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Valerie Kainz / Sebastian Reimer

Introducing a European E-Legislation Index

To identify best practices in the digitalisation of legislative processes, an online survey was conducted in 35 European countries. The questionnaire should determine (1) the level of publicly available information, (2) the level of participation offered to citizens and (3) the level of digitalisation of legislative processes. On the one hand the survey showed, that the level of information is quite good among the 18 contributing countries whereas digitalisation of processes and participation of citizens need improvement. On the other hand the study revealed the top 3 countries in this area, which are: (1) Estonia, (2) Germany and (3) Portugal. Only Estonia can be regarded to handle law drafting in an integrated online process.

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1 Introduction

«The best weapon of dictatorship is secrecy, but the best weapon of democracy should be the weapon of openness.» (Niels Bohr)

[Rz 1] Information and participation of people was a technically demanding task at the time western democracies emerged. Nowadays electronic means of communication dramatically simplify communication processes and make general participation in the legislative process a realistic goal. Communication obstacles between legislators and citizens are removed step by step.

[Rz 2] This article shall deal with the question to which extent electronic means have already been implemented for the purposes of an even more participative legislation within Europe. Best practices as well as strengths and weaknesses of existing approaches in legislative processes are pointed out. To be able to identify best practices, the implementation of a European E-Legislation Index is proposed. This Index shall provide clear evidence of the achieved progress, like the quality of the publicly and electronically available legislative information, the electronic participation of citizens in the legislative process as well as the quality of the electronic law drafting process itself. Furthermore it shall identify the potentials for improvement and allow for objective comparison of different national approaches to track down best practices.

2 Methodology

[Rz 3] The ranking of electronic legislation in Europe is based on data collected from 22 European countries. To this end an online-survey had been conducted since November 2014, communicated to legislative bodies and universities in 35 European countries, including all member states of the European Union as well as Albania, Iceland, Liechtenstein, Macedonia, Norway, Serbia and Switzerland. Feedback could be collected from 22 countries, of which 18 countries¹ answered more than the required minimum of 50 percent² of the questions.

These countries are: Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Ireland, Iceland, Italia, Latvia, Lithuania, Norway, Portugal, Romania, Slovakia, Slovenia and Switzerland.

To guarantee a minimum of relevancy, only replies with at least 50 percent of the questions answered were taken into account.

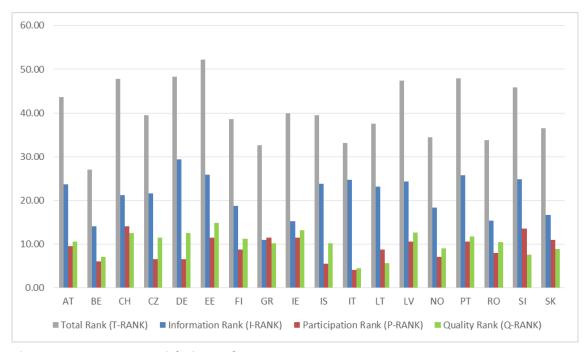


Figure 1: European E-Legislation Index 2015

[Rz 4] The survey³ consists of three main sections, focusing on aspects of

- Information⁴ (I),
- Participation⁵ (P) and
- Quality⁶ (Q) of the law drafting process.

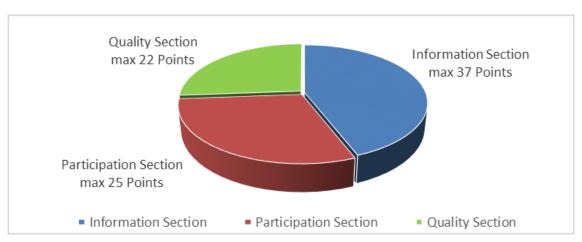


Figure 2: Structure and Score of the E-Legislation Index 2015

³ http://www.crystal-law.at/wp-content/uploads/2015/02/e_legislation_survey.pdf (5 February 2015).

