1. Necessity of drafting a legislative act

Title of the annotation (ex-ante)

Initial impact (ex-ante) assessment report (annotation) on the draft legislation "Amendments to Cabinet Regulation No 339 dated 25 April 2006 on requirements for the design, installation, conformity assessment procedures and market surveillance of storage tanks for hazardous chemical substances and chemical preparations (products)"

1.1. Legal basis

Rationale for drafting

Legislative act/Resolution of the President of Ministers

Description

To fulfil the task adopted by Cabinet of Ministers meeting No 29 dated 16 July 2024 Protocol Decision Paragraph 83 Clause 3, the Ministry of Economics shall prepare and submit for consideration to the Cabinet amendments to Cabinet Regulation No 339 dated 25 April 2006 "Regulations on requirements for the design, installation, conformity assessment procedures and market surveillance of storage tanks for hazardous chemical substances and chemical preparations" by 1 November 2024.

1.2. Objective

Description of the objective

To improve the current regulation, eliminate inconsistencies and harmonise the essential requirements between several regulatory enactments that lay down the requirements for the design, manufacture, and installation of stationary reservoirs with the regulation of the construction process.

Date of entry into force

According to the regular procedure

1.3. Current situation, problems and solutions

Current situation

In accordance with the Law on the Technical Supervision of Dangerous Equipment, dangerous equipment refers to equipment and assemblies thereof which, as a result of improper use and maintenance, may endanger human life and health, the environment, and material values, and which, during their period of use, are subject to the state supervision and control laid down in this Law and the checks laid down in laws and regulations. A stationary reservoir in which fuel, liquid fuel, and substances that, in accordance with the laws and regulations regarding fire safety, are combustible liquids, may be stored concurrently shall be regarded as a hazardous

installation — more than 10m^3 . If petrol is stored in a reservoir, a stationary reservoir in which it is possible to store more than 2.5m^3 of petrol at the same time shall be regarded as a hazardous installation.

As a market surveillance authority, the Consumer Rights Protection Centre (hereinafter — CRPC) carries out the measures provided for in the laws and regulations regarding technical supervision and construction of reservoirs in order to ensure that reservoirs are placed on the Latvian market that, when properly installed and used, do not endanger human life, health and the environment. In accordance with Cabinet Regulation No 384 dated 28 August 2001, "Procedures for the Technical Supervision of Reservoirs for the Storage of Dangerous Substances" (hereinafter — Cabinet Regulation No 384/2001), the CRPC must register a stationary reservoir as a hazardous installation if it:

- 1) stores at least 2.5m³ of petrol;
- 2) stores at least 10m³ of diesel fuel.

Analogous differences, depending on the type of fuel stored, are also established for the technical monitoring of the reservoir and the design, manufacture, and installation of stationary reservoirs. Since the requirements for registering a hazardous installation apply to each individual reservoir (with a capacity of more than $2.5 \, \mathrm{m}^3$ and $10 \, \mathrm{m}^3$), it is possible to store fuel in several smaller tanks, and they do not need to be registered as hazardous equipment, although the total volume will exceed $2.5 \, \mathrm{m}^3$ and $10 \, \mathrm{m}^3$, respectively.

The requirements for a reservoir and its safety are related to its structure as a whole, consisting of:

- 1. stationary installed tanks;
- 2. technological equipment that ensures the safe and suitable storage of substances, as well as elements attached to the surfaces of the tank (for example, hatches, joints, supports, handles);
- 3. second-stage impermeable enclosure protective systems that prevent the leakage of stored fluid into the soil or groundwater, if the container or equipment has a leak or seepage. The protective system includes double walls, synthetic membrane strips, prepared earth berms, concrete barriers, or equivalent materials that prevent the spread of spilled substances.

Reservoirs with a capacity of more than 2.5m³ and 10m³ must be emptied during a complete technical inspection of dangerous equipment. Since it must be removed from storage before a full technical inspection is carried out, a reserve tank should be provided for the storage of fuel.

