



Conference | 12th February 2019

**Regulatory Impact Assessment In Portugal
“How Much does it cost?”**

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Presentation outline

- Concept
- Objectives
- Framework
- History
- Implementation
- Object / costs
- SME Test / CIA
- Information spreadsheet
- Statistics

“How Much does it cost?”

Concept



Legislative Impact Assessment

Ex ante systematic regulatory impact assessment tool, focused on the identification and calculation of administrative burdens and other compliance costs imposed on individuals and on businesses by legislative initiatives to be approved by the Portuguese Council of Ministers.

→ a contribution to Better Regulation Programme

“How Much does it cost?”

Objectives

Support the political decision making

Improve regulatory efficiency and introduce economic rationality

Eliminate, reduce and/or mitigate administrative burdens and compliance costs for firms (*context costs*)

Implement a culture of assessment and simplification and promote administrative modernisation

Improve law making practices and the quality of regulation

Strengthen the rational when communicating legislative initiatives adopted by the Government

***Ex ante*
Legislative
Impact
Assessment**

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Framework



Government's Programme

- *Ex ante* impact assessment of relevant legislation (in particular, legislation imposing costs for SMEs) as an action aiming to improve the quality of regulation.

SIMPLEX+
Ainda mais simples

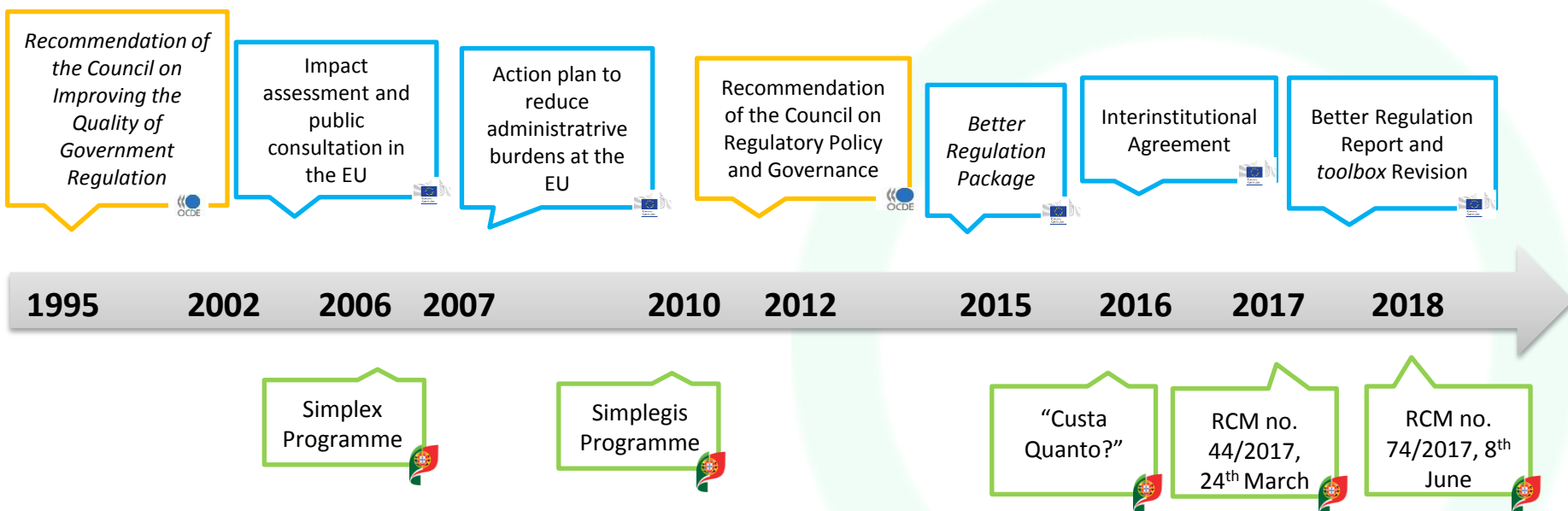
The SIMPLEX+ 2016 programme includes 255 measures

- “Custa Quanto?” – “How much does it cost?”

