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# Overview of Development of Regulatory Impact Assessment in Eastern Europe

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## Policy Making Framework for RIA

**Legal formalism vs. Policy Making**  
**Set by Constitution and laws, mainly**  
**legislative procedure of Government and**  
**Parliament: focus on technical issues of**  
**legislative drafting**  
**No formal rules or guidelines to policy**  
**development**  
**Legislation – key policy instrument (not**  
**linked to budgeting) : low quality of**  
**products**  
**Central coordination capacity limited**

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## Main Problems Diagnosed

1. **Starting point of new legislation is not clear**
2. **Legislation always comes before policy**
3. **Little focus on results**
4. **Financially unrealistic policy / legislative planning**
5. **The link between policy planning and the State Budget is not well developed**
6. **The system of policy ex ante or ex post impact assessment and evaluation practically non-existent**

**As a result – decisions in Government are taken based on poor information**

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## Introducing Regulatory Impact Assessment Framework

- Strategic Environmental RIA (adherence to international agreements)
- New Guidelines require that RIA is utilized prior to legislation approval:
  - most of CEE countries within timeframe of 1996 – 2000, second wave of RIA modernization around 2010
  - Explanatory memoranda:
    - constitutional basis of proposed draft
    - Conformity with EU legislation
    - Budgetary implications (state budget)
  - Specific types of RIA: problems with interpretations
- Free Access to Information Law opens consultation process

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## Institutional background

| Aspects   | Czech Republic  | Estonia   | Hungary  | Slovakia  | Slovenia   |
|---|---|---|--|---|--|
| Policy on Better Regulation adopted                         | 2005  | 2011  | 2008   | 2007  | 2005   |
| Body responsible for Better regulation                      | Ministry of Interior (moved from Government Office in 2006)   | Ministry of Justice + State Chancellory         | Ministry of Justice  | Ministry of Economy                               | Ministry of Public Administration                          |
| RIA system adopted  | 1998 (January 2008 in effect)   | 1999  | 1994   | 2001  | 2004   |
| RIA system updated  | 2011  | 2012  | 2010   | 2008, in full adoption 2011                       | 2009   |
| RIA guidelines, trainings                                   | Prepared by Government Office in 2005 (pilot), adopted in 2008, 2011                                      | Prepared by State Chancellory in 2005, adopted  | Prepared by Ministry of Justice in 2003-4, not adopted, 2011 | Prepared by 4 ministries in 2008, adopted in 2011 | Prepared by Ministry of Economy in 2006, not adopted       |
| Legislative Quality assurance review body                   | Legislative Council   | State Chancellory, Ministry Justice, Parliament | PMO office, from 2010 MoPA&J                                 | Legislative Council                               | Government Office for Legislation                          |
| RIA overseeing body   | Until 2006 Government Office, 2006-2010 MoInterior, from 2010 Government Office + From 2012 RIA Committee | From 2012 MoJustice                             | Ministry of Justice  | since 2010 four supervising bodies                | no   |
| Strategic planning coordination                             | No  | State Chancellory                               | no   | No  | The Government Office for Development and European Affairs |
| Special unit or analysts within ministry assisting with RIA | Special department in Ministry of Interior  | From 2012 each ministry                         | From 2011 ECOSTAT Govt. Center for RIA                       | Since 2010 in 4 supervising ministries            | no   |

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## 2010 research in Czech republic, Estonia, Hungary, Slovakia, Slovenia

### Benchmark of European Commission, 'Impact Assessment: Next Steps' 2004 + Mandelkern report

-Content components:

purpose,  
objectives,  
options,  
impacts,

comparison of options,  
monitoring and evaluation

-Details of impacts: costs, benefits, trade-offs

-Consultation process

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## Regulatory Issues Addressed in RIA (Components)