To prevent threats to human life, health, and the environment when using reservoirs properly, the marketing, design, manufacture, installation, and inspection of reservoirs, including fuel reservoirs, shall fall within the regulated sphere. The

general principles of conformity assessment in the regulated sphere and of accreditation systems in the regulated and non-regulated sphere, as well as the general principles of market surveillance, are laid down in the Law on Conformity Assessment.

Cabinet Regulation No 339 dated 25 April 2006 "Regulations on requirements for the design, installation, conformity assessment procedures and market surveillance of storage tanks for hazardous chemical substances and chemical preparations (products)" (hereinafter — Cabinet Regulation No 339/2006) lays down essential requirements for the design, manufacture and installation of stationary tanks intended for the storage of hazardous chemical substances and chemical preparations (products) (which also include fuel tanks above 10m³), and the arrangements for monitoring compliance with those requirements, carrying out conformity assessment and market surveillance of the tanks. In addition, account shall be taken of the laws and regulations relating to construction, the environment and fire safety, as well as the requirements laid down by the applicable standards and manufacturer's instructions.

Cabinet Regulation No 339/2006 lays down requirements for the reservoir to be built on a construction site to carry out an expert examination of the construction design (in accordance with Subsection 4.6 of Cabinet Regulation No 339/2006), technical supervision of construction works (in accordance with Sub-paragraph 4.7 of Cabinet Regulation No 339/2006), to draw up a declaration of conformity and technical documentation, and to commission the built reservoir by the acceptance commission (Paragraph 113 of Cabinet Regulation No 339/2006). This Regulation provides for the engagement of the notified body to conduct an expert examination of the construction design and supervision of the construction works for reservoirs to be built on construction sites. The requirements for the implementation of the construction process are also laid down by Cabinet Regulation No 253 dated 9 May 2017 "Regulations on building regulations for individual civil engineering structures" (hereinafter — Cabinet Regulation No 253/2017) and Cabinet Regulation No 500 dated 19 August 2014 on general building regulations (hereinafter —Cabinet Regulation No 500/2014). As regards the expert examination of a building design, the requirements of this Regulation differ — the expert examination of a building design is necessary only for civil engineering structures of the third group. With regard to the performance of technical supervision of construction works, Cabinet Regulation No 500/2014 states that supervision of construction works is necessary only for civil engineering structures of the third group (reservoirs with a construction volume exceeding 5000m³) or in the case where the construction of civil engineering structures of the second and third groups is carried out at the expense of public persons. With regard to commissioning, Cabinet Regulation No 253/2017 stipulates that the initiator of the construction shall submit a certification regarding the readiness of the engineering structure for operation to the institution which performs the functions of the construction board.

Therefore, it is necessary to eliminate inconsistencies between the three regulatory enactments that define the requirements of the reservoir construction process — Cabinet Regulation No 253/2017, Cabinet Regulation No 500/2014, and Cabinet Regulation No 339/2006.

Problems and solutions

Description of the problem

Since Cabinet Regulation No 107 dated 12 March 2002 "Regulations on the procedure for the classification, labelling and packaging of chemical substances and chemical products", which established requirements based on Directive 67/548/EEC and Directive 1999/45/EC, has not been in force since 1 June 2015, and since, at present, the requirements for the classification, labelling and packaging of substances and mixtures are laid down by Regulation No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation No 1907/2006 (hereinafter — Regulation No 1272/2008), it is necessary to clarify Paragraph 3 of Cabinet Regulation No 339/2006 which contains references to invalid regulatory acts, by determining the classification of substances and mixtures in accordance with the hazard categories of substances laid down by Regulation No 1272/2008.

In addition, to fully align the terminology with that used in the Chemicals Law, it would be necessary to update the title of the Regulation so that it coincides with the terminology used in the text of the Regulation, which refers to the replacement of the words "chemical preparations (products)" with the word "mixtures". It is also necessary to clarify Paragraphs 1 and 2, Sub-paragraphs 23.3, 23.5, and 40.5 of the Regulation to use the correct terminology.

The categories of chemical substances and mixtures established and identified by this draft in Cabinet Regulation No 339/2006 remain unchanged and were historically related to the hazard risks and factors of the chemical substances and mixtures concerned.

