



# COMPARATIVE GOOD PRACTICES OF THE APPLICATION OF THE RIA AND OPPORTUNITIES FOR THEIR IMPLEMENTATION IN MACEDONIA

*Policy Brief, April 2017*  
*Author: Jovan Bliznakovski*



*The project is funded by the European Union*

*This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the Institute for Democracy “Societas Civilis” Skopje and the Center for Economic Analyses and can in no way be taken to reflect the views of the European Union.*

CIP - Каталогизација во публикација  
Национална и универзитетска библиотека “Св. Климент Охридски”, Скопје

BLIZNAKOVSKI, Jovan

Comparative good practices of the application of the ria and opportunities for their implementation in Macedonia : Електронски извор / Jovan Bliznakovski. - Текст во PDF формат, содржи 29 стр. - Skopje : Institute for Democracy “Societas Civilis”, 2017

Начин на пристап (URL): <http://idscs.org.mk/wp-content/uploads/2017/09/Компаративни-добри-практики-на-примена-на-ПВП-и-можности-за-нивна-имплементација-во-Македонија-EN.pdf>. - Наслов преземен од екранот. - Опис на изворот на ден 13.10. 2017

ISBN 978-608-4775-20-1

а) Јавна политика - Унапредување - Македонија  
COBISS.MK-ID 104514570

# COMPARATIVE GOOD PRACTICES OF THE APPLICATION OF THE RIA AND OPPORTUNITIES FOR THEIR IMPE- LEMENTATION IN MACEDONIA

---

*Policy Brief, April 2017*

*Author: Jovan Bliznakovski*

## Introduction

---

The complexity of the contemporary social and economic problems requires a well-considered approach of the countries in the planning and implementation of public policies. Regulation should effectively address these problems, while minimizing the cost and possible adverse impact from government activities. In other words, it takes the best regulatory options, while locating them takes place in a setting of numerous opportunities that are not equally effective, efficient nor cost-effective. The dominant tool for formulating good regulations in developed countries is the Regulatory Impact Assessment (RIA), which has also been implemented in Macedonia since 2009. Given the many weaknesses in the Macedonian implementation of the RIA, this policy brief will convey some of the good practices identified by the Organization for Economic Cooperation and Development (OECD) that could be applied in Macedonia. Specifically, this document considers five aspects of the process: quality control and supervision of the RIA; implementation of consultative

processes; RIA based on findings and evidence; support of civil servants and the involvement of Parliament in the RIA process. For each of these aspects several examples from OECD countries that could serve as guidelines for improvement of the RIA in Macedonia are identified and presented.

## RIA: a tool for quality regulation

---

RIA represents a „method for the analysis of public policies, which is intended to help policy makers in the design, implementation and monitoring of improvements in regulatory systems, providing a methodology for assessing the likely consequences of the proposed regulation and the real consequences of actual one.“<sup>1</sup> The biggest advantage of the RIA is in the systematic approach - allowing policy makers and decision makers, consistently, to assess which is the best option, according to the effects that they want to achieve, while taking into account the potential impacts to society, economy and the environment. Also, RIA provides a clear overview of the effects of the proposed regulation to different social groups. The latter is due to the transparency and inclusiveness of the method - the different steps that institutions take in the processes of creating policies and regulations are publicly available and by definition incorporate the views of stakeholders. In this way, RIA, apart from the fact that it leads to a better quality regulation, it also leads to greater public participation at all stages of the public

---

1 Kirkpatrick, C.H., and D. Parker. 2007. Regulatory Impact Assessment: Towards Better Regulation? CRC Series on Competition, Regulation and Development. Edward Elgar Publishing, p. 1.

policy cycle.

The beginnings of the implementation of RIA date back to the 1970s in the United States, in Europe (the United Kingdom) since the 1980s, but in both cases as a response to the challenges of the perceived excessive regulation and concerns about the economic effects thereof. Thus, RIA, initially, was understood primarily as a tool to protect enterprises from possible adverse effects of regulation, but was later turned into a tool that is focused more on social issues than economic ones. Parallel to this transformation, RIA is implemented in a growing number of countries around the world - currently it represents one of the key tools for inclusive development in the countries of the Organization for Economic Cooperation and Development (OECD).<sup>2</sup> In 2014, 34 of the 35 OECD countries use the RIA as a method on which decision making in policy and regulation making is based.<sup>3</sup>

The application of RIA in Macedonia started in 2009 as part of regulatory reform whose declarative objective was to improve

---

2 Deighton-Smith, R., A. Erbacher and C. Kauffmann (2016), „Promoting inclusive growth through better regulation: The role of regulatory impact assessment“, OECD Regulatory Policy Working Papers, No. 3, OECD Publishing, Paris.