 $^{^4}$ This section consists of questions 7, 9, 11 to 13, 15 to 17, 19, 21 and 27 with a maximum of 37 points.

 $^{^{5}}$ This section consists of questions 5, 22, 23 and 24 with a maximum of 25 points.

⁶ This section consists of questions 6, 20 and 25 with a maximum of 22 points.

[Rz 5] The **information part** allows for a maximum of 37 points and aims at the evaluation of the available online resources with regard to legislation, as for example access to consolidated versions of legislation, jurisdiction and legislative history. A maximum of 25 points can be achieved at the **participation part** of the questionnaire, which focuses on the initiation and public consultation of law drafts. Last but not least the **quality part** of the questionnaire allows for a maximum of 22 points and describes the extent to which law drafting can be done in an automated and digital manner. In total a maximum of 84 points can be rewarded for the «perfect digital legislation approach».

[Rz 6] The detailed data regarding the achieved points and rank per country are as follows:

E-Legislation Index 2015 (by country)										
	Total	T-RANK	Information	I-RANK	Participation	P-RANK	Quality	Q-RANK		
ΑT	43.65	7	23.65	8	9.50	9	10.50	9		
BE	27.07	18	14.07	17	6.00	16	7.00	16		
CH	47.74	4	21.24	11	14.00	1	12.50	4		
CZ	39.55	9	21.55	10	6.50	14	11.50	7		
DE	48.30	2	29.30	1	6.50	14	12.50	4		
EE	52.17	1	25.87	2	11.50	3	14.80	1		
FI	38.63	11	18.68	12	8.75	10	11.20	8		
GR	32.60	17	10.90	18	11.50	3	10.20	11		
ΙE	39.88	8	15.18	16	11.50	3	13.20	2		
IS	39.53	10	23.83	7	5.50	17	10.20	11		
ΙT	33.14	16	24.64	5	4.00	18	4.50	18		
LT	37.50	12	23.17	9	8.67	11	5.67	17		
LV	47.44	5	24.34	6	10.50	7	12.60	3		
NO	34.39	14	18.39	13	7.00	13	9.00	13		
PT	47.88	3	25.68	3	10.50	7	11.70	6		
RO	33.72	15	15.35	15	8.00	12	10.37	10		
SI	45.82	6	24.82	4	13.50	2	7.50	15		
SK	36.50	13	16.70	14	11.00	6	8.80	14		

Table 1: The E-Legislation Index 2015 (by country)

[Rz 7] Ordered by rank, the collected data reveals the following ranking, whereas T-RANK refers to the rank regarding the totally achieved points, I-RANK refers to the points rewarded for the information part, P-RANK refers to the points rewarded for the participation part and Q-RANK refers to the points rewarded for the digitalisation and quality of the online processes in legislation:

	Total	T-RANK	Information	I-RANK	Participation	P-RANK	Quality	Q-RANK
EE	52.17	1	25.87	2	11.50	3	14.80	1
DE	48.30	2	29.30	1	6.50	14	12.50	4
PT	47.88	3	25.68	3	10.50	7	11.70	6
CH	47.74	4	21.24	11	14.00	1	12.50	4
LV	47.44	5	24.34	6	10.50	7	12.60	3
SI	45.82	6	24.82	4	13.50	2	7.50	15
ΑT	43.65	7	23.65	8	9.50	9	10.50	9
ΙE	39.88	8	15.18	16	11.50	3	13.20	2
CZ	39.55	9	21.55	10	6.50	14	11.50	7
IS	39.53	10	23.83	7	5.50	17	10.20	11
FI	38.63	11	18.68	12	8.75	10	11.20	8
LT	37.50	12	23.17	9	8.67	11	5.67	17
SK	36.50	13	16.70	14	11.00	6	8.80	14
NO	34.39	14	18.39	13	7.00	13	9.00	13
RO	33.72	15	15.35	15	8.00	12	10.37	10
ΙT	33.14	16	24.64	5	4.00	18	4.50	18
GR	32.60	17	10.90	18	11.50	3	10.20	11
BE	27.07	18	14.07	17	6.00	16	7.00	16