(<https://www.simplex.gov.pt/>)

Impact assessment in EU / Portugal

History



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Implementation

Resolution of the Council of Ministers no. 44/2017, 24th of March, enacts the measure and establishes the framework for the Legislative Impact Assessment:

- The impact assessment is created as an integrated part of the legislative procedure;
- Coordination is attributed to the Presidency of the Council of Ministers;
- A Technical Unit for Legislative Impact Assessment (UTAIL) was created within the Legal Centre of the Council of Ministers (JurisAPP);
- The sectorial Ministries and a network of contact points within the sectorial public administrative bodies are responsible for the completion of each the assessment;
- During the first year, 2017, this measure was implemented as a pilot project:
 - The impact assessment was focused on the calculation of the administrative burdens and compliance costs for firms, giving particular emphasis to the impact on SME (SME test);
 - It also implements a Competition Impact Assessment procedure;
 - The measure was under scrutiny at the beginning of the year – OECD report.

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Implementation

Resolution of the Council of Ministers no. 74/2018, 8th of June, **establishes the Legislative Impact Assessment as a definitive part of the Portuguese legislative process** providing UTAIL with a wider scope of intervention

- Extends the analysis to include:
 - **The assessment of the administrative and compliance costs for citizens;**
 - The impact assessment was focused on the calculation of the administrative burdens for firms;
 - SME test;
 - It also implements a Competition Impact Assessment procedure;
- Opens the possibility for the future inclusion of the impact assessment on public administration and the implementation of a cost-benefit analysis;
- Promotes the impact assessment of European legislation;
- Introduces the possibility of ex-post evaluation;
- Promotes the stakeholder engagement.

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Implementation

Network for Legislative Impact Assessment

The Legislative Impact Assessment is implemented by a network of focal points within the ministries and several contact points in public administration bodies in close collaboration with the Technical Unit for Legislative Impact Assessment (UTAIL)

The UTAIL acts as a supervising body that supports the implementation of LIA:

- developing the impact assessment methodology,
- giving technical support, providing training to the Ministries and other public administrative bodies and
- producing a final report for each impact assessment analyses (RAIL).

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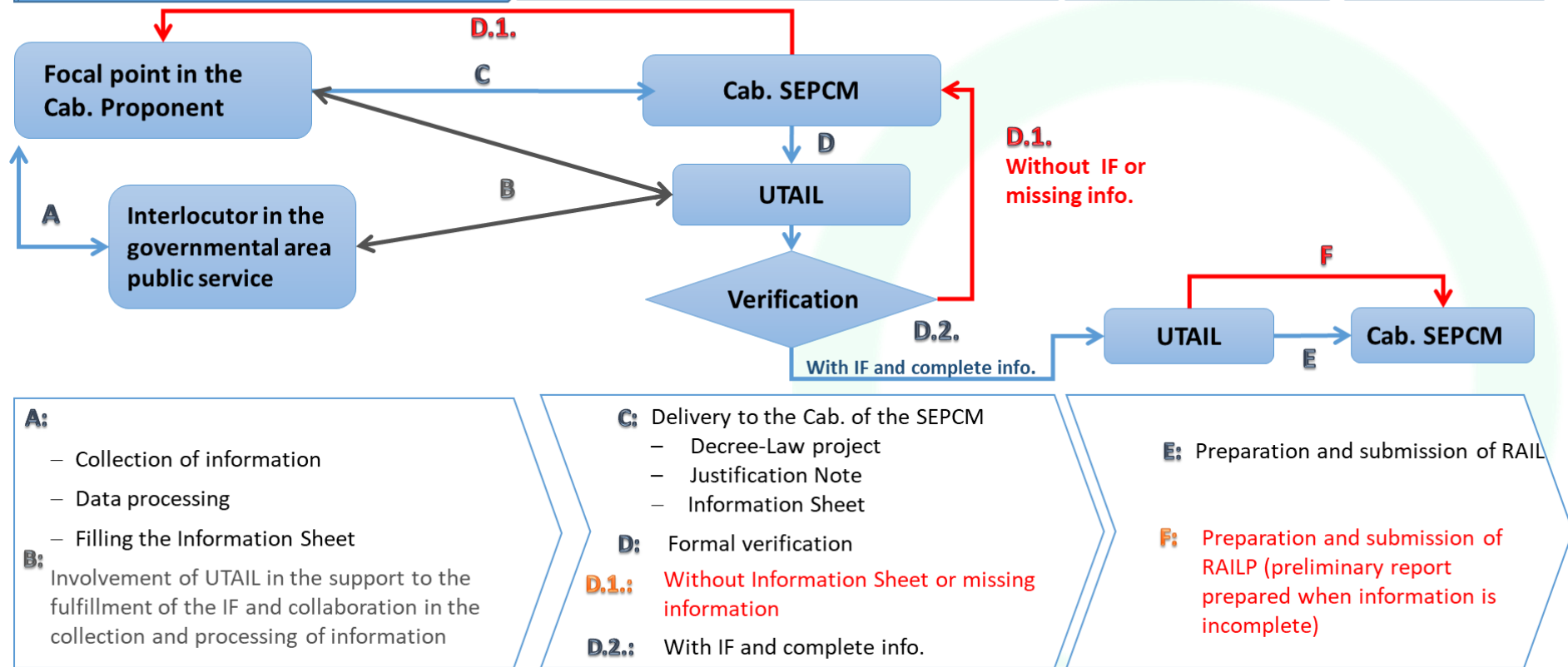
Implementation

