verified**.

73. The 2021 Law on Normative Legal Acts provides a possibility to establish working groups for elaborating a draft legal act, which may be composed of governmental and non-governmental experts, as well as citizens. Furthermore, external experts, including from international organizations and other states, can also be involved to provide legal and other types of expertise (such as economic, environmental, etc.) of draft laws. It is commendable that the 2021 Law contemplates the involvement not only of governmental representatives, but also other stakeholders such as external experts and civil society representatives, among others, to be consulted during the preparation of drafts laws. While it is welcome in principle that the 2021 Law envisages the consultation of civil society representatives, it is essential to ensure that the modalities for composing working groups and involving representatives of civil society are open, transparent and inclusive, seeking to reflect the variety of associations that exist, including those that may be critical of the government proposals being made, if they are willing to be part of such processes.[57] Furthermore, it is also important that the composition of working groups be gender balanced and the nomination modalities should also take this aspect into account.[58] The establishment of such working groups could be envisaged even from the very conceptual stage, during policymaking. Early engagement between policy development and legislative drafting is usually beneficial for the legislative end product, as in such cases the drafter has a better understanding of the policy rationale behind a new law.

74. Article 7 of the Law on Guarantees of Equal Rights and Opportunities for Women and Men (2 September 2019)[59] prescribes a gender-legal expertise of normative legal acts and their drafts to be carried out by state bodies and other organizations in the relevant areas of activity. At the same time, the new Law on Normative Legal Acts, when

---

[56] For example, in the United Kingdom, see the website of the Parliament at: <https://erskinemay.parliament.uk/section/4988/prelegislative-scrutiny-of-draft-bills/https://erskinemay.parliament.uk/section/4988/prelegislative-scrutiny-of-draft-bills/>.

[57] See e.g., ODIHR-Venice Commission, *Guidelines on Freedom of Association* (2015), paras. 183-187. See also Council of Europe, *Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe*, 10 October 2007, paras. 12, 76 and 77; UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Article 8; United Nations Economic Commission for Europe (UNECE), *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* ("Aarhus Convention"), 25 June 1998, Articles 6 and 8; Council of Europe, *Framework Convention for the Protection of National Minorities* (ETS No. 157), 1 February 1995, Article 15.

[58] For instance, the Serbian Guidelines on Participation of NGOs in Working Groups Commissioned with Preparation of Draft Normative Acts and Policy Documents (2020) provides that the competent public authority may appoint an NGO representative in a working group, observing the principles of equality, non-discrimination and gender balance. See also *Recommendation Rec (2003) 3 of the CoE Committee of Ministers on the Balanced participation of women and men in political and public decision-making and explanatory memorandum*, Chapter II (items 8 and 9).

[59] Available at <LRU-562-сон 02.09.2019. On guarantees with respect to equal rights and opportunities for women and men (lex.uz)>.

speaking about legal and other types of expertise, does not contain any reference to gender-legal expertise nor cross-reference to the Law on Guarantees of Equal Rights and Opportunities for Women and Men. **Article 25 of the Law on Normative Legal Acts should be supplemented by an express mention of the mandatory gender expertise of draft legislation, while cross-referencing the Law on Guarantees of Equal Rights and Opportunities for Women and Men,** which further details the purpose and modalities of such an expertise.

RECOMMENDATION E.

1. To consider developing unified drafting manuals applicable to all legal drafters to ensure consistency of the format, structure, style of laws, basic common terminology and other technical elements.

2. To clearly define, in the Law on Normative Legal Acts, the verification procedure, including the bodies authorised to do the verification and in which circumstances, as well as specify the consequences when draft laws have received a negative opinion from the verifying body or have failed to be verified.

3. To supplement Article 25 of the Law on Normative Legal Acts by expressly referring to mandatory gender expertise of draft legislation and cross-referencing the Law on Guarantees of Equal Rights and Opportunities for Women and Men.

2.8. Consultations

75. The Presidential Decree of 8 August 2018 recognizes the importance for lawmaking to be open and transparent to the public in order to respond to the needs of citizens and improve their everyday life. The Preliminary Assessment had noted some concerns regarding public consultations or the lack thereof.[60] As underlined in Sub-Section 2.6 above, the legal framework now requires that public consultations be carried out as part of the RIA process, which is welcome in principle. At the same time, a number of shortcomings seem to remain which may render difficult, in law and in practice, for the public or relevant stakeholders to meaningfully participate in the lawmaking process.

