

RIA GUIDELINES

INTRODUCTION

These Guidelines are designed for public agencies and institutions falling into the scope of the By-Law on Legislative Drafting, hereinafter called regulatory authorities, in drafting of laws, decree laws, regulations, by-laws, annexed decisions of Cabinet decrees and other regulatory proceedings, hereinafter called regulations, except for matters related to national security and for drafts of final account law and budget bill.

Regulatory Impact Assessment (RIA) is a set of logical steps which should be followed when regulatory proposals or changes are being developed. It is a process that provides evidence for political decision-makers on the advantages and disadvantages of the different possible regulatory and non-regulatory options by assessing potential impacts. RIA should be carried out at an early stage in the development of a regulatory proposal and revised as evidence is collected and considered. The results of this process are summarized and presented in an RIA report.

1. THE RIA PROCESS

Step 1: The RIA process starts within the regulator's institution, where the responsible officials initiate investigation of an issue which might be a problem for society and may need a solution to be proposed by the institution. After the issue is identified and clearly formulated, the responsible officials draft a Preliminary RIA, according to the requirements of these guidelines, with advice and scrutiny from the RIA Unit within their institution. An RIA Unit should be established within each regulator, either as a separate unit or an existing unit which such functions are attributed to, such as the strategic development department or legal counsel. If the Preliminary RIA recommends intervention, the regulatory authority continues the process and moves to step 2.

Step 2: Based on the threshold criteria, explained further in these guidelines, the regulatory authority decides if a Full RIA is necessary or whether the Preliminary RIA is sufficient, and finalizes the RIA document for mandatory consultation. The regulator may also prepare the draft regulation to be consulted on together with the RIA document.

Step 3: Preliminary and Full RIA are subject to mandatory written consultation with major stakeholders. The RIA document and draft regulation, if there is one, are disseminated to the following stakeholders:

- Public sector:
 - Ministry of Justice
 - Ministry of Finance
 - State Planning Organization
 - EU General Directorate
 - Competition Authority
 - Other relevant state institution, depending on the subject addressed
- Private sector:
 - Chamber of Commerce and Industry
 - Other relevant business associations
 - Non-governmental associations involved in consumer protection
 - Academic organizations, such as universities
 - Other relevant private institutions

The regulator shall allow 15 days for feedback from stakeholders. If no reply is received from a particular stakeholder during this period, it is considered that the feedback from that stakeholder is positive.

Step 4: Based on the consultation results, the regulator should revise both the RIA document and draft regulation. The feedback from the consultation and response to that feedback is summarized in the table of opinions, according to the template presented in Annex C, and also described in the consultation chapter of the RIA document.

In the case of a Preliminary RIA, if additional evidence gathered during the consultation exercise suggests that the impact from the proposed intervention will meet the threshold criteria, the regulator has to move back to step 2 and prepare a Full RIA and revise the draft regulation. The new RIA and draft regulation are also subject to mandatory written consultation.

After mandatory written consultation, a Full RIA will move to step 5 and a Preliminary RIA to step 6.

Step 5: Full RIA is also subject to public consultation on the regulator's website. The regulator has to place the Full RIA document, draft regulation and table of opinions on its website for public consultation and allow at least 30 days for feedback. The regulator should provide a feedback tool on the web site, such as a box for comments or e-mail address for feedback.

Step 6: Based on the consultation results, the regulator should revise both the RIA document and draft regulation. The most significant feedback from the consultation and a response to that feedback have to be added to the table of opinions, according to the template presented in Annex C, and also described in the consultation chapter of the RIA document. Based on the findings from mandatory

public consultation the regulator decides if regulatory intervention is still recommended. If an alternative to regulation proves better and the regulator decided to choose it, the process ends as no proposal will be made to the Prime Ministry. If the regulator believes that regulatory intervention is necessary, the Preliminary or Full RIA, draft regulation and table of opinions are passed to the Prime Ministry for scrutiny.

Step 7: The Prime Ministry RIA Unit scrutinizes Preliminary and Full RIA documents, together with draft regulations and tables of opinions, and should issue an opinion within 15 days. In the case of Preliminary RIA, if the Unit believes that this is not sufficient, it will recommend that the regulator should draft a Full RIA. If the Unit believes that the quality of any RIA or regulatory proposal is not sufficient, it will recommend improvements or revision.

USE OF PRELIMINARY AND FULL RIA

The assessment in a Preliminary RIA is less detailed, based on information easily available and should answer a set of questions provided in the template, including the threshold criteria which will indicate the significance of the potential impacts from the proposed action:

- Is it likely that the total costs of the proposed action impacts will exceed 10 million TL?
- Is the proposed action politically very important or sensitive?
- Is it likely that many people and/or businesses will be impacted by the proposed action?

If the answer to any of the threshold criteria questions is positive, the regulatory authority should carry out a Full RIA which is more detailed and requires quantification for the most significant impacts.

There is a template to be used for Preliminary RIAs in Annex A; this also provides a template for the executive summary of a Full RIA. The template to be used for Full RIAs is in Annex B.