Phase 1: LIA procedure

Phase 2: Circulation of the Decree-Law project

Phase 3: RAIL

RSE / RCM

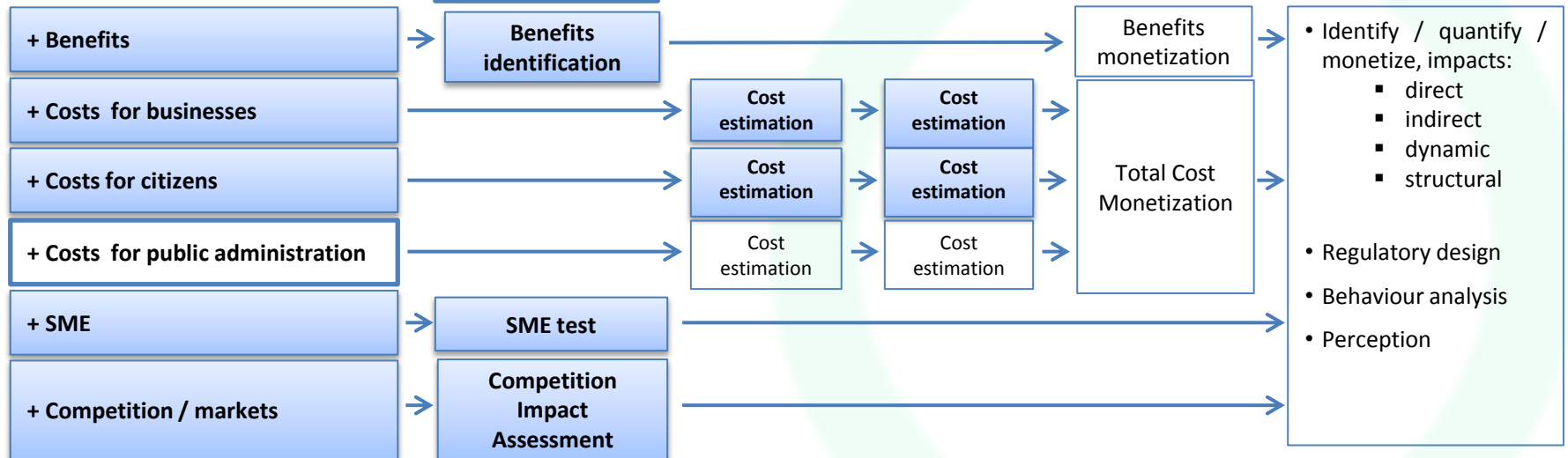


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Object