At the same time, identical amendments were made to Cabinet Regulation No 384 dated 28 August 2001 "Procedure for the technical supervision of storage tanks for dangerous substances" already in 2021, by Cabinet Regulation No 459 dated 6 July 2021, "Amendments to Cabinet Regulation No 384 dated 28 August 2001, "Procedure for the technical supervision of storage tanks for dangerous substances"."

Description of the solution

In the light of the above, it is necessary to clarify the title of the existing Cabinet Regulation No 339/2006 by replacing the words "chemical preparations (products)" with the word "mixtures" (Paragraph 1 of the draft Regulation).

The wording of Sub-paragraphs 3.1, 3.2, and 3.3 of Cabinet Regulation No 339/2006 should also be rephrased to clarify the classification of substances and mixtures according to the hazard categories of substances laid down by Regulation No 1272/2008 (Paragraph 4 of the draft Regulation).

Description of the problem

Paragraph 1 of Cabinet Regulation No 339/2006 does not fully comply with the mandate to the Cabinet laid down by Section 7 (1) and (2) of the Law on Conformity Assessment, as provided for by Paragraph 100 of Cabinet Regulation No 108 dated 3 February 2009 on the preparation of draft regulatory acts.

Description of the solution

Paragraph 1 of the Regulation has been clarified in order to comply with the mandate to the Cabinet laid down by Section 7 (1) and (2) of the Law on Conformity Assessment.

Description of the problem

Insofar as the reservoir is a structure, the process of construction of such a structure is regulated by Cabinet Regulation No 253/2017. These regulations, depending on the dimensions of the structure (in the case of a reservoir, the volume), determine the content of the necessary construction intention documentation (construction design), as well as the requirements for commissioning. In addition, issues related to mandatory expert examination are already addressed in the construction regulation (see Paragraph 46 of Cabinet Regulation No 500/2014). The Construction Law already provides for the liability of participants in the construction process (both the designer and the contractor of the construction work (the contractor)) (see Section 19.2 (1) and (4) of the Construction Law). Therefore, these issues do not need to be addressed in Cabinet Regulation No 339/2006.

Description of the solution

Due to this reason, not to contradict with the regulation of the construction sector, it is necessary to:

- delete Sub-chapters 4.6 and 4.7, and Chapter 6 of Cabinet Regulation No 339/2006.
- to clarify Cabinet Regulation No 339/2006, stating that the regulation on certification does not apply to reservoirs constructed as part of the construction process;
- delete all provisions related to the "Contractor";
- It should be noted separately that requirements, such as those for materials used in the construction of reservoirs, also apply to reservoirs under construction on site as structures (see Sub-chapter 3.4 of Cabinet Regulation No 339/2006).

It is also necessary to supplement the regulations with a reservation on the regulation of construction, and Cabinet Regulation No 339/2006 has accordingly been supplemented by adding Paragraph 4¹.

Description of the problem

Section 8 (1) of the Law on Conformity Assessment provides that the Commission for the Notification of Conformity Assessment Bodies (hereinafter — Notification Commission) shall notify the European Commission of conformity assessment bodies carrying out conformity assessment in the regulated field. In turn, the binding Cabinet Regulation No 1376 dated 3 December 2013 on the procedure for setting up a notification committee and the procedure for the committee to take a decision and notify the European Commission of conformity assessment bodies carrying out conformity assessment in the regulated sphere (hereinafter — Cabinet Regulation No 1376/2013) lays down the procedure for setting up a notification committee (hereinafter — the Committee) and the procedure for the committee to take a decision and notify the European Commission of conformity assessment bodies carrying out conformity assessment in the regulated sphere. Sub-paragraph 2.1 of Cabinet Regulation No 1376/2013 provides that bodies which carry out conformity assessments in the regulated sphere and are notified to the European Commission are to be regarded as notified bodies.