1. RIA COMPONENTS

1.1. Problem definition

The problem definition should describe, and provide evidence of, the nature and scale of the problem. It should identify the stakeholders, sectors and social groups primarily affected by it, why the existing or evolving situation is not sustainable and why public intervention may be necessary. The problem cannot be a lack of regulation as regulation is just one of the possible options to solve a problem.

The 'drivers' – or causes – behind a problem (how particular factors have led to it) need to be identified. This helps to ensure that the **causes** are tackled, rather than just the **symptoms**. Confusing the two can result in wrong or inappropriate action that may make the situation worse.

It is important to identify existing government policies (e.g. concept, strategy, national programme) and regulations concerning the problem area, and the relevant public authorities responsible for them. The regulator will need to consider whether existing policies and regulations could provide a solution to the problem without introducing new policies or regulation. For example, more effective enforcement arrangements or increased awareness by those impacted are often good first steps.

If it is considered that existing regulations are not sufficient, the reasons should be set out. For example, old regulations may not match the current social realities. It should be considered whether the existing regulation can be amended or should be completely replaced.

This analysis will enable the regulator to set out clearly the reasons for state intervention to resolve a problem, particularly in key areas such as public security, public health or environmental pollution.

1.2. Setting objectives

Without a clear understanding of what a future regulation is supposed to achieve, it is difficult to identify possible courses of action, and even more difficult to compare options. Objectives provide effective criteria for assessing the success or failure of the proposed options - without clear objectives it is impossible to monitor implementation of the policy and evaluate whether it has produced the

desired effects. Setting objectives also helps to determine any links to existing policies and regulations.

Objectives should not be defined as taking a particular action as this will bias consideration of the most appropriate option to resolve a problem. For example, the objective should not be to adopt a regulation as this is just one of the possible options for solving a problem.

1.3. Identifying options

Once you have defined the objectives, the next phase of an RIA is to identify potential options which will address the root cause of the problem and achieve the objectives.

Considering a wide range of policy options will encourage you to think ‘out of the box’ and provides greater transparency. It is a way to show decision-makers and stakeholders that alternative options, which they may prefer, have been analysed seriously and to explain why some were not pursued. By providing evidence of which options will best meet the objectives the RIA drafter can better explain the logic behind the proposed option and to avoid unnecessary discussions of options that will not help to achieve the objectives.

For a Full RIA, at least three options should be considered, of which one should be the ‘do nothing’ option and another should be an alternative to regulation (a non-regulatory or voluntary option). The options in a Preliminary RIA can be limited to two options, of which one should be the ‘do nothing’ option and the other is the preferred means of intervention.

1.4. Analysis of impacts

The RIA should present the impacts of different policy options as net changes compared with the existing situation described in the ‘do nothing’ option, which is used as a baseline. An RIA should show how each policy option differs from this baseline in terms of their characteristics and the results that they would produce. The more quantification provided, the more convincing the analysis will generally be.

In order to assess the options for intervention, certain decision criteria should be used:

- The main decision criterion is whether the benefits of the intervention justify the costs, or whether the benefits are higher than the costs. This criterion can be applied both for quantified impacts and qualitatively presented impacts.
- However, more than one option may meet this criterion. In this case, the RIA should show which option would generate the highest net benefits. Or if quantification is not easy, there may be a qualitative explanation of why an option generates higher benefits.
- Alternatively, the lowest cost solution may be selected from those where the benefits are higher than the costs. If there is a fixed target that should be achieved, the costs of each option in achieving that target can be compared. The preferred option would be that which generates the lowest costs for all stakeholders.
- If options achieve different targets/benefits, the cost per unit of benefits for each option can be assessed and an option recommended which has lower costs per unit of benefit.

Interventions can generate a range of impacts. These may be economic, social or environmental benefits and costs.

In order to apply the decision criteria, the impacts should be quantified using relevant metrics (kilos, metres etc) and, whenever possible, impacts should be valued in a single metric, preferably in monetary terms, to enable easy comparison of options

Where it is difficult to value impacts, other impact measures should be used such as how many people or businesses, and what type, might be affected.

An RIA should always identify who will be affected by the impacts and when. Options that would be beneficial for society as a whole may have positive and negative impacts that are spread unevenly across society and over time. If these distributional effects may be significant and important, a separate sub-section to describe these should be included in the section on analysis of impacts.

There should also be a separate sub-section in the impact assessment section for the impacts on SMEs and competition. If the regulator considers that there will be no significant impact on SMEs or competition, the reasons behind that should be clearly set out.

1.5. Comparison of options

It is useful to use a table for comparison of the options and quantitative analysis of their costs and benefits to show the total costs and net benefits. Where quantitative analysis is difficult, a more qualitative approach can be used or a combination of both quantified and qualitatively assessed impacts.

1.6. Consultation

The RIA Report has a separate section where the consultation exercise is explained. Consultation is an essential tool for producing high quality and credible policy proposals and to validate the data gathered through deskwork. In some cases it substitutes the data gathering efforts. Regulatory consultation also helps to ensure that policies are effective and efficient, and it increases the legitimacy of the regulator's action from the point of view of stakeholders and citizens. Depending on the objective pursued and the issue at stake, consultation can be carried out from the very beginning of an RIA exercise and on different elements of the impact assessment (the nature of the problem, objectives and policy options, impacts, comparison of policy options, assessment of costs and benefits). Additionally, after an RIA document has been developed, the regulator has to follow mandatory consultation.