76. As already mentioned, public consultations should take place early on during initial policy discussions on how to resolve an identified problem or challenge or on potential legislative intent, since at that stage, it will still be possible to make significant changes to a concept. At the same time, consultations should also take place at various later stages of the legislative process, as a draft policy evolves into a draft law, and as this draft law undergoes various amendments and additions.[61] The 2021 Presidential Resolution (para. 18) allows for more than one public consultation only if the text of the draft, after it has been finalized on the basis of public discussion, radically differs from that previously placed for public discussion, in particular if its conceptual provisions have been changed. This appears unduly limiting. **It is, therefore, suggested, to more clearly envisage that consultations may take place multiple times and at different stages of the policy- and lawmaking process so that interested and affected groups could follow the developments and participate throughout the legislative process**.

[60] See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), Recommendations N to R and paras. 77-85.

[61] ODIHR Assessment on Law Drafting and Legislative Process in the Republic of Serbia, 2011, p. 72.

77. According to paragraph 5 of the 2021 Presidential Resolution, consultation shall not be carried out, among other, in case when the draft is aimed at preventing emergencies or eliminating their consequences, introducing restrictive measures (quarantine) to prevent the spread of infectious and parasitic diseases. In this case the developer of the draft must justify the refusal to carry out consultations in the explanatory note. Overall, states of emergency imply a situation marked by the need for quick reactions to life-endangering circumstances, which may be due to a pandemic, a natural disaster, an extensive economic crisis, or to a war or armed conflict, or large-scale simultaneous terrorist attacks. While different forms of accelerated lawmaking, skipping some elements of a normal legislative cycle, may at times be necessary, exceptions to rules on public consultations should be kept to a minimum and should be limited to what is strictly required by and proportionate to the exigencies of the situation.[62] Generally, most significant laws, e.g., constitutional amendments or legislation that may impact fundamental freedoms and human rights, or change the balance of powers, should not be adopted or amended during states of emergency as it is fundamental that the public and all relevant stakeholders be consulted.[63] **Despite the urgency of certain decisions, care should be taken to involve experts and civil society, including minority, gender and other diverse groups, as much as possible in decision-making**. Furthermore, **when public consultations or regulatory impact assessment are not carried out due to urgency, laws adopted in this manner should ideally contain a review clause and be reassessed by parliament once the emergency situation or urgency has ended**.[64]

78. More generally, as noted above, the 2021 Presidential Resolution on the RIA System requires public consultations as part of the RIA process. It is unclear however whether in addition, certain or all draft legal acts should be subject to mandatory consultations at later stages of the drafting process. To avoid inconsistency on this matter, it would be advisable to **more clearly outline in the 2021 Law on Normative Legal Acts and/or in the Law on Public Discussions clear criteria to determine when and for which types of legislation public discussions are mandatory, which as a rule should be done with respect to drafts that are of high importance or impact on the population, and when they may not be necessary, while requiring the government or other bodies with legislative initiative to justify why skipping the public discussion of a bill would be permissible**.

79. As underlined in Sub-Section 2.6, mandatory consultations are envisaged when conducting RIAs and it is indeed fundamental that public consultations take place at this inception stage, although they may be repeated and deepened at later stages as well. Article 23 of the 2021 Law on Normative Legal Acts states that draft laws "may" be submitted for "*nationwide discussion in accordance with the procedure established by the Law of the Republic of Uzbekistan 'On Public Discussion of Bills'*". While the word "may" suggests that the process is optional, Article 24 of the 2021 Law stipulates that draft legal acts "shall" be posted on the portal for public consultations, for at a minimum 15 days. Consideration of comments is also foreseen and a rejection of a proposal requires the drafting agency/body to provide a justification for such (Article 24 (4) and (5)). However, it remains unclear whether the MoJ has the capacities to check the quality of justifications for all rejected proposals or whether the lack of feedback would be sanctioned in any way, which may render the existence of the feedback

[62] See ODIHR, *Guiding Principles of Democratic Lawmaking and Better Laws* (9 October 2023), Principle 11.
[63] *Ibid.* Principle 11.
[64] *Ibid.* Principle 11.

mechanism rather illusory. It is noted that in the context of public consultations when conducting RIAs, the 2021 Presidential Resolution specifies that the failure to provide feedback to proposals considered reasonable received in the course of public consultations, the MoJ submits to the relevant state bodies and organizations mandatory directions on the elimination of these shortcomings (para. 58).