Paragraph 8 of Cabinet Regulation No 339/2006 provides that the conformity of manufactured reservoirs is to be assessed by a certification body accredited by a national accreditation body in accordance with legislation on the assessment, accreditation and supervision of conformity assessment bodies or by another accreditation body of a Member State of the European Union (hereinafter — notified body).

To avoid inconsistencies in the term of the notified body, which can be found in the binding regulatory enactments issued pursuant to the Law On Conformity Assessment, it is necessary to clarify the term used in Cabinet Regulation No 339/2006.

Description of the solution

To clarify the term "notified body" used in Cabinet Regulation No 339/2006, Subparagraph 8.1 of Cabinet Regulation No 339/2006 has been rephrased, stipulating that the conformity of manufactured reservoirs must be assessed by a certification body, and the term "notified body" has been replaced throughout the text of Cabinet Regulation No 339/2006 by the term "certification body" (Paragraphs 6, 7, 8, 15, 17, 18, 24, 27 –63, 66 of the draft Regulation).

Description of the problem

Cabinet Regulation No 339/2006 stipulates (Paragraphs 76, 87, and 96) that the decision of the certification body may be contested at the Ministry of Economics in accordance with the procedures laid down by the Administrative Procedure Law. Certification bodies are private legal entities (legal persons governed by the private law); accordingly, they are not state administration bodies who are bound by the Administrative Procedure Law regarding their issued documents and decisions.

Therefore, decisions of certification bodies may not be appealed to the Ministry of Economics or in accordance with the procedures laid down in the Administrative Procedure Law.

Therefore, it is necessary to specify the relevant requirements and paragraphs of Cabinet Regulation No 339/2006 to ensure it corresponds to the reality and practice, where two private right-holders (for example, the manufacturer and the certification institution) can defend their interests and settle them in court in accordance with the procedures laid down by the Civil Procedure Law.

Description of the solution

Paragraphs 67, 76, 87, and 96 of Cabinet Regulation No 339/2006 have been clarified by deleting the sentence stating that the decision of the certification body may be contested in accordance with the procedures laid down in the Administrative Procedure Law. Consequently, the legal entities concerned will be able to defend their interests and resolve disputes in court in accordance with the procedure laid down by the Civil Procedure Law.

Description of the problem

Paragraph 10 of Cabinet Regulation No 339/2006 provides for the mutual recognition of reservoirs produced outside Latvia in Latvia, with the following condition: reservoirs which, in accordance with legislation on reservoirs, have been manufactured and put into circulation in a Member State of the European Union or Turkey, or in the member state of the European Economic Area. Examination of such a provision leads to the conclusion that such a provision is very restrictive and thus significantly restricts the free movement of the reservoir as a product on the market. Therefore, the Draft needs to clarify the application of the principle of mutual recognition of reservoirs, providing that in cases when reservoirs originating in countries other than Latvia are offered on the market in Latvia, the legal framework of the respective country must ensure equivalent compliance with the requirements of these regulations. Such a derogation from the principle of free movement of goods, enshrined in the Treaty on the Functioning of the European Union, as well as from the mutual recognition clause established by Regulation (EU) 2019/515 on mutual recognition, is based on considerations of human health and safety and environmental protection, since, as is well known, hazardous chemical substances and mixtures are stored in such storage tanks. However, there are no harmonised requirements for these tanks at the European Union level, which means that there may be no regulatory requirements for the design, installation, and conformity assessment of reservoirs in each Member State of the European Union, Turkey, or any of the countries of the European Economic Area.

At the same time, the draft will be notified to the European Commission and the Member States of the European Union through the notification procedure under Directive (EU) 2015/1535, thus it will be possible to align these derogations with the European Commission regarding the use of mutual recognition clauses.

Description of the solution

Paragraph 10 is rephrased by the Draft to provide for less restrictive provisions in respect of a reservoir manufactured or put into circulation in a Member State of the European Union or Turkey, or in a State of the European Economic Area, provided that the legal framework of the relevant State ensures equivalent compliance with the requirements of this Regulation.

Have alternative options been assessed?

No

Has the proportionality of the requirements and the costs and benefits been assessed?