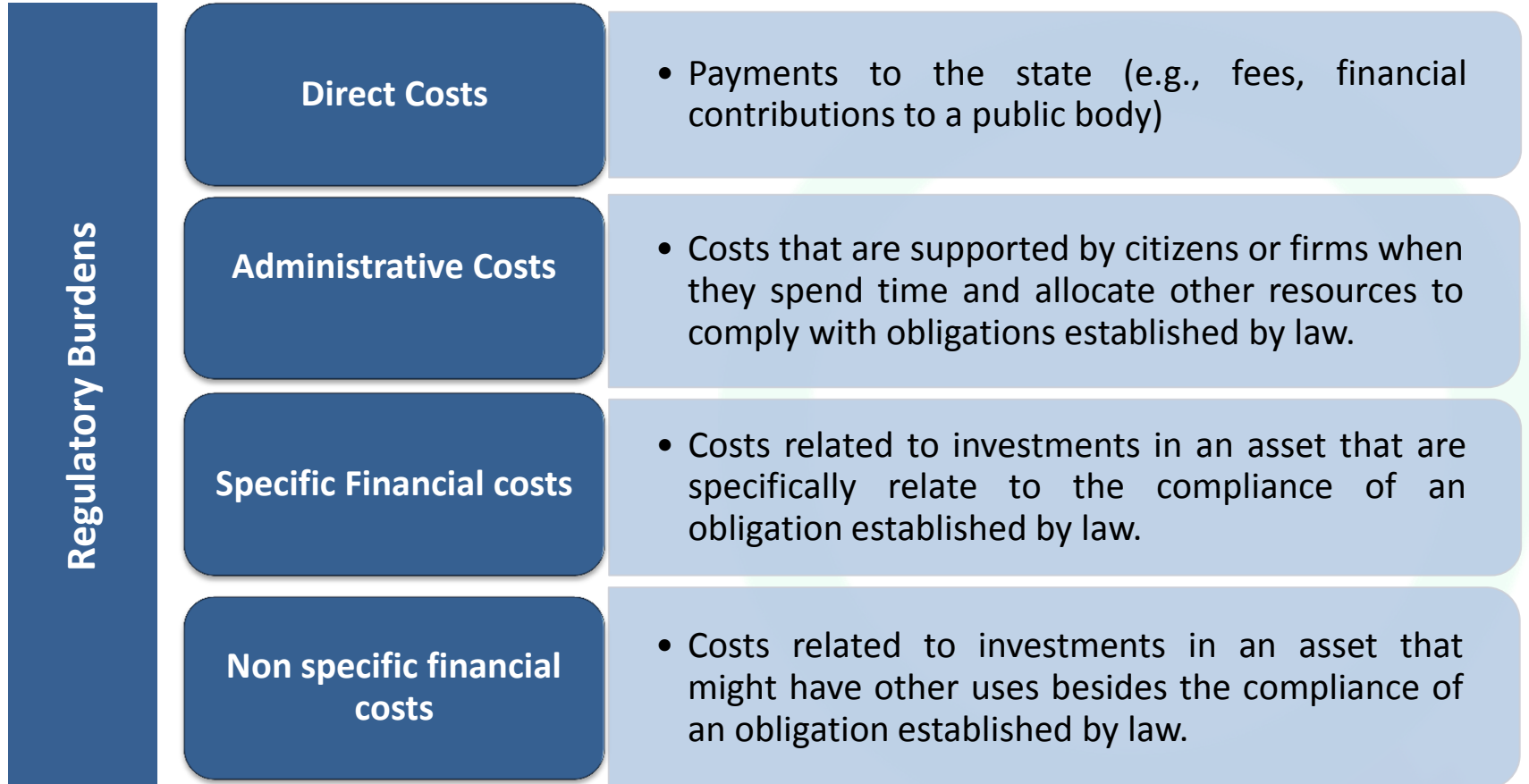
Regulatory Impact Assessment

- + Environmental impact
- + Social impact
- + Economic Impact



“How Much does it cost?”