80. Whilst placing the drafts for public consultations using an internet portal is a good and common practice, it should be kept in mind that electronic tools that are used must also be tailored to enhance inclusiveness, transparency, accessibility and make participation easier.[65] For example, the website of the Parliament of Uzbekistan, which constitutes the main window to the outside, was considered as not easily accessible to citizens who do not have a good understanding of parliamentary procedure.[66] Moreover, merely publishing information on draft laws online may not be enough to meaningfully engage relevant persons or groups who may be impacted by the draft law, who may not necessarily be aware of the public consultation process, or how they may contribute, or not having access to the online tools or capacity to use them to contribute. In this respect, it is important for lawmakers to properly assess and identify which individuals or groups of people will be most affected by the planned law, and in which way, and to conduct such assessments on a regular basis, to ensure that a wide array of stakeholders is identified. When selecting means of consultation, the special situation of marginalized or under-represented groups should be taken into consideration[67] and consultation strategies need to adapt their timing and methods of consultation accordingly. In particular, and as appropriate, reasonable accommodation needs to be provided to ensure that consultations are accessible to persons with disabilities, including by considering accommodative measures – such as communication of information in adjusted formats, easy-to-read language, physical access to events and venues for consultations, etc.[68] This applies equally to drafters in government and in parliament, but also to the bodies organizing public hearings on draft laws. Relevant ministries and parliamentary committees could maintain and regularly update an inclusive list of key stakeholders and interest groups in their respective areas of competence that can also help with proper outreach; when compiling and maintaining them, however, relevant data protection regulations need to be adhered to.

81. If legal drafters send out invitations to specific consultation events, then they should ensure that these are sent well in advance, so that the respective individuals and groups will have time to organize their schedules and prepare accordingly. Sufficient advance notice is even more important in cases where information on public consultations is simply posted on relevant government websites, as in these instances it may take time for interested stakeholders to become aware of such information. The same applies when parliamentary committees organize public hearings on draft laws. It should also be kept in mind that it might be difficult for the interested public to ensure high quality review of the draft laws or other regulatory acts due to potential lack of expertise.

82. It is not clear whether the drafting agencies regularly publish the RIA reports together with the draft normative legal acts or just submit them to the Ministry of Justice. RIA

---

[65] Council of Europe Conference of INGOs: Code of Good Practice for Civil Participation in the Decision-Making Process, adopted on 30 October 2019, p. 17.

[66] Assessment report on e-parliament - WFD Uzbekistan, 4 October 2019.

[67] See *Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes* (2015) prepared by civil society experts with the support of the OSCE Office for Democratic Institutions and Human Rights, para. 19, with reference to the World-wide Web Consortium's guidelines on web content accessibility (1999), now updated here: <Home | Web Accessibility Initiative (WAI) | W3C>.

[68] ODIHR, *Guidelines on Promoting the Political Participation of Persons with Disabilities* (2019), pp. 87-88.

reports – if properly prepared, are important to involve the interested public in a meaningful exchange of opinions and enhance the impact and quality of public consultations. **Thus, the drafting agencies should be required to publish the different versions of the RIA reports, including preliminary version before their initiatives may be endorsed by the President and included in official action plans and programs.**

83. Further, Article 16 of the Law on Public Discussions provides that "*State bodies, self-governing bodies of citizens, enterprises, institutions, organizations, political parties and other public associations, mass media, factions of political parties in the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, as well as deputies of the Legislative Chamber of the Oliy Majlis in their constituencies shall organize events for public discussion of draft laws*." Proposals and comments of participants of the nationwide discussion of draft laws may be individuals or groups and contributions may be made orally or in writing and are subject to mandatory consideration. The Law prohibits to decline acceptance of comments received although at the same time, they are said to be of advisory and consultative nature (Article 19).

84. Given the variety of rules on public consultations provided for by different legal acts, in order to avoid any uncertainty, and for the sake of regulatory coherence, **it would advisable to review and harmonize or consolidate them while defining relevant guidance on how consultations may be done in practice with more specific checklists, recommendations and examples that could be tailor-made for the Government and for the *Oliy Majlis* respectively**.[69]

85. Finally, it is noted that in practice, the limited physical accessibility of the *Oliy Majlis* premises contributes to the citizens' perception of parliament as a distant body. While there are, in principle, procedures that allow non-affiliated individuals to enter the parliamentary premises and observe plenary or committee sessions, this faculty does not appear to be often used in practice. Overall, the role and functions of the *Oliy Majlis* do not appear to be well understood by the general public and the Parliament is generally considered by civil society and the media to be a remote and not accessible institution.[70] Despite the recent efforts of the parliament to increase communication and engagement with citizens, the Parliament would greatly benefit from having a clear and effective communications strategy to increase public awareness of its and MPs' roles and enhance public participation in its work.

RECOMMENDATION F.