Yes

Description

The assessment was carried out within the framework of the information report "On the conditions and volume of permanent storage of fuel in the facilities of institutions and economic operators providing critical infrastructure", which concluded that such amendments would eliminate inconsistencies in binding laws and regulations, as well as ensure the continuity of the operation of reservoirs, including making it easier for economic operators to operate with reservoirs.

1.4. Evaluations/studies justifying the need for a the legal act

1.5. Ex-post evaluation

Is it going to be done?

No

1.6. Other information

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2. Impact of the draft legislation on economic development and administrative burden

Does the draft affect this area?

Yes

2.1. Groups of companies affected or likely to be affected by the legal framework

Natural persons

No

Legal entities

Accredited certification bodies; Reservoir manufacturers and distributors; Construction merchants (construction contractors, construction supervisors, author's supervisors); Initiators of construction.

Description of the impact

The amendments will eliminate inconsistencies in the binding regulatory enactments of reservoirs, as well as ensure the continuity of reservoir operations, including facilitating merchants' operations with reservoirs, which, as structures, are built onsite within the framework of the construction process.

Insofar as the reservoir is a structure, the process of construction of such a structure is regulated by Cabinet Regulation No 253/2017. These regulations, depending on the dimensions of the structure (in the case of a reservoir, the volume), determine the content of the necessary construction intention documentation (construction design), as well as the requirements for commissioning. In addition, issues related to mandatory expert examination are already addressed in the construction regulation (see Paragraph 46 of Cabinet Regulation No 500/2014). The Construction Law already provides for the liability of participants in the construction process (both the designer and the contractor of the construction work (the contractor)) (see Section 19.2 (1) and (4) of the Construction Law). Therefore, these issues do not need to be addressed in Cabinet Regulation No 339/2006.

2.2. Economic impact of the regulatory framework

Does the draft affect this area?

No

2.3. Assessment of administrative costs

Does the draft affect this area?

No

2.4. Assessment of compliance costs

Does the draft affect this area?

No

3. Impact on the State and local government budgets

Does the draft affect this area?

No

Other information

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4. Impact of the draft on the current legal framework

Does the draft affect this area?

No

4.2. Other information

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5. How the draft Regulation conforms to the international obligations of the Republic of Latvia

Does the draft affect this area?

Yes

5.1. Obligations to the European Union

Is it relevant?

Yes

CELEX number of EU legislation

32015L1535

Date, issuing body, number, type and title of the EU act

Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services

Description

Directive 2015/1535 lays down technical notification procedures for technical regulations and rules on Information Society services

CELEX number of EU legislation

32008R1272

Date, issuing body, number, type and title of the EU act

Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (hereinafter — Regulation No 1272/2008)

Description

Regulation (EC) No 1272/2008 is the European Union's 2008 legislation harmonising the European Union's system for the classification, labelling and packaging of chemical substances and mixtures with the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) in order to promote global trade while protecting human health and the environment.

5.2. Other international obligations

Is it relevant?

No

5.3. Other information

Description

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5.4. Table 1: Compliance of the draft legislation with EU legislation

Date, issuing body, number, type and title of the relevant EU act	Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services				
Article number of the EU legal act	Project unit taking over or implementing A	Taken over in whole or in part	Does B provide for stricter requirements and justification		
A	В	С	D		
Has the Member State used discretionary rights to transpose or implement certain provisions of EU law? Why?	-				
Obligation to notify EU bodies and EU Member States pursuant to the law governing the provision of information on draft technical regulations, draft regulations on granting the state aid and draft financial regulations (for monetary policy)	Given that the draft regulation lays down requirements for the design, manufacture and installation of stationary reservoirs, as well as for their marketing and placing on the market, this draft regulation is to be regarded as a draft technical regulation. The draft technical regulation will be notified to the European Commission for assessment using the Technical Regulation Information System (TRIS) when the draft is agreed with all the stakeholders before submission to the Cabinet of Ministers.				
Other information	-				
Date, issuing body, number, type and title of the relevant EU act	Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (hereinafter — Regulation No 1272/2008)				