3 See: Figure 4.3. Trend in RIA adoption across OECD countries, available at: [http://www.keepeek.com/Digital-Asset-Management/oecd/governance/oecd-regulatory-policy-outlook-2015/trend-in-ria-adoption-across-oecd-countries\\_9789264238770-graph39-en#.WNJfyfkrKUK](http://www.keepeek.com/Digital-Asset-Management/oecd/governance/oecd-regulatory-policy-outlook-2015/trend-in-ria-adoption-across-oecd-countries_9789264238770-graph39-en#.WNJfyfkrKUK).

the entrepreneurial environment.<sup>4</sup> However, according to global trends, the RIA has become much more than a one-sided focus on the challenges of economic development. The beginnings of RIA in Macedonia were promising: after a short period of initial implementation, already in 2011, the first major reform of the institutional setting was performed, whereas the coordinating role was assigned to the Ministry of Information Society and Administration (MISA).<sup>5</sup> In this way, a link between the overall reform of public administration and the development of the RIA process was provided.<sup>6</sup> In 2013, a new methodology for RIA was introduced, whose main characteristic was a greater level of decentralization and simplification, taking into account the previous experience of weaknesses in implementation, as well as the best international practices.<sup>7</sup> Parallel to these efforts, in 2014 the functionality of the portal Single National Electronic Register

---

4 In 2009 the first RIA methodology was passed. See: The methodology for assessing the impact of regulation, Official Gazette, No. 66 of 28.05.2009.

5 In the period 2009-2011 the Cabinet of the Deputy Prime Minister for Economic Affairs had the coordinating role of the RIA process.

6 RIA was part of the already expired Strategy for Public Administration Reform. See: Strategy for Public Administration Reform in the Republic of Macedonia (2010-2015), December 21, 2010, available at: [http://mioa.gov.mk/files/pdf/dokumenti/Strategija\\_zarJA.pdf](http://mioa.gov.mk/files/pdf/dokumenti/Strategija_zarJA.pdf).

7 The methodology for the Regulatory Impact Assessment, Official Gazette, No. 107 of 30.07.2013.

of Regulations (ENER) was significantly enhanced,<sup>8</sup> which is probably the strongest side of the Macedonian use of RIA. The portal aims to bring together the processes of policy making and regulation to stakeholders, citizens and their associations, as well as to the business community, enabling them a review of the draft regulation and the opportunity to be directly involved in its creation through online consultations.

However, Macedonia's application RIA remained far from satisfactory. The RIA forms - documents accompanying the draft legislation that summarize the conducted RIA analysis conducted by the ministries - retained a variable and often insufficient quality. A European Commission's report on Macedonia in 2016 assess the quality of the mandatory RIA process as "weak": The RIA procedures are often applied "only formally" and "financial impact assessments are very often not prepared."<sup>9</sup> Additionally, in terms of inclusiveness, the Report concluded that "the capacity for inclusive and evidence-based policy and legislative development needs to be improved" and that "obligatory inter-ministerial and public consultations on policies and legislation remained a formality."<sup>10</sup> ENER online consultations failed to gain the trust of stakeholders, whose

---

8 For an overview of recent changes in the functionality of ENER see: Sazdevski, Marija (2015) Guide to the news of the Single National Register of Regulations (ENER), Macedonian Center for International Cooperation, available at: <http://ogledalonavladata.mk/images/docs/publikacii/vodich-niz-novinite-na-ener.pdf>.

9 European Commission, The former Yugoslav Republic of Macedonia 2016 Report, SWD (2016) 362 final, Brussels, 9.11.2016, p. 10.