1.7. Implementation and monitoring

In this section the regulator has to explain how implementation will be carried out and which public sector organizations will be assigned to and responsible for the implementation of the regulation. It is important to consider from the outset whether proposals are enforceable and how a high level of compliance can be achieved.

All regulations must be reviewed from time to time to see whether the identified objectives have been achieved. A commitment should be given that a regulation will be reviewed within a certain period after it enters into force.

1.8. Summary and recommendation

After all the RIA elements have been completed, RIA drafters should provide a summary of the RIA results, including options considered and a comparison of their impacts. Based on the decision criteria, the regulator should then recommend one or more options.

2. THE RIA DOCUMENT

The size of the RIA documents should be proportionate to the potential impacts of the proposed regulation or regulations. A very complex issue with large potential impacts may result in a large RIA document with a lot of technical Annexes whereas a more simple proposal with lower potential impacts may only require a short RIA document. The important issue is to collect and clearly present all of the relevant evidence.

2.1. Preliminary RIA Report

A Preliminary RIA aims to answer the questions presented in the Annex A template without much quantification of the baseline or potential impacts. The only requirement is that the answers are justified by available evidence or clearly set out assumptions.

2.2. Full RIA Report

Except for the title and Executive Summary, the RIA report sections coincide with the RIA components set out above. The Executive Summary should be drafted according to the template from Annex A and the Full RIA report according to the template from the Annex B.

ANNEX A. PRELIMINARY RIA REPORT TEMPLATE / EXECUTIVE SUMMARY TEMPLATE FOR FULL RIA

This template is used to present the Preliminary RIA Report and acts also as an Executive Summary for a Full RIA Report.

<p>TITLE: Regulatory Impact Assessment of ... Institution: Ministry of ... Date: ... Contact information: ...</p>														
<p>PROBLEM DEFINITION What is the problem under consideration and what are its causes? Why is regulatory intervention necessary?</p>														
<p>SETTING OBJECTIVES What are the objectives of the regulator?</p>														
<p>IDENTIFICATION OF OPTIONS What are the main policy options for reaching the objectives and solving the problem?</p>														
<p>COMPARISON OF OPTIONS What are the advantages/benefits and disadvantages/costs of possible options?</p> <p>(For a Preliminary RIA use the table below and for a Full RIA use a summary of the tables produced during the full analysis.)</p> <table border="1"> <thead> <tr> <th></th> <th>Advantages/Benefits</th> <th>Disadvantages/Costs</th> </tr> </thead> <tbody> <tr> <td>Option 1 – “do nothing”</td> <td></td> <td></td> </tr> <tr> <td>Option 2 -</td> <td></td> <td></td> </tr> <tr> <td>Option N -</td> <td></td> <td></td> </tr> </tbody> </table>				Advantages/Benefits	Disadvantages/Costs	Option 1 – “do nothing”			Option 2 -			Option N -		
	Advantages/Benefits	Disadvantages/Costs												
Option 1 – “do nothing”														
Option 2 -														
Option N -														
<p>CONSULTATION Provide a summary of any consultation exercise carried out (with whom and how you consulted?)</p>														
<p>IMPLEMENTATION AND MONITORING How will implementation, enforcement and monitoring be organized?</p>														
<p>RECOMMENDATION Based on a comparison of the options in terms of advantages/benefits and disadvantages/costs, what is the recommended option/options?</p>														
<p>FOR PRELIMINARY RIAs YOU NEED TO ANSWER THESE THRESHOLD CRITERIA QUESTIONS:</p> <ul style="list-style-type: none"> – Why do you think the proposed regulation does not generate costs over 10 million TL to society? – Why do you think the proposed regulation is not politically sensitive? – Why do you think that not many people or businesses will be impacted by the proposal? 														

ANNEX B. FULL RIA REPORT TEMPLATE

This template is used to present the Full RIA Report and consists of the following parts:

<p>TITLE: Regulatory Impact Assessment of ... Institution: Ministry of ... Date: ... Contact information: ...</p>
<p>EXECUTIVE SUMMARY (according to the template from annex A and updated material in the Full RIA report)</p>
<p>PROBLEM DEFINITION</p>
<p>SETTING OBJECTIVES</p>
<p>IDENTIFICATION OF OPTIONS</p>
<p>ANALYSIS OF IMPACTS</p>
<p>COMPARISON OF OPTIONS</p>
<p>CONSULTATION</p>
<p>IMPLEMENTATION AND MONITORING</p>
<p>SUMMARY AND RECOMMENDATION</p>

ANNEX C. FORM TO BE USED IN SUBMISSION OF OPINIONS TO THE PRIME MINISTRY ON DRAFT REGULATIONS AND RIA

Institution delivering opinion	Proposal to RIA or Draft Regulation	Assessment
1.		
2.		
3.		
4.		