1. To more clearly outline in the 2021 Law on Normative Legal Acts and/or in the Law on Public Discussions clear criteria to determine when and for which types of legislation public discussions are mandatory, which as a rule should be done with respect to drafts that are of high importance or impact on the population, and when they may not be necessary, while requiring the government or other bodies with legislative initiative to justify why skipping the public discussion of a bill would be permissible

2. To more clearly envisage that consultations take place at different stages of

[69] OECD: Recommendation of the Council on Regulatory Policy and Governance, 2012, Annex, 2.1. See also ODIHR Assessment of the Legislative Process in the Republic of Armenia, 2014, para. 32.

[70] Assessment report on e-parliament - WFD Uzbekistan, 4 October 2019.

the lawmaking process so that interested and affected groups could follow the developments and participate throughout the lawmaking process.

3. To provide for mechanisms to involve experts and civil society, including minority, gender and other diverse groups, in the consultation process, even in cases of urgency.

2.9. Regulatory Oversight

86. In most democracies, it is common that a significant, if not overwhelming, share of legislative activity originates and happens in the ministries and executive branch of power. What is very specific to the current state of play in Uzbekistan, is that the major part of this activity, by reason of being made through by-laws, is not subject to a proper parliamentary oversight (except for parliamentary questions or hearings that are normally available and regularly conducted).

87. At the outset, it must be reiterated that this is one of the focus of the reform initiated by the Presidential Decree of 8 August 2018. As underlined in the Preliminary Assessment, in order to reform the current regulatory system from one ruled by by-laws to one ruled by principles of law enshrined in primary legislation, it is fundamental to significantly strengthen the capacity of parliament and individual parliamentarians to draft, consider and adopt primary laws but also to strengthen the *Oily Majlis's* function to conduct scrutiny of draft laws initiated by the Cabinet of Ministers or the President.[71] As government draft laws are scrutinized by other parts of government, and by the government body signing off on official government drafts (the MoJ), similarly, draft laws originating in parliament should be scrutinized by parliament, initially by parliamentary committees, and later by the plenaries (with additional scrutiny in cases where draft laws are substantially changed during parliamentary work). Already this system of constant scrutiny and discussion is a form of oversight (the result of which may, depending on the country, even be published), instilled into the process itself. In addition, a certain level of oversight is regularly exercised in parliaments' daily task of reviewing and amending submitted government draft laws; committees have an important role to play here by reviewing and debating draft laws that fall within their competences.

88. To date, the two applicable laws in this area are the Law of the Republic of Uzbekistan on Parliamentary Oversight (adopted in 2016, as last amended in 2021)[72] and the Law on the Rules of Procedure of the Legislative Chamber of the *Oliy Majlis* (as amended on 4 September 2020). The latter provides the Speaker of the Legislative Chamber with the right to pass the bill to the relevant committee of the legislative chamber for scrutiny, the seeking of opinions of all factions and discussion of the bill in the *Oliy Majlis* with the possible participation of a representative of the Cabinet of Ministers. The responsible committee then informs the whole Chamber of the respective opinions and proposals which according to the Rules of Procedure, are subject to obligatory and comprehensive discussion. Based on this discussion the Legislative Chamber decides whether to pass the bill in the first reading (Articles 13 and 14 of the Law).

89. Importantly, in practice, the *Oliy Majlis* does not always play a large role in terms of determining whether the proper legislative procedure was followed by the initiators of

[71] See ODIHR, *Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan* (2019), para. 70.
[72] Available at <ЗРУ-403-сон 11.04.2016. О парламентском контроле (lex.uz)>.

legislation up to the moment when a draft law is submitted to the Parliament (i.e., whether a proper policymaking discussion, RIA and consultations have taken place and other procedural modalities were complied with). This form of oversight is part of the central role of parliament and it would be advisable **to elaborate the provisions to ensure effective scrutiny by the Legislative Chamber and the Senate of the technical quality of draft laws initiated by the Cabinet of Ministers or the President and compliance with the legislative procedure.**

90. Parliaments in some countries also have a role in checking the implementation of laws and evaluating whether they achieve their intended outcomes. In this respect post-legislative scrutiny (hereinafter "PLS") is increasingly recognised as an important dimension within the oversight and legislative role of parliament as well as an integral part of the legislative cycle.