Types of Costs



“How Much does it cost?”

SME Test

Council of Ministers Resolution no. 44/2017, 24th of March, establishes that a special attention must be given to the impact assessment on SMEs:

- In the framework of the European program – “Think Small First”;
- It should be taken into consideration:
 - the possibility of an exemption to the obligations that are proposed by the legislation;
 - the adoption of mitigating measures.
- The SME test requests a close involvement of stakeholders and other sectorial institutions.

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Competition Impact Assessment

The implementation of the OECD Competition Impact Assessment Checklist, screens the impact on market structure and on competition.

It brings to light the potential distortions on competition that may result from a public intervention.

Five broad types of impacts may be considered:

- A. Limitation on the number or range of suppliers;
- B. Limitation on the ability of suppliers to compete;
- C. Reduction on the incentive of suppliers to compete;
- D. Limitation on the choices and information available to customers.

Competition Impact Assessment checklist

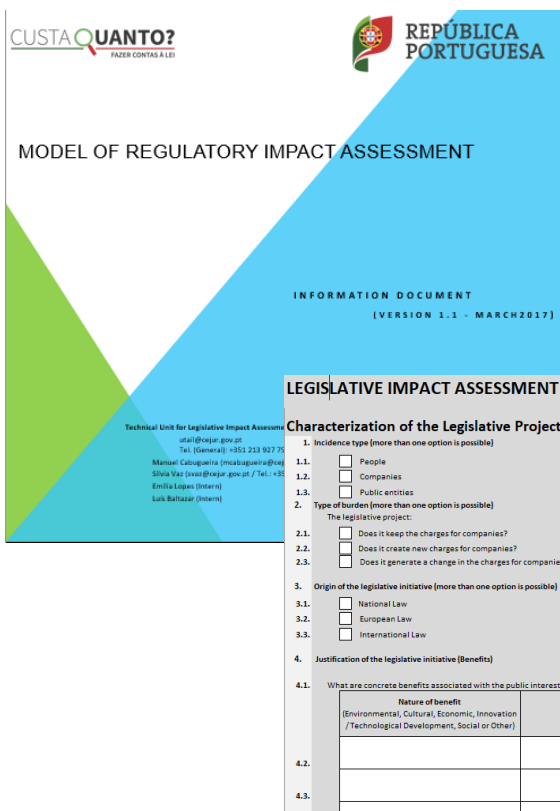
Lista de Controlo de Impacto Concorrencial	Sim	Não
(A) Limitação do número ou variedade de fornecedores Este efeito é mais provável caso o projeto normativo:		
A.1. Conceda direitos exclusivos a um único fornecedor de bens ou de serviços		
A.2. Condicione o acesso à atividade à obtenção de uma licença ou autorização		
A.3. Limite o acesso à atividade de prestação de bens ou serviços a uma certa categoria de fornecedores		
A.4. Aumente significativamente os custos de entrada ou saída do mercado		
A.5. Restrinja a circulação de bens, serviços, mão-de-obra ou capital		
(B) Limitação da capacidade dos fornecedores para concorrerem entre si Este efeito é mais provável caso o projeto normativo:		
B.1. Limite a liberdade das empresas para determinarem os respetivos preços de bens ou serviços		
B.2. Limite a liberdade dos fornecedores de fazerem publicidade ou marketing dos seus bens ou serviços		
B.3. Fixe padrões de qualidade que beneficiem apenas alguns fornecedores ou fixe padrões de qualidade que excedam o nível escolhido por consumidores bem informados		
B.4. Introduza uma diferenciação significativa de custos entre diferentes categorias de fornecedores (especialmente dando tratamento diferente aos operadores históricos e aos novos concorrentes)		
(C) Diminuição do incentivo aos fornecedores para competirem Este efeito é mais provável caso o projeto normativo:		
C.1. Estabeleça um regime de autorregulação ou de correção		
C.2. Exija ou estimule a publicação de dados sobre quantidades de produção, preços, vendas ou custos das empresas		
C.3. Isente um determinado setor ou grupo de fornecedores da aplicação do regime jurídico da concorrência		
(D) Limitação das escolhas dos consumidores e da informação disponível Este efeito é mais provável caso o projeto normativo:		
D.1. Limite a capacidade dos consumidores para escolherem a empresa à qual pretendem adquirir bens ou serviços		
D.2. Reduza a mobilidade dos consumidores entre fornecedores de bens ou serviços através do aumento dos custos, explícitos ou implícitos, de mudança de fornecedor		
D.3. Condicione substancialmente a informação necessária para que os consumidores possam adquirir bens e serviços de uma forma eficaz (nomeadamente, criando novas opções sem oferecer aos consumidores um ponto de referência para comparação de ofertas)		