10 Ibid.



comments and suggestions for improving the draft regulations often ended without proper dialogue and unilateral activities of state institutions which ignored the opinions of citizens. Thus, although having excellent functionality, the potential of ENER remained inappropriately used. With the escalation of the political crisis, the application of RIA and ENER consultations almost came to a stall - in 2016 ENER published only 21 draft laws, while in the same period Parliament adopted 314 laws for which there is an obligation to design a RIA (i.e., ENER consultations have been applied only in 7% of the acts for which there was an obligation for making a RIA).<sup>11</sup>

Meanwhile, the civil sector remained significantly interested in the promotion of the RIA process and developing consultation and inclusiveness in policy and regulation creation. The “Blueprint for Urgent Democratic Reforms”, prepared by a group of civil society organizations and independent experts as a response to the systemic weaknesses related to the political crisis, urged the authorities for a “consistent, timely and full implementation of the Regulatory Impact Assessment Methodology, including obligatory consultations with civil society.”<sup>12</sup>

---

11 Ognenovska, Simona and Simona Trajkovska (2017) „Report on the enabling environment for the development of the civil society“, Macedonian Center for International Cooperation (MCIC), Skopje, p. 57, available at: <http://mcms.mk/images/docs/2017/izveshtaj-za-ovozmozhuvachkata-okolina-za-razvoj-na-gragjanskoto-opshtestvo-vo-makedonija-2016.pdf>.

12 Blueprint for Urgent Democratic Reforms, Skopje, July 2016, p. 48, available at: [http://idscs.org.mk/wp-content/uploads/2016/08/Blueprint\\_ANG\\_WEB.pdf](http://idscs.org.mk/wp-content/uploads/2016/08/Blueprint_ANG_WEB.pdf).

Considering these two common weaknesses - related to the quality of RIA analyzes and the inclusiveness of the process - and in conjunction with other specific weaknesses - this policy brief offers several options for improvement of RIA based on the comparative good practice. All examples presented below are drawn from the OECD publication “Review on Regulatory Policy in 2015”<sup>13</sup> but an attempt has been made to discuss the possibilities for their application in the Macedonian context. At least, the examples that follow may serve as routes for thinking about possible steps to be taken to improve the RIA process in Macedonia.

## A general approach to good RIA practice

---

Worldwide, there is not a single model regarding the application of RIA. The design and development within the various countries is strongly influenced by national legislation, institutional arrangements and social and cultural specifics. Despite such differences, the RIA process follows a similar sequence of steps, similar structural setting,<sup>14</sup> which has been replicated in Macedonia. Generally, the process includes the following steps: 1) problem and objectives analysis of the draft regulation; 2) identification of the options (regulatory and non-regulatory) that can lead to achieving the objectives; 3) assessment of the

---

13 OECD (2015), OECD Regulatory Policy Outlook 2015, OECD Publishing, Paris.

14 Ibid., p. 94.

significant positive and negative effects, including analysis of benefits and costs to consumers, businesses and other interested groups; 4) consultation process with stakeholders and other interested parties and 5) identification of the best option, and explaining why it was chosen.<sup>15</sup> The Macedonian model of RIA includes the step of strategic planning - which in Macedonia has been implemented by the annual RIA plans of the ministries and the Work Program of the Government. Strategic planning is quite positive since it pre-establishes a „list“ of regulations that need to be passed (in the Macedonian case in one year) and it sets a good basis for adequate preparedness and awareness of stakeholders, whether they are state or non-state actors.

OECD identifies four characteristics for quality RIA process:<sup>16</sup>

- An appropriate institutional structure, which is particularly important for the quality control of the process and its supervision. The established institutional structure and national specifics should be guidelines in the design of institutions related to the implementation of RIA;
- Applying the RIA in situations where regulation is causing a „significant impact“, economic, social or environmental impact;
- Accordingly anticipating the costs and benefits from the proposed legislation, thereby covering all possible spheres of influence and

---

15 Kirkpatrick, C.H., and D. Parker. 2007, p. 4.

16 OECD (2015), OECD Regulatory Policy Outlook 2015, OECD Publishing, Paris. p. 94

- Quality consultations with stakeholders. Consultation is a key element of RIA that can not be bypassed. Comparative practice shows that often, formal requests for consultations were quite high, but that in practice they are not realized. Those exact quality consultations are one of the aspects that are a significant challenge for countries that implement RIA.

The purpose of this policy brief is to provide recommendations and guidelines for upgrading the Macedonian model of RIA, according to the above principles of good practice. In addition, six aspects which are implemented in Macedonia with certain weaknesses and whose implementation can and should be strengthened have been presented. For certain issues, more options that lead to promotion of various segments of the process have been offered.