91. According to the Law on Parliamentary Oversight, committees of the Legislative Chamber and the Senate shall periodically carry out on-site monitoring of implementation by state authorities and economic agencies of laws, of resolutions of the Legislative Chamber and the Senate, and law enforcement practices. During the monitoring, the committees of the Legislative Chamber and the Senate, as well as deputies of the Legislative Chamber and members of the Senate may request documents, expert opinions, statistics and other data from government bodies and other organizations and officials. Based on the results of the monitoring over implementation of legislative acts and law enforcement practices, the parliamentary committees may at their meetings hear reports from heads of the state bodies, as well as make decisions on submitting the monitoring results to the Legislative Chamber and the Senate. The committees of the Legislative Chamber and the Senate shall monitor timely adoption of by-laws for implementation of newly adopted laws. Monitoring outcomes may be considered at meetings of the committees of the Legislative Chamber and the Senate.

92. At the same time, as mentioned in Sub-Section 2.6.2 *supra*, monitoring and evaluation of the implementation of legislation is partly embodied in the *ex post* RIA exercise, which is conducted without any involvement of the parliament and is not subject to a proper parliamentary oversight. Furthermore, in accordance with the procedure for the legal monitoring of regulatory legal acts implementation, approved by the Resolution of the President of the Republic of Uzbekistan No. 4505 of 2 November 2019, the legal monitoring shall be carried out by relevant state administration authorities with respect to regulatory legal acts falling within their respective competence, with the MoJ playing a co-ordinating role.

93. As part of their general oversight role, it is important for parliaments, in addition to other bodies that perform this task, to evaluate whether legislation once implemented achieved its intended aim. **In this respect it is recommended to consider stronger role of parliamentary committees in carrying out *ex post* legislative scrutiny (either through some sort of *ex post* evaluation of laws or other tools).** The results of such *ex post* evaluations could then be debated in parliament. It is also important to better **emphasize the role of individual parliamentarians in the lawmaking process in Uzbekistan, especially when it comes to their participation in parliamentary oversight and scrutiny, which is currently unaddressed in the existing legislative framework.**

RECOMMENDATION G.

1. To elaborate the provisions to ensure effective scrutiny by the Legislative Chamber and the Senate of the technical quality of draft laws initiated by the Cabinet of Ministers or the President and compliance with the legislative procedure.

2. To consider stronger role of the parliamentary committees in carrying out post legislative scrutiny, including through ex post RIA of laws and/or other tools.

2.10. Gender and Diversity Considerations

94. The adoption of the Law on Guarantees of Equal Rights and Opportunities for Women and Men No. 562 of 2 September 2019 and the Resolution of the Cabinet of Ministers No.192 of 30 March 2020 "On the procedure for gender evaluation of laws and regulations and their drafts" (hereinafter "Procedure for gender evaluation") are positive developments to contribute to a more gender-sensitive lawmaking process.

95. In its Concluding Observations on the sixth periodic report of Uzbekistan of 1 March 2022, the Committee on the Elimination of Discrimination against Women ("CEDAW Committee") welcomed the progress made by Uzbekistan in establishing a progressive national legislative framework to protect women's rights and promote gender equality since the consideration of its fifth periodic report in 2015. Due to the recent adoption of many important pieces of legislation, the Committee considered though that it was difficult to assess progress and trends over time in terms of the actual situation of women and their enjoyment of their human rights in regard to all areas covered by the CEDAW Convention. The Committee noted that the definition of discrimination in the Law on Guarantees of Equal Rights and Opportunities for Women and Men encompassed direct and indirect discrimination on the basis of sex but did not cover intersecting forms of discrimination. The CEDAW Committee was also concerned that Uzbekistan had made a reservation to Article 12 of the recently ratified Convention on the Rights of Persons with Disabilities (hereinafter "CRPD"), preserving substitute decision-making practices, which contradicts the object and purpose of the CEDAW Convention as enshrined in Article 1 and prevents Uzbekistan from fully implementing and addressing human rights of women with disabilities in compliance with the human rights model of disability.

96. As noted in Sub-Section 2.7, Article 7 of the Law on Guarantees of Equal Rights and Opportunities for Women and Men prescribes a gender-legal expertise of normative legal acts and their drafts to be carried out by state bodies and other organizations in the relevant areas of activity. In case a normative legal act or its draft is found to be inconsistent with the principle of equal rights and opportunities for women and men, the conclusion of a gender legal expertise is sent for consideration to the body in charge of developing or adopting the legal act. At the same time, the new Law on Normative Legal Acts, when speaking about legal and other types of expertise, does not contain any provisions on gender-legal expertise and should be supplemented in this respect.