Table 2: The E-Legislation Index 2015 (by total rank)

3 Availability of Information

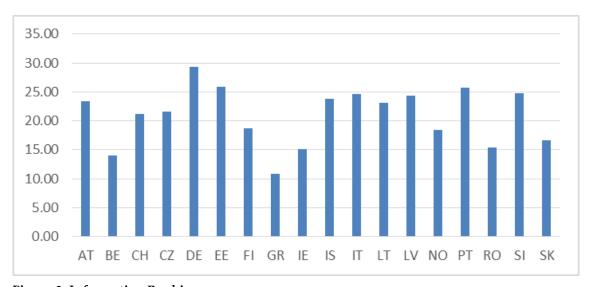


Figure 3: Information Ranking

[Rz 8] Easy access to reliable legal information is a key asset in modern society. Therefore, the focus of our survey has been on this topic, with a total of 37 points (or 44%) of the surveys maximum of 84 points. Germanys top value of 29.3 points corresponds to an achievement of 79% with regard to this section.

3.1 Legislation

[Rz 9] Legislation is **available online**, in all of the 18 countries, namely: Austria⁷, Belgium⁸, Czech Republic⁹, Estonia¹⁰, Finland¹¹, Germany¹², Greece¹³, Iceland¹⁴, Ireland¹⁵, Italy¹⁶, Latvia¹⁷, Lithuania¹⁸, Norway¹⁹, Portugal²⁰, Romania²¹, Slovakia²², Slovenia²³ and Switzerland²⁴.

[Rz 10] Legislation on **central** as well as **constitutional law level** is available online in all contributing countries, while **ordinances**²⁵ are in approximately two thirds and **sub-constitutional law**²⁶ is in approximately 56% of the examined countries available. Legislation on a **sub-regional level**²⁷, **regional level**²⁸ as well as **internal ordinances of public authorities**, which only bind civil servants²⁹ are available online in less than 30% of the countries. In Ireland acts and statutory instruments are available online mainly in their «as-enacted» form. In Switzerland, cantons set rules for the publication of their legislation³⁰.

[Rz 11] Legislative history on a **central level**³¹ is available online in more than 80% of contributing countries, while for **constitutional law**³² this rate is 66%, for **sub-constitutional law**³³ it is