## Broad opportunities for improvement of RIA in Macedonia

---

### Quality control and supervision of RIA

An effective application of RIA requires an adequate institutional structure and associated procedures for quality control and supervision of the process. In the Macedonian use of RIA, there has been a formally prescribed system for monitoring the implementation and effectiveness, which provided a mechanism for promotion. This system consists of two key segments that are conducted by the MISA. In the first segment, which we can define as a system of continuous quality control - the quality of

the developed RIA analysis has been assessed: The MISA gives opinion on RIA developed draft reports prior to their adoption as draft reports and prior to the deciding phase in governmental meetings. In the second segment, which, in turn, we can define as a system of periodic review, the MISA must submit an annual report to the Government of the Republic of Macedonia on the quality of RIA implementation and possible directions for improvement. However, although formally these two segments are provided, the Macedonian RIA model relies too heavily on the quality control and supervision by an internal actor. It is, however, a negative circumstance which is manifested in the above mentioned weaknesses: the quality of the RIA analysis has been assessed by the European Commission as weak and that there has been insufficient monitoring of procedures, particularly those for consultation with stakeholders.

On the other hand, a comparative good practice suggests decentralizing the process and assigning the role of quality control and supervision to a special body which is not a direct RIA actor. Additionally - when it comes to periodic reviews of the process - a comparative good practice indicates their execution by external auditors. Both models contain certain advantages that could raise the RIA quality in Macedonia.

Before we turn to the examples of these two models, it is worth mentioning some examples of quality control of RIA similar to the Macedonian model, but far more transparent and ones that have led to significant results. In Ireland,<sup>17</sup> in 2011, the office of

---

17 Irish profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Ireland-web.pdf>.

Prime Minister of the Republic of Ireland published a report whose focus had been operational aspects of the RIA. The report had offered recommendations for improvement based on the experiences of public servants involved in the preparation of the RIA analysis and those of stakeholders. In the Netherlands,<sup>18</sup> again, also in 2011, the government published a comprehensive report on a pilot web portal for electronic consultation in which it was stressed that although the electronic consultation create additional costs, still, they should be extended because it is of great benefit to citizens and the business community.

### **Model of continuous quality control and supervision by an external actor**

The implementation of the model of continuous quality control and supervision by an external actor envisaged a delegation of competences in terms of giving opinion on RIA reports of a body not directly participating in the RIA process. Ideally, this body should be composed of external experts who would impartially assess the quality of the RIA analysis. Thus, in the United Kingdom,<sup>19</sup> in 2009, the so-called Committee for Regulatory Policy (Regulatory Policy Committee) was established, which in 2012 was transformed into an independent advisory public

---

18 Dutch section of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Netherlands-web.pdf>.

19 The profile of the UK from the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/United-Kingdom-web.pdf>.

body. The task of the Committee is to provide an unbiased review of the proposals for new regulations. Between 2010 and 2015 this body submitted around 1,200 opinions on regulations that affect the business community and the civil sector out of which 951 were translated into legislation. The opinions were mainly related to the quality of the findings and evidence-based RIA analysis and legal solutions. If there are significant differences, then RIA analysis usually improve prior to the stage of public consultation or prior to the discussion of the draft regulation by the legislative body. As of 2014, a positive change had been introduced, according to which the business community has the right to request an independent opinion from the Committee if it considers that the analysis or the findings on which it is based are different from the actual situation.

From November 2011 the Czech Republic<sup>20</sup> has the so-called „RIA Board“ under the Legislative Council of the Government. The RIA board is composed of independent experts, representatives of associations of entrepreneurs / employers and representatives of the academic community. The tasks of this Committee is to discuss the quality of the prepared RIA analysis, to offer suggestions for their improvement (while having the right to give a negative opinion on the quality) and to give a recommendation on the need to prepare the RIA analysis in the event that providing a RIA is not envisaged by the legislative proposal. OECD concludes that the quality of the RIA analysis in the Czech Republic has „significantly been improved“ after the establishment of the RIA Board. As in the case of the Committee

---

20 The Czech profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Czech%20Republic-web.pdf>.

for Regulatory Policy in the United Kingdom, „the RIA Board“ in the Czech Republic is an independent body within the established institutional structure which assesses the quality of the RIA process and actively participates in its improvement.

## **Model of periodic review by an external actor**

The implementation, however, of the model of periodic external review of the RIA provides delegation of annual audits of the process of an external non-state actor or of state agencies for review pursuant to some experiences presented below. As in the previous model, it is suggested that such an operation would lead to a more impartial evaluation of the RIA than in the case when it is being conducted by an actor who has a direct role in the process.