97. The aforementioned Procedure for gender evaluation further elaborates on the requirement for mandatory gender evaluation of laws and regulations and their drafts, though not specifying who are the "state bodies and other organizations in the relevant areas of activity" that are tasked to conduct gender evaluation of draft laws and

regulations. The Procedure for gender evaluation seems to imply that legal services of the developers of drafts and so-called "justice bodies" should prepare the relevant legal opinions containing, among other, information on the existence or absence of norms that do not comply with the principles of gender equality and proposals for revision of the draft. It is not clear, however, what are the consequences of a finding of non-compliance, which should in principle lead to the substantial revision of the draft legal act**. Therefore, it is advisable to clearly define the consequences of non-compliance of the drafts with the principles of gender equality and concrete next steps and time-frame necessary for revision of the draft.**

98. Gender- and diversity-responsive budgets that ensure that the needs and interests of individuals from different social groups (gender, age, ethnic origin, disability, location, etc.) are addressed in expenditure and revenue policies is also important to mitigate inequalities.

99. Importantly, the Law on Equal Rights and Opportunities does not address the issue of using gender-sensitive language in policies and legislation.[73] The latter, as opposed to gender discriminatory language,[74] means that the language of the law should explicitly consider its audiences and make specific linguistic choices in each and every case, instead of using general clauses. **In this respect, it is recommended to ensure in the legislation provisions requiring legal drafters to adopt and use gender-sensitive approach when formulating legal provisions**. Regardless of the language in which laws are drafted, it is important that laws do not use gender specific language or that they do so only when it serves the effectiveness of the law or a specific reason (for example, the law addresses a specific gender). Also, the language used in legislation should not be demeaning or dismissive of forms of person's self-identification, such as with respect to a disability or to a national, ethnic, or indigenous identity or other characteristics. Diversity-inclusive language[75] is the only acceptable standard of legislative expression that promotes legislative effectiveness, equality and inclusivity.

100. Parliamentary and governmental rules of procedure or practices should also reflect gender and diversity perspectives. Gender and diversity mainstreaming should be an important aspect of staffing policies with respect to parliamentary support staff and the secretariat. In this respect and recalling the respective recommendation of CEDAW Committee, it is important to introduce preferential recruitment of women to the civil service in the parliament and in the government, paying particular attention to women belonging to disadvantaged and marginalized groups Targets and achievements in this

---

[73] See UN Guidelines for Gender-Inclusive Language in Arabic, Chinese, English, French, Russian or Spanish English, to reflect the specificities and unique features of each language, recommending remedies that are tailored to the linguistic context, available at: <UNITED NATIONS Gender-inclusive language>. European Institute for Gender Equality, *Toolkit on Gender-sensitive Communication - A resource for policymakers, legislators, media and anyone else with an interest in making their communication more inclusive* (2019); Council of the European Union, *Inclusive communication in the General Secretariat of the Council of the European Union* (2018).

[74] Meaning language that includes words, phrases and/or other linguistic features that foster stereotypes, or demean or ignore women or men or those who do not conform to the binary gender system, jeopardizes inclusivity and sends out wrong messages. See Donald L. Revell, Jessica Vapnek, Gender-Silent Legislative Drafting in a Non-Binary World (2020) 48:2 Capital University Law Review 1-46; Office of the Parliamentary Counsel and the Government Legal Department (UK), Guide to Gender-Neutral Drafting 2019; Government of Canada, Department of Justice, Legistics Gender-neutral Language; Ruby King and Jasper Fawcett, The End of "He or She"? A look at gender-neutral legislative drafting in New Zealand and abroad (2018) NZWLJ; Parliamentary Counsel (Australia), Drafting Direction No. 2.1 English usage, gender-specific and gender-neutral language, grammar, punctuation and spelling, 2016; Office of the Parliamentary Counsel (UK), Drafting Guidance, 2018.

[75] UN Guidelines for Gender-Inclusive Language in Arabic, Chinese, English, French, Russian or Spanish English, to reflect the specificities and unique features of each language, recommending remedies that are tailored to the linguistic context, available at: <UNITED NATIONS Gender-inclusive language>. European Institute for Gender Equality, *Toolkit on Gender-sensitive Communication - A resource for policymakers, legislators, media and anyone else with an interest in making their communication more inclusive* (2019); Council of the European Union, *Inclusive communication in the General Secretariat of the Council of the European Union* (2018).

respect could be published on the parliament's website. Moreover, the respective Rules of Procedure should be sufficiently flexible towards parliamentarians and staff who are parents or care-takers, in particular with respect to the timing of debates, in-person participation in debates, or parental leave.