- ⁷ http://www.ris.bka.gv.at (9 February 2015).
- 8 http://www.staatsblad.be (9 February 2015).
- 9 http://portal.gov.cz/app/zakony/?path=/portal/obcan (10 January 2015).
- ¹⁰ Legislation from 1995 on, is available at: https://www.riigiteataja.ee/en (10 January 2015).
- ¹¹ Legislation from 1926 on, is available at: http://www.finlex.fi/fi/laki (10 January 2015).
- 12 http://www.juris.de (10 January 2015).
- 13 http://www.parliament.gr/en/Nomothetiko-Ergo/Psifisthenta-Nomoschedia (10. February 2015).
- http://www.althingi.is (10 January 2015); http://www.reglugerd.is (10 January 2015); http://www.stjornartidindi.is (10 January 2015).
- 15 http://www.irishstatutebook.ie/home.html (10 January 2015), since 1781.
- 16 http://www.normattiva.it (10 January 2015); http://www.camera.it (10 January 2015); http://www.governo.it (10 January 2015).
- https://www.vestnesis.lv (10 January 2015); consolidated versions of legislation from 1993 on, are available at: http://likumi.lv (10 January 2015).
- ¹⁸ Legislation as of 2013 is available at: http://www.eteismas.lt (10 February 2015).
- ¹⁹ https://lovdata.no/register/lover (11 January 2015).
- ²⁰ Legislation from 1910 on, is available at: http://www.dre.pt (10 January 2015).
- ²¹ Legislation from 1995 on, is available at: http://www.lege-online.ro/legislatie-romaneasca (10 January 2015).
- ²² https://lt.justice.gov.sk/Public/AllMaterialsList.aspx (10 January 2015).
- ²³ Legislation from 1991 on, is available at: http://www.pisrs.si/Pis.web/pravniRedRS (10 January 2015).
- http://www.admin.ch/bundesrecht/00566/index.html?lang=de (10 January 2015); Legislation from 1998 on, is available at: http://www.admin.ch/bundesrecht/00567/index.html?lang=de (10 January 2015).
- Austria, Czech Republic, Estonia, Finland, Germany, Iceland, Ireland, Lithuania, Portugal, Romania, Slovenia and Switzerland (12/18).
- ²⁶ Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Iceland, Lithuania, Slovenia and Switzerland (10/18).
- ²⁷ Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Iceland, Latvia, Romania and Slovenia (10/18).
- ²⁸ Austria, Belgium, Estonia, Finland, Germany, Italy, Portugal and Switzerland (8/18).
- ²⁹ Austria, Finland, Germany, Lithuania and Switzerland (5/18).
- 30 http://www.lexfind.ch (10 January 2015).
- Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Portugal, Romania, Slovenia and Switzerland (15/18).
- ³² Austria, Belgium, Czech Republic, Estonia, Finland, Iceland, Italy, Lithuania, Portugal, Romania, Slovenia and Switzerland (12/18).
- ³³ Austria, Belgium, Czech Republic, Estonia, Finland, Iceland, Slovenia and Switzerland (8/18).

approximately 45% and for **ordinances**³⁴ the percentage is almost 39%.

3.2 Jurisdiction

[Rz 12] Jurisdiction is also **online available** in all countries but Slovakia, namely: Austria³⁵, Belgium³⁶, Czech Republic³⁷, Estonia³⁸, Finland³⁹, Germany⁴⁰, Greece⁴¹, Iceland⁴², Ireland⁴³, Italy⁴⁴, Latvia⁴⁵, Lithuania⁴⁶, Norway⁴⁷, Portugal⁴⁸, Romania⁴⁹, Slovenia⁵⁰ and Switzerland⁵¹.

³⁴ Austria, Czech Republic, Estonia, Lithuania, Romania, Slovenia and Switzerland (7/18).

³⁵ http://alex.onb.ac.at/zeitlichegliederung.htm (11 February 2015).

³⁶ http://www.staatsblad.be (11 February 2015).

³⁷ Supreme Court Jurisdiction as from 2003 is available at: http://www.nsoud.cz/JudikaturaNS_new/ns_web.nsf/WebSpreadSearch (11 January 2015); jurisdiction of the Supreme Administrative Court (from 2003 on) is available at: http://www.nssoud.cz/main0col.aspx?cls=JudikaturaBasicSearch&pageSource=0 (11 January 2015); jurisdiction of the Constitutional Court (since 1993) is available at: http://nalus.usoud.cz/Search/Search.aspx (11 January 2015).

³⁸ https://www.riigiteataja.ee/en (5 February 2015).

³⁹ http://www.finlex.fi/fi/oikeus (10 January 2015).

⁴⁰ http://www.juris.de (10 January 2015).

⁴¹ Paid services only.

⁴² Jurisdiction from 1999 on, is available at: http://www.haestirettur.is (10 January 2015); http://www.domstolar.is (10 January 2015); http://www.fonsjuris.is (10 January 2015).

⁴³ Jurisdiction as from 2001 (Supreme Court) and 2004 (High Court) is available at: http://www.courts.ie/Judgments.nsf/FrmJudgmentsByCourtAll?OpenForm&l=en (10 January 2015).

⁴⁴ http://www.cortecostituzionale.it (10 January 2015); jurisdiction from 1956 on, is available at: http://www.giustizia-amministrativa.it (10 January 2015).