http://www.concorrencia.pt/vPT/Noticias_Eventos/ConsultasPublicas/Documents/Proposta%20Linhas%20de%20Orientação%20Consulta%20Publica.pdf

"How Much does it cost?"

Cost Calculator - Information spreadsheet

Homogeneous methodology → Homogeneous language



Characterization of the incidence

1. Temporal Incidence

1.1. Which is the first year of incidence?

1.2. Is there change in the application of charges over time or does the implementation extend over different years? (S / N)

2. Characterization of the population that supports the charges

2.1. Which is the impact of the legislative project?
Are there groups of companies or workers on which charges are levied or the burden of charges distinguished between them? (S/N)

2.2. Explain how suppliers are applied to different groups of professionals or companies:

2.3. How many different groups of companies/workers are the targets of the charges?

2.4. Give a name to each group of companies / workers on which charges are payable:

Group A	Group B
Reply to the lines below, regarding the population	3.2. 3.3.

3. Number of companies / workers and which economic sectors are covered

3.1. Is a new charge created or is there a variation of charges? (n - if it is a new charge, v - if it is a variation)

3.2. Group

3.3. How many branches of activity / economic sector integrate the companies or workers targeted by the project?

Table of population data covered: identification of the branches of activity and the number of companies or employees that are the target

Branch of activity / economic sector (CNAE REPT)	Effective Population (n)	New Regime:

2.5. Potential population: New Regime:

2.6. Potential population: Effective population:

2.7. Potential population: Effective population:

DETERMINATION OF THE VARIATION OF CHARGES FOR THE

(Professional - New Regime)

Answer to the question: Do you intend to apply charges to the population?

Branch of activity / economic sector (CNAE REPT)	Effective Population (n)		New Regime:		Effective population:		Potential population:	
	Branch of activity / economic sector (CNAE REPT)	Effective Population (n)	Branch of activity / economic sector (CNAE REPT)	Effective population:	Branch of activity / economic sector (CNAE REPT)	Potential population:		
1.1. People								
1.2. Companies								
1.3. Public entities								

1. People of activity that will be subject to charges

- 1.1. People of activity that will be subject to charges
- 1.2. Companies
- 1.3. Public entities

2. Charges for companies

- 2.1. Does it keep the charges for companies?
- 2.2. Does it create new charges for companies?
- 2.3. Does it generate a change in the charges for companies?

3. National Law

Does it create new charges for companies?

Does it generate a change in the charges for companies?

