

Regulatory Impact Assessment – Macedonia in Focus



Definition and importance of Regulatory Impact Assessment

In this day and age, when governments are faced with huge quantity of regulation, it is beyond question that regulation should imperatively be given a special treatment and consideration. The role of political actors should consist of making sure that the regulation in place meets the criteria of an effective and efficient regulation, and guarantee that it produces positive impact toward concerned parties or more broadly – towards citizens. In other words, mechanisms for anticipating policy impacts, such as Regulatory Impact assessment (RIA), must be put in practice.

The world's more developed countries (OECD countries, US, Australia), have been regularly applying RIA to new and existing policies for decades. Since 1974, when it was first introduced, RIA has consistently recorded indisputable popularity, becoming a constituent element in the policy-making processes of the countries mentioned above. In addition, although there's no blueprint for successful RIA introduction, these countries' experience has effectively served as practical guide for less developed countries for successful RIA introduction and implementation. Hence, it can be easily concluded that RIA's impact on improving public policy has never been as high as it is at present.

After expressing RIA's importance, proceeding with a broader RIA definition is the next logical step. Firstly, RIA is primarily perceived as an instrument used by policy makers with the intention of predicting and assessing impacts of either existing or proposed policies, over social, economic and environmental aspects. Secondly, RIA is a regulatory systematic activity and cannot be considered a substitute for the policy making process, rather it must be fully integrated within the process and contribute positively to the policy-related debate. This can be achieved with the help of the public consultation component, which is integrated in RIA, enabling stakeholders to play an active role in the entire policy making process. Finally, it is important to mention that RIA's scope, shape, content and role vary depend upon the specifics for each country, therefore it is required that RIA is applied on a case by case basis.

RIA introduction and especially full implementation require the necessary political will and genuine efforts. However, it is important to mention that even in less developed countries there is some political will to introduce RIA, even though it may only be superficial. Thus, there is hardly any country that is not aware of RIA's importance and its benefits. The latter has been achieved with the help of international organizations and companies that implement RIA related projects all around the world. Due to the complexity of the RIA process and the lack of skilled and experienced national human capital in many countries, especially in less developed ones, pilot projects offered from such organizations are essential.

As mentioned above, the importance of the stakeholders' consultation process (business community, civil society), should not in any case be underestimated during RIA implementation.

Enabling large range of stakeholders to be directly and actively involved in the consultation process offers them the opportunity to express and share their ideas and experiences on how to make policies efficient and productive stakeholder-wise. Beside this, stakeholders should as well be positioned to initiate RIA for existing policies as well as prospective ones.

Analytica's report on Regulatory Impact Assessment aims at giving a clearer picture on the overall RIA process putting particular focus on RIA developments in Macedonia. The report goes through the history of RIA, its introduction booming all around the world and concentrates predominantly on RIA introduction and implementation challenges that Macedonia's authorities are facing with. It emphasizes that Macedonia's authorities, although belatedly, are more and more becoming aware of RIA's role and importance in preparing solid legal framework...

However, RIA implementation is a complex process and therefore countries that are determined to introduce it face several challenges. Lack of staff with proper skills for RIA implementation; low awareness within public institutions and civil society about RIA; and certain level of opposition or skepticism by the political elites for the introduction of RIA are only some of the vast challenges that countries face with during RIA introduction. Logically, these challenges are even more pronounced in developing countries.

Based on RIA best-practice cases to-date, despite slight variations, there is a standardized structure and series of steps to be undertaken when introducing RIA. In sum, the structure and procedure of RIA introduction is as follows:

- Identification of a certain problem to be regulated by a policy;
- Identifying regulatory options; detailed assessment of costs, benefits and other impacts;
- Consultations with wide range stakeholders;
- Policy design along with monitoring mechanisms.¹

Benefits of RIA

RIA is defined as a policy tool that is used to make policies effective and efficient by providing affected stakeholders by default with high quality regulation. Thus, based on this definition, one can

¹ OECD guidelines on successful RIA introduction

easily derive benefits and advantages arising from the introduction and proper implementation of RIA. In brief, RIA's strongest points consist of:

- Reviewing regulatory options and choosing the most appropriate ones for the society as a whole;
- Providing clear evidence on the effects the policy is to produce;
- Engaging the wide public into consultations with the aim of improving transparency and openness;
- Direct implication in improving government accountability.

Furthermore, RIA produces significant benefits in national economic growth (by identifying all administrative and regulatory burdens that are seen as obstacles towards economic prosperity), in the quality and transparency of governance, boosting efficiency and effectiveness of the overall public service.

Overview on Macedonia's developments regarding RIA introduction and implementation

Macedonia's authorities, although belatedly, are becoming aware of RIA's role and importance in preparing solid legal framework. The so called "regulatory inflation"², inefficiency of the regulation and the continuous recommendations from international organizations are with no doubt the highlighting factors that led to this long awaited change. In addition, it is important to mention that RIA is becoming increasingly incorporated into the political discourse of politicians, a fact that clearly shows the ever raising popularity of this term in the country.

RIA in Macedonia is part of the broader regulatory reform undertaken in 2006. The reform, still in progress, is undertaken in two phases. Regulatory Guillotine takes place in the first phase, while RIA occurs in the second phase. To be more concrete, RIA is part of the project Building Administrative Capacities for EU Integration, Fund for Global Opportunities – United Europe (GOFRE) implemented in cooperation with the Government.³ Along with Strategic Planning, it falls under the first component Public Administration Reform as Support for Accession Process to the EU.⁴ It is important to mention that the UK embassy in Skopje has placed significant focus on helping Macedonian authorities with RIA introduction and implementation. Namely, the UK ambassador in Macedonia and the Vice Premier for Economic

² A term used by OECD for countries facing enormous amount of policies.