⁴⁵ http://www.tiesas.lv/tiesu-nolemumi (10 January 2015); http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/ (10 January 2015); jurisdiction from 2007 on, is available at: http://www.satv.tiesa.gov.lv/?lang=1=19&smode=1 (10 January 2015).

⁴⁶ http://liteko.teismai.lt/viesasprendimupaieska/detalipaieska.aspx?detali=2 (10 January 2015).

⁴⁷ Jurisdiction from 1836 on, is available at: https://lovdata.no/register/dommer (11 January 2015).

⁴⁸ http://www.dgsi.pt (10 January 2015); http://www.tribunalconstitucional.pt (10 January 2015).

⁴⁹ Jurisdiction from 2008 on, is available at: http://www.jurisprudenta.org/Search.aspx (10 January 2015).

⁵⁰ http://www.pisrs.si/Pis.web/sodnaPraksaRS (10 January 2015).

⁵¹ http://www.eidgenoessischegerichte.ch (10 January 2015).

4 Participation in Law Drafting Process

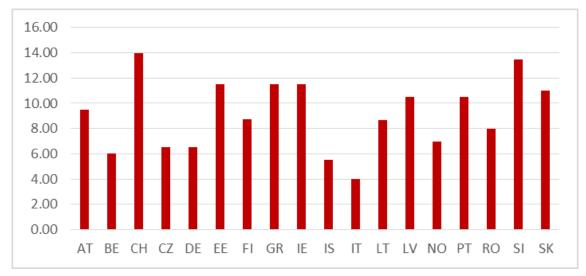


Figure 4: Participation Ranking

[Rz 13] The high-score in the participation section is set to 25 points and the best practice in this field is from Switzerland with a value of 14, which is a 56% fraction of the points achievable in this section.

4.1 Preparation

[Rz 14] Public authorities⁵² are entitled to prepare legislative drafts in 50% of the contributing countries. Furthermore in some countries particular public authorities⁵³, representative bodies⁵⁴, companies⁵⁵, natural persons⁵⁶, legal persons⁵⁷ or even everyone⁵⁸ gain an appropriate permission. In Finland even a group of 50 citizens is allowed to prepare legislative drafts, whereas in Iceland no rules on who may prepare drafts exist.

⁵² Belgium, Estonia, Finland, Italy, Norway, Portugal, Romania, Slovakia and Switzerland (9/18).

⁵³ Austria, Czech Republic, Greece, Latvia, Norway, Romania, Slovakia, Slovenia and Switzerland (9/18).

⁵⁴ Austria, Romania and Slovenia (3/18).

⁵⁵ Latvia (1/18).

⁵⁶ Norway, Portugal and Slovenia (3/18).

⁵⁷ Romania (1/18).

⁵⁸ Lithuania (1/18).

4.2 Availability of the Results of Public Consultations

[Rz 15] The vast majority of participating countries publishes the **results of the review process**⁵⁹ and the **statements of the public consultation**⁶⁰. Furthermore in some countries even details on **how the statements have been considered**⁶¹ are published. **Easily comprehensible charts** are only available in the Czech Republic, Estonia and Romania. In Ireland public consultation may be replaced by parliamentary hearings, provided that the transcripts of these hearings get published.

5 Quality Aspects

[Rz 16] Estonia achieved 14.8 points, which is the top value in this section and corresponds to a share of 67% of the achievable points.

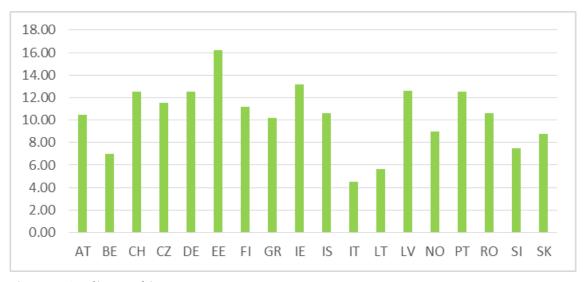


Figure 5: Quality Ranking

5.1 Impact Assessment for Drafts

[Rz 17] According to the evaluated questionnaires, many impacts of legislative drafts are taken into account during the legislative processes. In almost all investigated countries financial im-

⁵⁹ Austria, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Latvia, Lithuania, Norway, Portugal and Romania (13/18).