On six occasions between 2008 and 2014 in New Zealand<sup>21</sup> independent audits of the quality of RIA have been conducted. Audits are conducted on a random sample of the so-called „RIA statements“ (RIA statements, counterpart of RIA reports in Macedonia) from the previous calendar year. Between 2008 and 2013 the evaluation focused on the quality of RIA statements and the overall analysis, comparison of opinions regarding the quality of RIA of state authorities and those of the independent auditor, as well as assistance to state agencies in charge of preparing the RIA. The reports contained a number

---

21 The New Zealand profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/New%20Zealand-web.pdf>.



of recommendations on these issues. In 2014, the independent audit focused on the „solutions / options“ and submitted recommendations for improvements in one of the most complex parts of the RIA analysis. Such an independent review can greatly improve the quality of the RIA process and offer more effective recommendations for overcoming the registered weaknesses.

Similar external audits of the RIA process were conducted twice in Switzerland<sup>22</sup> - and for different aspects - in 2011 for quality of the so-called „in-depth“ RIA analysis and in 2014 for the so-called „simple“ RIA analysis. In 2015 the Swiss Federal Audit Office initiated a broader review process of the quality of the RIA of selected legislation. In 2010, however, the European Court of Auditors published a comprehensive analysis of the implementation of the RIA conducted by the European Commission<sup>23</sup> including in the evaluation process quality, RIA analysis and their use.

\*\*\*\*\*

From the examples it appears that states implement three general models for quality control and supervision of the RIA, one of which - the one that can be called a model of internal control and supervision - is applied in Macedonia. However,

---

22 The Swiss profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Switzerland-web.pdf>.

23 The EC profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/European%20commission-web.pdf>.

the recommendation of this document for public policy is that Macedonia should, in the future, establish a model of control and supervision by the actors who are not direct participants in the RIA process. Such a model should strengthen the monitoring process, should stimulate public debate on RIA and, consequently, should establish a better basis for promotion.

In this regard, we have the examples of the United Kingdom and the Czech Republic, which reflect the model of continuous quality control by an external actor. These actors (the British Committee for Regulatory Policy and the Czech RIA board) are permanently indebted and have a long-term involvement in quality improvement. The participation of independent persons in the structure of these bodies is the basis for their quality and impartial activity. On the other hand, the model of a periodic review by an external actor (New Zealand, Switzerland, EU), be it external auditors or central state audit bodies, has a different purpose: to offer more strategic-oriented recommendations that would lead to systematic changes in RIA implementation. Consequently, both models focus on different aspects in the promotion of RIA, but have one thing in common - the delegation of control and the quality and supervision of external actor. It is this principle that Macedonia should accept in the possible redesign of the RIA process, and the represented examples can represent starting points for the possible steps to be taken.

## Conducting consultative processes

One of the characteristic weaknesses of the Macedonian application of RIA is the quality and consistency of consultative processes that stakeholders often describe as „formalistic“ and not

as substantive.<sup>24</sup> Although we follow a solid basis for conducting regular consultations - primarily through the portal ENER, whose functionality is extremely high - the views of stakeholders often remain excluded through all stages of the policy cycle.<sup>25</sup> Specifically for ENER, but also for other consultative processes such as public hearings, reviews of insufficient degree of dialogue are submitted in terms of the relation institutions- stakeholders. Thus, it is often the case that the proposals and the reactions from the citizens do not get a response from the ministries. This factual situation is largely demotivating for stakeholders (in particular the representatives of the civil society) who do not see the positive side of any of their engagement, according to the low level of dialogue. An additional weakness of the whole process is the short period of ENER consultation, which is currently set at 10 days.<sup>26</sup>

These weaknesses come from two broad sources. The first is the obvious lack of political will to implement consistent consultations. The second source is the insufficient capacity of the ministries to implement consultation processes. The

---

24 A finding acquired by the Agora sessions conducted within the project IDSCS „Agora sessions - practicing participatory policies“ (2015-2016).

25 For some shortcomings in the involvement of stakeholders in the process of policy and legislation making in Macedonia see: Popovikj, Misha and John Bliznakovski (2016) „In the labyrinths of the policy creation cycle - opportunities to influence civil society organizations“ (policy brief). Institute for Democracy „Societas Civilis“ Skopje (IDSCS), available at: <http://idscs.org.mk/wp-content/uploads/2009/08/IDSCS-Vo-Lavirintite-na-Ciklusot-na-Kreiranje-Politiki-27012016.pdf>.