101. In order to properly streamline gender and diversity throughout the legislative cycle, states also need to ensure that women and minority group representatives are sufficiently represented in parliaments and in parliamentary bodies. Noting with appreciation that in the 2019 elections, 41.3 per cent of candidates to the Legislative Chamber were women, they are still underrepresented in decision-making positions, including in the *Oliy Majlis* (33,57% off MPs are women)[76]. It is, thus, important to ensure that women and men have an equal chance not only to be candidates but to get elected[77].

102. Recalling the respective recommendation of CEDAW Committee, it is important to introduce measures to combat negative attitudes and discriminatory behaviours towards women in politics. The leadership of parliaments and the composition and leadership of committees should also be gender-balanced and respect diversity. When legislatures establish parliamentary committees, care should be taken that such bodies are not only composed of different political parties, but also of women and men, and of persons of different religions and ethnicities. Therefore, the respective recommendation of the CEDAW Committee for Uzbekistan should be recalled, to amend its electoral law to introduce targeted measures, including temporary special measures such as increased quotas and dedicated campaign financing, to increase the representation of women at all levels of government, in the *Oliy Majlis* and local councils, in particular at decision-making levels.

103. To ensure that laws also address the specific needs, perspectives and experiences of minority groups, or historically marginalized or under-represented groups, it is essential for diversity considerations to be mainstreamed throughout the legislative process. Legislative drafters may need to test their assumptions to ensure that they avoid default scenarios, majority representations or conscious or unconscious biases or stereotypes, and should ensure that laws are also drafted to cover everyone equally.

104. It is important to include stakeholders from certain disadvantaged, marginalized or otherwise under-represented groups who can comment on drafts likely to impact them so that they may provide their own perspective. Wide-ranging, pro-active outreach measures by government and parliament help to identify and include all interested and relevant counterparts, including organizations representing historically marginalized or under-represented groups. When selecting means of consultation, the special situation of marginalized or under-represented groups should be taken into consideration[78] and consultation strategies need to adapt their timing and methods of consultation

[76] https://www.ipu.org/parliament/UZ

[77] In this respect, legislation on political parties may be adopted to promote the objective that women and men actually have an equal chance to be candidates and to be elected. Countries with an electoral system based on proportional representation and party lists may introduce temporary special measures that would promote not only a high proportion of women candidates, but also a rank-order rule, such as a "zipper" system, where male and female candidates alternate, or where one of every three candidates through the list is from the less represented gender. Rank-order rules of this type remove the risk that women will be placed too low on party lists to have a genuine chance of being elected. It is also advisable to ensure that if a female candidate withdraws her candidature, she is replaced with another woman. Countries with a majoritarian electoral system are recommended to introduce provisions that promote systems whereby each party chooses a candidate from among at least one female and one male nominee in each district, or to find other ways to promote increased representation of women in elected politics. See ODIHR-Venice Commission Guidelines on Political Party Regulation, paras. 188-189.

[78] See *Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes* (2015) prepared by civil society experts with the support of the OSCE Office for Democratic Institutions and Human Rights, para. 19, with reference to the World-wide Web Consortium's guidelines on web content accessibility (1999), now updated here: <Home | Web Accessibility Initiative (WAI) | W3C>.

accordingly. In particular, recalling the CEDAW Committee recommendation to Uzbekistan to withdraw its reservation to Article 12 of the CRPD, the duty to consult persons with disabilities is one of the underlining principles of the CPRD. Article 4 (3) of the CPRD requires states to closely consult with and actively involve persons with disabilities "concerning issues related to persons with disabilities.'' The CRPD Committee's General Comment No. 7 notes that it covers "*the full range of legislative, administrative and other measures that may directly or indirectly impact the rights of persons with disabilities.*" As appropriate, reasonable accommodation needs to be provided to ensure that consultations are accessible to persons with disabilities, including by considering accommodative measures – such as communication of information in adjusted formats, easy-to-read language, physical access to events and venues for consultations, etc.[79]

105. Legislation should reflect the rights and needs of different groups and needs to be monitored and evaluated to ensure that this is the case. Once laws have been adopted, they should also be monitored and evaluated from an equality and non-discrimination viewpoint by the initiators of the policies and laws themselves, as well as by parliamentary committees and groups, national human rights institutions and civil society. Different bodies engaged in monitoring and evaluating adopted legislation need to bear this in mind when conducting assessments and research on how these laws are being implemented, and what effects they have. As recommended above, *ex post* RIAs should streamline horizontal concerns such as gender and diversity.

RECOMMENDATION H.

1. To clearly define the consequences of non-compliance of a draft law with the principles of gender equality and concrete next steps and time-frame for possible revision of the draft.