⁶⁰ Austria, Czech Republic, Estonia, Italy, Latvia, Lithuania, Norway, Slovenia and Switzerland (9/18).

⁶¹ Czech Republic, Estonia, Norway, Slovenia and Switzerland (5/18).

pacts on public authorities⁶², on private companies⁶³ and on private persons⁶⁴ play a key role. Furthermore human rights⁶⁵, environmental⁶⁶, macroeconomic⁶⁷, society⁶⁸, consumer⁶⁹ and gender⁷⁰ impacts are assessed. Only impacts on privacy⁷¹ are rarely taken into consideration. In some countries further impacts are evaluated, like in Italy, the impacts on the legal system⁷², in Switzerland the impacts on future generations or in Estonia on national security and international relations, on regional development and the organisation of state agencies and local government agencies as well as on social (including demographic) issues. In Norway impact assessments are made pursuant to the instructions of official studies and reports⁷³ while in Portugal other impacts are taken into account according to the matter of the law⁷⁴.

5.2 Software application and public availability

[Rz 18] For law-drafting most of the investigated countries are using an offline, closed source product, like MS Office⁷⁵. Other countries use an offline, in-house development software⁷⁶, an online, in-house developed software⁷⁷ or an online, closed source product⁷⁸.

[Rz 19] Law drafts are **publicly available online** in Austria⁷⁹, Czech Republic⁸⁰, Estonia⁸¹, Ger-

⁶² Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Italy, Latvia, Norway, Portugal, Romania, Slovakia and Switzerland (16/18).

⁶³ Austria, Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Latvia, Norway, Lithuania, Romania, Slovenia and Switzerland (14/18).

⁶⁴ Austria, Czech Republic, Estonia, Finland, Germany, Greece, Ireland, Latvia, Norway, Slovenia, Romania and Switzerland (12/18).

⁶⁵ Czech Republic, Estonia, Finland, Germany, Greece, Iceland, Ireland, Latvia, Norway, Slovenia, Portugal, Romania and Switzerland (13/18).

⁶⁶ Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Ireland, Latvia, Norway, Portugal, Romania and Switzerland (13/18).

⁶⁷ Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Ireland, Latvia, Portugal, Romania and Switzerland (12/18).

⁶⁸ Austria, Czech Republic, Estonia, Finland, Germany, Greece, Lithuania, Iceland, Ireland, Latvia, Portugal, Romania and Switzerland (13/18).

⁶⁹ Austria, Czech Republic, Estonia, Finland, Germany, Greece, Ireland, Latvia, Norway, Romania and Switzerland

⁷⁰ Austria, Belgium, Czech Republic, Finland, Germany, Ireland, Norway, Portugal, Romania and Switzerland (10/18).

⁷¹ Belgium, Czech Republic, Finland, Germany, Norway, Romania and Slovenia (7/18).

⁷² So-called «Analisi tecnico-normative», http://www.camera.it/temiap/temi16/DIR_PCM_10_09_2008.pdf (10 January 2015); «Analisi di Impatto della Regolazione», http://www.camera.it/temiap/temi16/DPCM_170_2008.pdf (10 January 2015).

⁷³ These studies also aim at regional impacts, impacts on health of the population and consequences with regard to the objective of obtaining simpler regulations and less complex public administration. In practice, the extent of the impact assessments vary considerably.

⁷⁴ Like environmental impacts, impacts on consumer, privacy impacts and other financial impacts (besides financial impacts on public authorities).

Austria, Belgium, Czech Republic, Estonia, Finland, Iceland, Latvia, Lithuania, Norway, Romania and Switzerland (11/18).

 $^{^{76}}$ Germany and Italy (2/18).