26 Ibid.

implementation of consultative processes within the RIA simply requires a greater allocation of human resources and an appropriate strategic approach to consultation, ministries must include (without exception) all relevant stakeholders in the design of policies and legislation across different areas.

The publication of the OECD, Mexico<sup>27</sup> this has been singled out as the most important example of the implementation of quality consultative processes. The central point of the consultations - as in Macedonia - is conducted online through the portal of the Mexican Federal Commission for Regulation Improvement (COFEMER).<sup>28</sup> The portal publishes regulatory proposals, submitted opinions of stakeholders and appropriate responses from responsible institutions, a functionality that is similar to that of ENER. However, COFEMER has a parallel implementation of a comprehensive and sustained campaign for popularization of consultations through direct sending draft legislation to identified stakeholders, social media, email reminders, publications in the traditional media and so on.<sup>29</sup> This experience is particularly relevant for Macedonia where

---

27 The Mexican profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Mexico-web.pdf>.

28 <http://cofemersimir.gob.mx/>.

29 An informative tool that was implemented in 2015 in Macedonia by the civil sector is the „Calendar of Public Policies“, created under the „Agora sessions“ project (2015-2016), implemented by IDSCS. The tool aims to alert stakeholders on the start of ENER consultative processes. The calendar can be accessible at: <http://idscs.org.mk/mk/kalendar-na-javni-politiki/>.

the good functionality of ENER is literally overshadowed by its insufficient utilization. Consequently, steps should be taken to popularize ENER and specifically the experience of Mexico of a combination of several tools for popularization (mainly electronic and media) should be considered.

In Estonia,<sup>30</sup> however, several web portals have been implemented in various ways to facilitate the consultative processes. Here we present the example of the portal “Draft Information System” (EIS - Eelnõude infosüsteem)<sup>31</sup> which has a distinctive purpose - it offers evidence of the opinions and conclusions of the various public bodies in relation to specific draft regulations. In Macedonia, ENER does not have a similar functionality - the communication between state institutions is not published. Public availability of these documents greatly increases transparency and enables stakeholders to participate in the process in a more informed manner knowing in advance the positions of the institutions of public government.

Since 2014, the Government of South Korea<sup>32</sup> has implemented a system for online petition called “Sin-Moon-Go”,<sup>33</sup> which aims

---

30 The Estonian profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Estonia-web.pdf>.

31 <http://eelnoud.valitsus.ee/main>.

32 The Korean profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <http://www.oecd.org/gov/regulatory-policy/Korea-web.pdf>.

33 <https://www.better.go.kr/>.

to provide a more consistent involvement of the public in the creation of regulations. Petitions are carried out in three steps: 1) Every citizen may submit a proposal to improve regulation after which the relevant ministry should submit a response within 14 days; 2) In case of a negative response, the Ministry is obliged to publish a detailed explanation of the decision within 3 months; 3) the National Committee for Regulatory Reform (a body overseeing legislative practice) may request changes by the competent ministry if it considers that the negative response is unsustainable. In 2014, after the introduction of this system, we received approximately 6,500 petitions, out of which more than a third (36.6%) were accepted by the competent ministries and incorporated into further procedure. Such a high rate of acceptance is motivating the stakeholders and causing their further involvement in the policy creation.

## Practices of timetables for consultation

Comparatively, the time limit of 10 days for consultation with stakeholders (such as in Macedonia) belongs to the models with short deadlines for consultation. Moreover, the Macedonian practice shows that a 10-day period is often not respected. Good practice, however, insists on a clear deadline, but does not rule out its continuation if such a need is identified. In Mexico, for example, the deadline for consultation is set at 30 working days, but the common practice is that the deadline can be extended

if the need arises. In Slovakia,<sup>34</sup> the deadline for consultation is set at 15 working days. At EU level, the deadline is set at 12 weeks. However, there is no “standard” according to which Macedonia should take on this issue. The establishment of this term should be done through dialogue between state institutions and stakeholders. Its continuation can significantly increase the possibility of involvement in civil society organizations and the business community.