Article number of the EU legal act	Project unit taking over or implementing A	Taken over in whole or in part	Does B provide for stricter requirements and justification	
A	В	С	D	
Annex I to Regulation No 1272/2008	Paragraph 4 of the draft Regulation (Subparagraph 3.1 of the Regulation)	Transposed in full	The draft does not provide for more stringent requirements	
Annex I to Regulation No 1272/2008	Paragraph 4 of the draft Regulation (Subparagraph 3.2 of the Regulation)	Transposed in full	The draft does not provide for more stringent requirements	
Annex I to Regulation No 1272/2008	Paragraph 4 of the draft Regulation (Subparagraph 3.3 of the Regulation)	Transposed in full	The draft does not provide for more stringent requirements	
Annex VI to Regulation (EC) No 1272/2008	Paragraph 22 of the draft Regulation (Subparagraph 40.5 of the Regulation)	Transposed in full	The draft does not provide for more stringent requirements	
Has the Member State used discretionary rights to transpose or implement certain provisions of EU law? Why?	The Member States' discretion under Regulation No 1272/2008 does not extend to those provisions			
Obligation to notify EU bodies and EU Member States pursuant to the law governing the provision of information on draft technical regulations, draft regulations on granting the state aid and draft financial regulations (for monetary policy)	The draft Regulation does not affect this area.			
Other information	No			

6. Institutions involved in project development and public participation process

Public participation does not apply to this draft legislative act

No

6.1. Bodies involved in drafting the regulation

State and local government institutions

No

Non-governmental organisations

No

Other

No

6.2. Ways of organising public participation

Type

Public consultation

Link to results of public participation

https://tapportals.mk.gov.lv/public_participation/2e5bf48e-4a8f-4b68-80ea-b923936ff095

6.3. Results of public involvement

No comments or opinions were received as part of the public participation.

6.4. Other information

Other information

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7. Implementation of the draft legislation and its impact on bodies Does the draft affect this area?

Yes

7.1. Bodies involved in implementing the draft

Institutions

Latvian National Accreditation Bureau accredited certification bodies carrying out activities related to the conformity assessment of reservoirs

7.2. Assessment of administrative costs

Does the draft affect this area?

No

7.3. Assessment of compliance costs

Does the draft affect this area?

No

7.4. Impact of the draft's implementation on administrative functions and institutional structures.

Impact	Yes/No	Explanation
1. A new institution will be created	No	-
2. Institution to be dissolved	No	-
3. Reorganisation of the existing institution will be carried out	No	-
4. Functions and tasks of the institution will be changed (extended or narrowed)	No	-
5. Efficiency of internal institution processes will be carried out	No	-
6. Digitalisation of internal institutional processes will be carried out	No	-
7. Optimisation of internal institution processes will be carried out	No	-
8. Other information	No	-

7.5. Other information

Other information

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8. Horizontal impacts

8.1. Impact of the legal framework of the draft

8.1.1. On the development of public services

Does the draft affect this area?

No

8.1.2. On the development of national and local government information and communication technologies

Does the draft affect this area?

No

8.1.3. On the implementation of information society policy

Does the draft affect this area?

No

8.1.4. On the indicators of the National Development Plan

Does the draft affect this area?

No

8.1.5. On territorial development

Does the draft affect this area?

No

8.1.6. On environment

Does the draft affect this area?

No

8.1.7 On climate neutrality

Does the draft affect this area?

No

8.1.8. On the social situation of the population

Does the draft affect this area?

No

8.1.9. On equal opportunities and rights of persons with disabilities

Does the draft affect this area?

No

8.1.10. On gender equality

Does the draft affect this area?

No

8.1.11. On health

Does the draft affect this area?

No

8.1.12. On human rights, democratic values and the development of civil society

Does the draft affect this area?

No

8.1.13 On data protection

Does the draft affect this area?

No

8.1.14. On diaspora

Does the draft affect this area?

No

8.1.15. On regulation of professions

Does the draft affect this area?

No

8.1.16. On the best interests of the child

Does the draft affect this area?

No

8.2. Other information

Other information

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