⁷⁷ Ireland (1/18).

⁷⁸ Lithuania and Portugal (2/18).

⁷⁹ https://www.ris.bka.gv.at/Begut (10 January 2015).

⁸⁰ https://apps.odok.cz/ (10 January 2015); http://www.psp.cz/en/sqw/sntisk.sqw?F=N (10 January 2015).

⁸¹ http://eelnoud.valitsus.ee (10 January 2015).

many⁸², Iceland⁸³, Italy⁸⁴, Latvia⁸⁵, Lithuania⁸⁶, Portugal⁸⁷, Romania⁸⁸ and Slovenia⁸⁹, whereas **online comments** can be made in Czech Republic, Estonia, Lithuania and Slovenia.

6 Conclusions

[Rz 20] Information has been implemented best, with a top-score of 79% (DE), then quality of legislative processes, with a top-score of 67% (EE), followed by participation, with a top-score of only 56% (CH). In 2015 the top-3-countries («best practices») are with regard to digital legislation processes: Estonia as number one, Germany as number two and Portugal as number three of the first ELegislation Index.

7 Acknowledgements

[Rz 21] We would like to express our special thanks to Marek Antos (Charles University Prague, Faculty of Law, CZ), Inge Lorange Backer (Department of Public and International Law, University of Oslo, NO), Egl Bileviit (Mykolas Romeris University, LT), Christopher Brosch (Bundesministerium der Justiz und für Verbraucherschutz, DE), Cosmin Dariescu (Universitatea Alexandru Ioan Cuza Iasi, Law Department, RO), Jan Filip (Masaryk University, Faculty of Law, CZ), Mascha Glomb (AT), Edita Gruodyte (Vytautas Magnus University, LT), Sif Guðjónsdóttir (Legal Advisor, Office of the Prime Minister, IS), Angelika Hable (AT), Brian Hunt (IE), Anna Hyvärinen (University of Turku, FI), Zoi Kolitsi (Aristotle University of Thessaloniki, GR), Heikki Kulla (University of Turku, FI), Kristine Kuprijanova (Ministry of Justice, LV), Laura Laurinaviciene (LT), Markus Matt (Government Office, EE), Ana-Raquel G. Moniz (University of Coimbra, Faculty of Law, PT), Edmondo Mostacci (Bocconi University, IT), Yannis Naziris (Aristotle University of Thessaloniki, GR), Janez Pogorelec (Service for legislation, SI), Taina Riihinen (Ministry of Justice, FI), Bastian Rothe (Bundesministerium des Inneren, DE), Dag Wiese Schartum (University of Oslo, NO), Ivan imko (SK), Roxana Oana Stoica (University of Bucharest, RO), Laura Sukelyte (LT), Snejana Sulima (Universitatea Alexandru Ioan Cuza, RO) and Martin Wyss (Bundesamt für Justiz, CH).

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⁸² http://dip.bundestag.de (10 January 2015).

⁸³ http://www.innanrikisraduneyti.is/sam/drogtilumsagnar (10 January 2015).

http://www.camera.it (10 January 2015); http://www.senato.it (10 January 2015).

⁸⁵ http://tap.mk.gov.lv/mk/tap/search (10 February 2015); http://titania.saeima.lv/LIVS12/saeimalivs12.nsf/webAll? OpenView (10 February 2015).

 $^{^{86}\ \}mathrm{http://www.lrs.lt}\ (10\ February\ 2015);\ \mathrm{http://www3.lrs.lt/dokpaieska/forma_l.htm}\ (10\ February\ 2015).$

⁸⁷ http://debates.parlamento.pt (10 January 2015).

⁸⁸ http://www.cdep.ro/pls/proiecte/upl_pck.lista?std=DZ (10 January 2015); http://www.senat.ro/LegiProiect.aspx (10 January 2015).

⁸⁹ http://e-uprava.gov.si/e-uprava/edemokracija.euprava (10 January 2015).