## Basing RIA on quality data and findings

One of the prerequisites for quality RIA analysis is the availability of appropriate data and findings that would justify the basis for it. Inconsistency to this precondition directly affects the quality of the RIA analysis. This document proposes an involvement of the State Statistical Office as a corrector of the RIA process, following the example of the Federal Republic of Germany.<sup>35</sup> In Germany, the Federal Statistical Agency (counterpart to the State Statistical Office of Macedonia) *ex post* examines the costs of implementing regulations and compares whether they meet the prescribed (*ex ante*) and suggests its possible alignment. Furthermore, the Agency provides support to the ministries based on the individual requirements in terms of assessing whether the

---

34 The Slovakian profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Slovak-Republic-web.pdf>.

35 The German profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Germany-web.pdf>.

legislation has achieved the expected goals. This (mostly *ex-post*) role of the Agency in the preparation of regulations significantly contributes to the evaluation of the RIA process based on data and findings and influences the changes and amendments to the existing regulations.

German Federal Statistical Agency also periodically conducts polls on public opinion on how citizens and the business community see the quality of legislation and the work of the public administration. Investigations are focused on the experiences of respondents in interaction with various state bodies. These data, furthermore, are directly used as findings underlying the RIA analysis.

## Support for civil servants for making RIA analysis

Inconsistent application of the RIA, primarily in terms of the quality of the analysis indicates inadequate capacity of ministries for the implementation of the RIA. This is due to insufficient human resources responsible for the RIA, and insufficient knowledge of the methodology and its implementation in practice by the responsible officials. However, it should be considered that RIA methodology is a complex activity that often requires substantial human and financial resources. Government and more specifically MISA have so far conducted several trainings for civil servants involved in RIA analysis. MISA, in cooperation with the Embassy of the United Kingdom has already published several tutorials for RIA methodology



for civil servants and stakeholders.<sup>36</sup> Certainly, these practices are particularly important for furthering the process and their importance should not be underestimated. But the complexity of the RIA process in the future will create challenges - it is important that the human and financial capacities for RIA constantly improve. In addition to constant further training, it also can be done by designing auxiliary tools for civil servants. In this section we will present two examples.

In 2014, Sweden,<sup>37</sup> introduced a tool „calculator regulation“ („Regelräknaren“),<sup>38</sup> that allows officials, policymakers and legislators to calculate, in a simple way, the cost of the proposed regulations in the implementation of the RIA process. Estimated costs and methodology of calculation are publicly available and can be consulted on a specially designed web portal for this purpose.

Like Macedonia, more countries design different manuals to assist civil servants in the implementation of the RIA. In the

---

36 One such manual for civil servants was published in 2013. See: MISA (2013) Guidelines on the Regulatory Impact Assessment, Skopje, October 2013, available at: <https://goo.gl/caoPAI>.

37 The Swedish profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Sweden-web.pdf>.

38 <https://regelraknaren.tillvaxtverket.se/regelraknaren/#/>.

OECD manual,<sup>39</sup> Israel is identified as an example of quality RIA manuals for public employees. Considering that Macedonia has already established such a good practice, this example here serves only as a reminder that auxiliary aids like manuals, designed for different aspects of the overall process may be particularly important for the actors themselves and should be stimulated in the future.

## Involvement of Parliament in the RIA process

The Macedonian application of the RIA, which has been formally set, but as in practice, belongs entirely in the domain of the government part of the process of policy and legislation creation. However, good practice in the implementation of the RIA does not assume such one-sidedness and is particularly negative in the Macedonian context where the Government in the political system is envisaged as a proposer of legal solutions, while the only legislative body is the Parliament. Evidence suggests that the government is by far the largest initiator of legislation in Macedonia - in the period 2011-2014 98% of the legislative proposals came from the government and MPs participated in an insignificant amount (only 19 out of 888

---

39 The Israeli profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <https://www.oecd.org/gov/regulatory-policy/Israel-web.pdf>.

proposals were submitted by the MPs).<sup>40</sup> This situation leaves MPs in a position to focus the majority of their decisions on deciding on government proposals. However, it is generally considered that Parliament is inconsistent in this regard - the arguments of the MPs is insufficiently focused on the content of the draft regulation.<sup>41</sup>

On the other hand, the conclusions of the RIA analysis, except for the public and the stakeholders can also be particularly useful for the MPs which is something they can truly rely on in the discussions of the legislation. The RIA provides a unique opportunity for MPs - presenting them with the benefits and costs of the proposed regulation, stakeholders' views and the alternative options that are available - and allows them to strengthen their arguments and to inform them in the decision-making. Consequently, a creation of a stronger link between the RIA process and Parliament is also needed. Although there are no specific examples where a country directly addressed this weakness, however, the examples presented below provide guidance on how to involve Parliament in the RIA process.