³ <http://sep.gov.mk/Default.aspx?ContentID=75> retrieved on 2nd of October, 2009.

⁴ <http://sep.gov.mk/Default.aspx?ContentID=138> retrieved on 2nd of October, 2009.

Affairs Vladimir Pesevski, promoted a new manual for RIA that will assist improved regulation in Macedonia.⁵

RIA in Macedonia has already become mainstreamed in the policy making process. This is due to the fact that starting from January 2009; all ministries are obliged to undertake RIA during the process of proposing new laws. Along with the proposal they are obliged to attach a fiscal impact assessment and an assessment of the harmonization of national legislation with EU directives. It is further emphasized that involvement of all stakeholders affected by policies will provide additional information needed for defining new regulations.

The legal frame for RIA was approved in February and March 2008, through the Rules of Procedure for amendments and changes in the Rules of Procedure for Operation of the Government of the Republic of Macedonia; RIA Methodology; and Decision for the form and contents of RIA templates.⁶ According to the standardized RIA template in Macedonia, the following impacts are taken into consideration:

- Impact over national competitiveness;
- Impact over socially marginalized groups;
- Impact over gender issues and equity;
- Impact over environment;
- Impact over market economy principles;
- Impact over citizens' rights.⁷

RIA in Macedonia is implemented based on the following methodology:

- Preliminary RIA: is implemented for the purpose of determining the problem to be regulated by the policy, for identifying objectives and available options for achieving of aimed results, detailed description of impacts for each proposed option, method for selecting the preferred option, and evaluation of possibility for implementation of the rule “silence is consent”.
- Expanded RIA: is a more detailed methodology implemented only for significant proposals and includes the following assessments: Economic Impact Assessment; Social Impact Assessment; and Environmental Impact Assessment. Factors such as: competition, market openness, employment, productivity, innovation, and investment as well the number of

⁵ <http://ukinmacedonia.fco.gov.uk/en/newsroom/?view=News&id=20938520> retrieved on 27th of October, 2009.

⁶ National Program for the Adoption of the Acquis - 2009 review -

⁷ RIA template

people affected by the proposed regulation play a fundamental role in deciding whether for certain policies expanded RIA is going to be implemented.⁸

RIA implementation for Macedonia's citizens is of unquestionable value. It is likely to produce benefits such as: complete and thorough analysis on real impacts produced by policies; and transparency and consultations (internal among ministries; and external among all stakeholders). The expected positive impact on transparency and consultations is seen as an opportunity to finally terminate the practice of proposing and approving laws "behind the curtains", i.e. without proper consultations with the concerned audience. However, at this stage it is premature to offer any conclusions regarding RIA's impact over transparency and consultations. Time and experience in implementing RIA are needed before a clear assessment can be reached.

However, since the initiation of RIA, the country has faced the standard problems and challenges that usually stand on the way of every country aiming at introducing RIA. The most common challenges are undoubtedly the lack of highly-qualified staff with the necessary skills to implement RIA and the low awareness within public institutions and civil society about RIA. Therefore, in order to ensure the successful introduction and implementation of RIA, it is vital that the process in Macedonia is further implemented in cooperation with international organizations and experts specialized in RIA.

Enhancing institutional capacity for RIA implementation is another issue that requires a great deal of efforts. For that reason, the government chose to establish a special sector named as Sector for Economic Policies and Regulatory Reform which plays the main coordinating role in the process of RIA. It is as widely believed that each ministry will aim to establish a RIA unit. The responsibility of RIA implementation belongs to the Deputy Minister or State Secretary in line ministries, while at least two officials within line ministries will be engaged at operational level. It is important to mention that all officials of this sector have started to undergo various trainings in order to provide them with the necessary skills and knowledge for the successful implementation of RIA.

⁸ <http://www.oecd.org/dataoecd/12/50/38706266.pdf> retrieved on 24th of September, 2009.

RIA process in Macedonia, a long way to go...

In lieu of a clearer picture of the current status of RIA in Macedonia, it is easy to present our conclusions. The report went through the history of RIA, its introduction booming all around the world and concentrated predominantly on RIA introduction and implementation in Macedonia.

Based on the report's findings, the pace of RIA developments in Macedonia have exceeded expectations. Since 2006, with the first implementation of RIA, its popularity has been constantly increasing, resulting in its integration into the policy making process.

Involvement of international experts in RIA implementation deserves special appraisal. On one hand, it clearly shows that the government is determined and is willing to undertake the process properly, and on the other, it indirectly confesses that the government does not possess the necessary capacity, on its own, to successfully conclude the RIA story. The training organized for the professionalization of the RIA team (Sector for Economic Policy and Regulatory Reform), are a significant positive step but further professionalization has still to be at the forefront of the process.

Legal provisions for obliging ministries to prepare RIA for all proposed laws are a solid foundation for successful encompassment of RIA implementation process. Available mechanisms have to be put in place in order to raise RIA awareness in all ministries. Thus, they will fully understand RIA's importance and show readiness to prepare RIA documents without any resistance.

Transparency and public consultation are issues requiring immediate improvement. Ad hoc public debates before laws are approved have to be replaced with regular ones, at the same time ensuring that a wider range of stakeholders is involved.

Overall conclusion is that RIA process in Macedonia has a long way to go. Despite the fact that significant achievements have been recorded, considerable challenges remain to be overcome.

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