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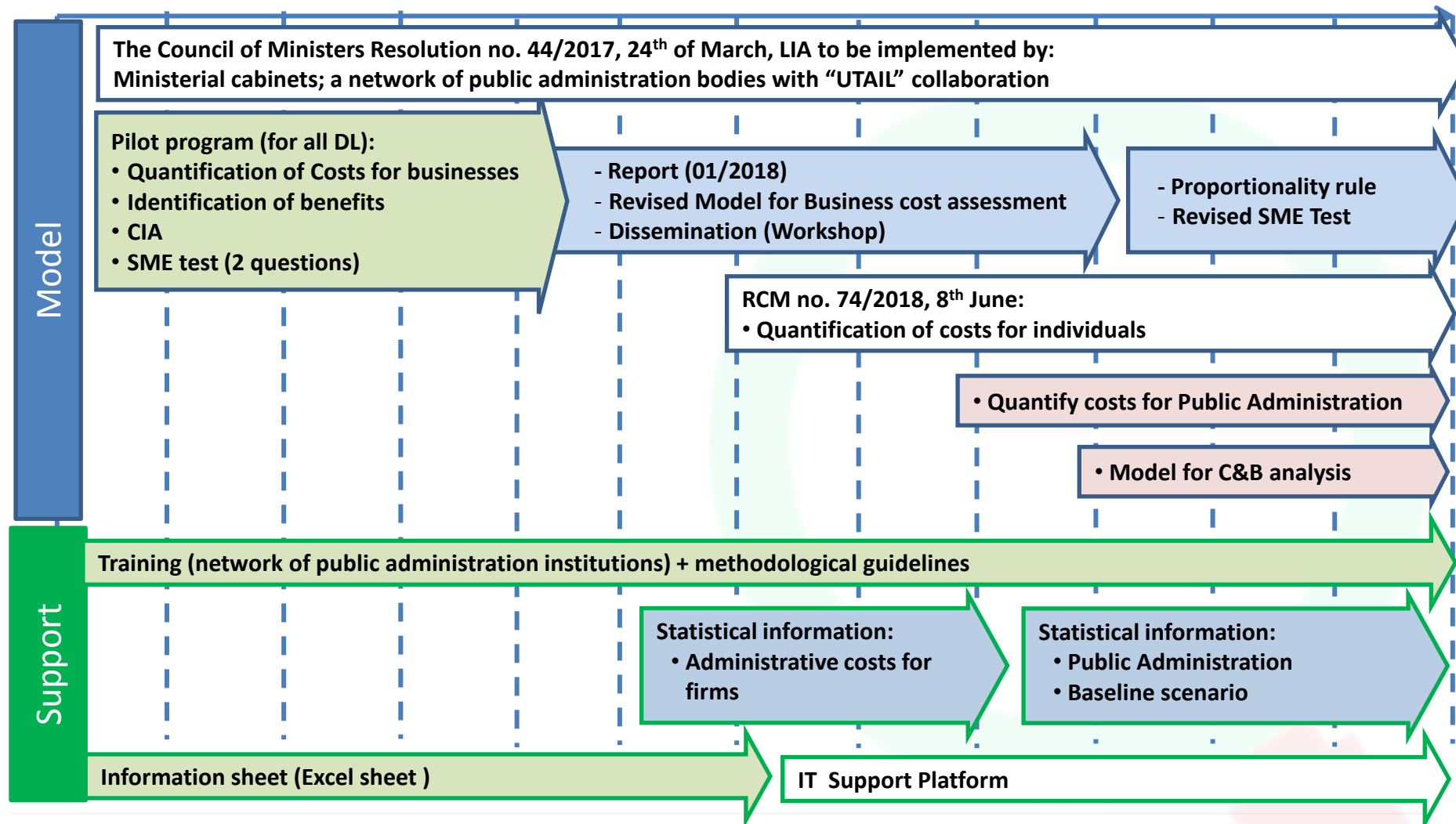
Does it generate a change in the charges for companies?

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Does it generate a change in the charges for companies?

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Development Strategy



“How Much does it cost?”

Internet page

JurisAPP

Início

Quem somos ▾

DIGESTO ▾

Custa Quanto?

RGPD ▾

Ações de formação

Eventos

Contactos

Custa Quanto?



Avaliação prévia de impacto legislativo – «Custa Quanto?»

O que é o Custa Quanto?

<https://www.jurisapp.gov.pt/custa-quanto/>

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