This document on public policies offers a higher level of formalization of the RIA process that will create a link between

---

40 Report on the work of the Seventh Assembly of the Parliament of the Republic of Macedonia 25.06.2011 - 05.03.2014. Parliament of the Republic of Macedonia.

41 For some indicators of quality of parliamentary debates in the period June 2014-May 2015 see: Dimeski, Jane (2015) „Trench debate - analysis of the quality of the discussion in Parliament in June 2014 - May 2015“ IDSCS, available at: <http://idscs.org.mk/wp-content/uploads/2009/08/rovovska-debata-mk.pdf>.

the Government and Parliament. This assumes regulation of the RIA process into legislation. Such a decision would create a legal environment for the development of practice of using RIA analysis by MPs. The assumption is that if Parliament passed a law that will regulate the RIA process, it will lead to a closer acquaintance with it and to its greater utilization.

Thus, in 2012, Greece adopted a Law<sup>42</sup> for better regulation that prescribes the principles and steps in the implementation of the legislative procedure in all branches of public authority. The Law defines aspects of the implementation of RIA, according to the Greek application of the process. This law should not constitute a strict model for Macedonia, but should serve as an example of a way in which the RIA could be decisively inserted as a reference in the parliamentary debate. The legal solution proposed here would established a mandatory submission of RIA reports to lawmakers in Macedonia. Of course, this should not be the only step for a more consistent involvement of Parliament - MPs must be well informed about the structure and content of the RIA analysis, on the way it can be applied and the overall benefits of the process.

In Switzerland, however, the parliamentary body „Parliamentary Control of the Administration“ has carried out a comprehensive evaluation of the consultations and public hearings that showed deficiencies in too short deadlines for consultations and insufficient knowledge of the public on how the submitted comments are taken into consideration. This review led to

---

42 The Greek profile of the publication OECD Regulatory Policy Outlook 2015 can be consulted at: <http://www.oecd.org/gov/regulatory-policy/Greece-web.pdf>.

significant changes in the legislation for consultation. This example, though relating to the supervision of the RIA process is moved here in order to show that parliament can have an effective role in the RIA process from a completely different prism.

## Final summary

---

This policy brief has attempted to bring some of the global best practices in the implementation of the RIA process. The illustrations were made with reference to the current state of implementation of RIA in Macedonia. The approach adopted is that Macedonia does not need a transfer of a full model from another country, on the contrary, it requires different system adjustments in certain parts of the RIA norms and practice. Finally, examples for RIA improvement have been offered in five aspects that coincide with the main commitments of this document.

The RIA application in Macedonia needs a constant quality control and supervision by an independent actor - at best composed of independent experts - following the examples of the United Kingdom and the Czech Republic. The process could be significantly strengthened with the establishment of a periodic independent audit, following the example of New Zealand. Failure of public consultation should be addressed through its popularization and measures for confidence building - primarily as the example of Mexico. The short 10-day period for consultations should be prolonged, and this document has shown that there are more opportunities for it, according to comparative practices. The State Statistical Office should be

## COMPARATIVE GOOD PRACTICES OF THE APPLICATION OF THE RIA AND OPPORTUNITIES FOR THEIR IMPLEMENTATION IN MACEDONIA

inserted in the process - as service for data and findings that are based on analyses, according to the German example. Civil servants should continue to be supported to increase the quality level of the RIA analyses, and this document has shown that there are innovative tools for such endeavors (Sweden). Ultimately, the involvement of Parliament in the RIA process is needed, and it could be done through a higher formalization - by adopting a legal solution for RIA. RIA analyses, basically, should be the reference point for MPs during parliamentary discussions and in their decision on the draft regulation.

Overall, the opportunities for the development of the RIA are almost limitless, and the benefits of quality implementation vast. This is reason enough to rethink certain aspects of the implementation of the RIA in Macedonia.

**COMPARATIVE GOOD PRACTICES  
OF THE APPLICATION OF THE RIA  
AND OPPORTUNITIES FOR  
THEIR IMPLEMENTATION IN MACEDONIA**

*Policy Brief, April 2017  
Author: Jovan Bliznakovski*



*The project is funded by the European Union*