2. To ensure in the legislation provisions requiring legal drafters to adopt and use a gender-sensitive and diversity-inclusive approach when formulating legal provisions.

3. To ensure participation of women, persons with disabilities, other under-represented and marginalised groups in targeted public consultations on draft policies and laws.

[END OF TEXT]

[79] ODIHR, *Guidelines on Promoting the Political Participation of Persons with Disabilities* (2019), pp. 87-88.

Annex: List of Legal Texts Reviewed for the Purpose of the Follow-up Assessment

- Constitution of the Republic of Uzbekistan of 30 April 2023;
- Decree of the President of the Republic of Uzbekistan "On Approval of the Concept of Improving Lawmaking", No. 5505 of 8 August 2018;
- Law of the Republic of Uzbekistan "On Normative Legal Acts" No. 682 of 20 April 2021, replacing the Law of the Republic of Uzbekistan "On Normative Legal Acts", No. 342 of 24 December 2012, analysed in the Preliminary Assessment;
- Law "On the Rules of Procedure of the Legislative Chamber of the *Oliy Majlis* of the Republic of Uzbekistan", Section III on the Procedure for Considering Laws and Regulations in the Legislative Chamber, No. 522 of 29 August 2003;
- Law of the Republic of Uzbekistan "On Public Discussion of Bills", No 166-II of 14 December 2000;
- Law of the Republic of Uzbekistan "On Rules for Drafting and Submitting Bills to the Legislative Chamber of the *Oliy Majlis*", No. 60 of 11 October 2006;
- Law "On Parliamentary Control" No. 403 of 12 April 2016;
- Law of the Republic of Uzbekistan "On Guarantees of Equal Rights and Opportunities for Women and Men", No. 562 of 2 September 2019;
- Joint Resolution of the *Kengash* of the Legislative Chamber of the *Oliy Majlis* of the Republic of Uzbekistan and the *Kengash* of the Senate of the *Oliy Majlis* of the Republic of Uzbekistan "On the Legal and Technical Rules for Drafting Bills Submitted to the Legislative Chamber of the *Oliy Majlis* of the Republic of Uzbekistan and submitted to the Senate of the *Oliy Majlis* of the Republic of Uzbekistan", No.237-II of 30 December 2010 (for the Legislative Chamber) and No.150-II of 30 December 2010 (for the Senate);
- Joint Resolution of the Speakers of the Legislative Chamber and of the Senate "On Approval of the Regulation on the Procedure for Involving Representatives of Initiators of Legislation in Consideration of Draft Laws in the Legislative Chamber and the Methodology for Conducting Comparative Analysis of International Instruments and Foreign Legislation in Law Drafting", No. 220-III and No PK-41-III of 15 September 2015;
- Decree of the President of Uzbekistan "On Measures for the Future Improvement of the Activities of the Authorities and Institutions of Justice in the Implementation of the State Legal Policy", No. 5997 of 19 May 2020;
- Decree of the President of the Republic of Uzbekistan "On Additional Measures to Promote Competitive Environment and Reduce State Participation in Economy", No. UP-6019 of July 6 2020;
- Decree of the President of the Republic of Uzbekistan "On Measures to Improve the Business Environment by Introducing a System for the Revision of Outdated Legislation", No. 6075 of 27 September 2020;
- Resolution of the President of the Republic of Uzbekistan "On Measures to Improve the Enforcement of Legislation on the Basis of Modern Legal Monitoring Mechanisms", No. 4505 of 2 November 2019;

- Resolution of the President of Uzbekistan "On Measures to Further Improve Regulatory Impact Assessment System", No. 5025 of 15 March 2021;
- Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On Rules of Procedure of the Cabinet of Ministers", No. 242 of 22 March 2019;
- Resolution of the Cabinet of Ministers of Uzbekistan "On Organisational Measures to Implement a Unified System for Development and Approval of Draft Legal Acts", No. 284 of 8 April 2019;
- Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On Measures to Ensure the Legality of Legal Instruments / Normative Legal Acts of Ministries, State Committees and Departments / Agencies", No. 469 of 9 October 1997;
- Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On Approval of the Regulation on the Procedure for Gender Legal Expertise of Normative Legal Acts and their Drafts", No. 192 of 30 March 2020;
- Order of the Minister of Justice "On Approval of the Regulation on the Procedure for Conducting Anti-corruption Expert Assessment of Normative Legal Acts and their Drafts", No 3287 of 24 February 2021; and
- Order of the Minister of Justice of the Republic of Uzbekistan "On Approval of the Rules for Drafting and Adopting Internal Legal Instruments", No. 2565 of 28 February 2014.