

Towards Better Regulations – The Role of Regulatory Impact Assessment in Modern State Lawmaking Systems

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In line with the contemporary understanding of a state based on the rule of law, regulations are virtually the only available means through which the state can shape the behavior of citizens. At the same time, regulations create a framework and context for the performance of all private and public entities. Undisputedly, the social and economic development of modern states depends largely on the quality of adopted regulations. In recent years, the governments of the most developed Western countries have increased efforts to ensure the improvement of the quality of adopted laws within the framework of the concept of the so-called „Better Regulations.”

The process associated with improving the quality of legislation applies to their entire life cycle. Improving legislation quality begins by laying down the general principles of rulemaking, assessing their relevance and quality at the stage preceding the adoption of the given act, and continues through to the effective implementation and ex-post evaluation of the achieved results. Therefore, actions aimed at ensuring better regulations can cover a wide spectrum of measures – i.e. the simplification of administrative procedures, the consolidation of legal acts, a reduction of administrative burdens, the use of friendlier alternatives for entrepreneurs that go beyond the statutory solutions, and increase of financial and human resources involved in the rulemaking process, the introduction of standards for consultations with stakeholders, the assessment of the adequacy of existing and new regulations, and a regulatory impact assessment carried out ex-post. Among all the mentioned tools enhancing the quality of the law, regulatory impact assessment (RIA) – i.e. a set of procedures that should be incorporated

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in the preparation and implementation of legal provisions – is of a great significance. In the past 30 years, RIA has become increasingly common in OECD countries, and more recently the European Commission has also undertaken its systematic implementation in the Member states.

This publication aims to contribute to the literature on the role, quality, and practical application of RIA as a tool for proving better regulations. The articles included in this volume represent two major themes. The first theme concentrates on the concepts and the role of lawmaking responding to the challenges of modern societies and economies. The second theme focuses on specific solutions and practices aim at providing quality regulations adopted in different countries.

Karol Olejniczak and Paweł Śliwowski's article focuses on an alternative to a traditional, rational choice theory based approach concerning policy and regulatory practice. The authors discuss the theoretical and practical origins of the behaviorally informed public interventions (BIPI) and discuss their application and implication for public interventions. They argue that though BIPI cannot be regarded as a “magic wand” that will allow policymakers to change citizen behavior, it is a potentially effective tool to enrich the public policy process and should be seen as another source of fruitful knowledge to be integrated with those in use before. Waldemar Hoff and Jan Chmielewski in their article prove that properly conducted RIA is a key determinant to establishing rational law, which should be understood as a law that effectively pursues the objectives established by policymakers. According to the authors, there are several additional functions and ways that RIA may be use by different institutions (i.e., the Constitutional Court) as it allows to reconstruct the goals that guided the designer act, which may determine how to interpret the legal text.

The other articles provide examples of different approaches, practices, and places of the RIA in national lawmaking systems. In his paper, Tomasz Kupiec presents how the RIA system was adopted in New Zealand. The author structures his argument around the analogy of RIA and public policy evaluation, as both of these tools are intended to support decisions by providing knowledge and evidence for policy makers. According to Kupiec, even though the RIA system in New Zealand is not bereft of weaknesses, a number of implemented solutions can be regarded as good practice to other government administrations.

The articles of Jaroslav Dvorak and Zdravko Petak provide in-depth analyses of the implementation of RIA system in two Post-Soviet countries in transition: Lithuania and Croatia. In Dvorak's article, a structural comparative analysis of RIA and its

segment efficiency, expediency, and development is presented. The author argues that the new model is still being formed. Even though the new model is included into legal documents, there is no exhaustive data about its benefits or values. This model is based on contemporary methodological approaches (analysis of cost-benefit and cost-effectiveness), consultations with the interested parties, a legal initiatives impact assessment, and a centralized and institutional coordination of impact assessment. In Petak's article, he discusses various limitations to the usage of policy analysis tools in formulating, implementing, and evaluating public policies in Croatia. He states that different weaknesses of the RIA process in Croatia are still influencing the process of quality law establishment. One of the most prominent problems relates to the low level of inclusion of the public in the process and the difficulty of exerting influence on regulator plans.