| Issues                   | Czech republic<br>n = 113 |      | Estonia<br>n = 91 |      | Hungary<br>n = 115 |     | Slovakia<br>n=126 |     | Slovenia<br>n = 132 |      |
|--------------------------|---------------------------|------|-------------------|------|--------------------|-----|-------------------|-----|---------------------|------|
|                          | N                         | %    | N                 | %    | N                  | %   | N                 | %   | N                   | %    |
| <b>Purpose</b>           | 112                       | 99   | 91                | 100  | 115                | 100 | 126               | 100 | 119                 | 90,1 |
| <b>Objectives</b>        | 0                         | -    | 10                | 9,1  | 3                  | 2,6 | 29                | 23  | 119                 | 90,1 |
| <b>Options</b>           | 11                        | 9,7  | n/a               | -    | n/a                | -   | n/a               | -   | n/a                 | -    |
| <b>Impact statements</b> | 12                        | 10,6 | 91                | 100  | 1                  | 0,8 | 126               | 100 | 132                 | 100  |
| <b>Parties Affected</b>  | 11                        | 9,7  | 75                | 82,4 | n/a                | -   | n/a               | -   | n/a                 | -    |
| <b>Consultation</b>      | 11                        | 9,7  | 38                | 41,7 | 5                  | 4,3 | 1                 | 0,7 | 0                   | 0    |

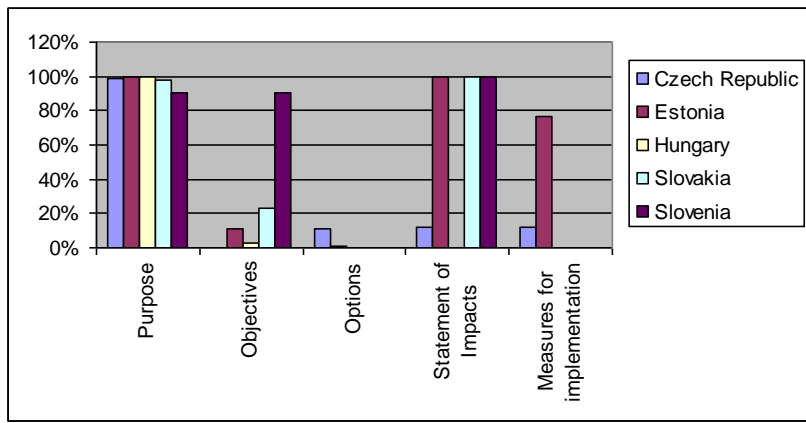
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## RIA Components



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## Challenges – RIA components

- No alternatives investigated**
- Conduction of RIA (legislation first)**
- Consultations = opinion gathering process from state agencies**
- passive gathering of opinions at the end of the process**
- question of accessibility and simplicity for the users**
- FOIA: e.g. Slovakia 17% NGO comments, 9% self-governments, 3% independent experts**

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## RIA – Affected party identification

|  | Czech republic |     | Estonia |      | Hungary |     | Slovakia |      | Slovenia |      |
|--|----------------|-----|---------|------|---------|-----|----------|------|----------|------|
|  | n = 113        |     | n = 91  |      | n = 115 |     | n = 126  |      | n = 132  |      |
|  | N              | %   | N       | %    | N       | %   | N        | %    | N        | %    |
| <b>Parties affected – identification</b> | 11             | 9,7 | 75      | 82,4 | 5       | 4,3 | 62       | 49,2 | 71       | 53,8 |
| <b>Public administration</b>             | 11             | 9,7 | 66      | 72,5 | 4       | 3,5 | 16       | 12,7 | 9        | 6,8  |
| <b>Municipalities</b>                    | 2              | 1,8 | 9       | 9,9  | 2       | 1,7 | 1        | 0,8  | 10       | 7,6  |
| <b>Citizenry at large</b>                | 8              | 7,1 | 23      | 25,3 | 2       | 1,7 | 19       | 15,1 | 14       | 10,6 |
| <b>Specific group of citizens</b>        | 0              | 0   | 24      | 26,4 | 2       | 1,7 | 14       | 11,1 | 29       | 22   |
| <b>NGOs</b>                              | 0              | 0   | 5       | 5,5  | 2       | 1,7 | 0        | 0,0  | 4        | 3    |
| <b>Specific industry</b>                 | 8              | 7,1 | 26      | 28,6 | 2       | 1,7 | 12       | 9,5  | 19       | 14,4 |
| <b>SMEs</b>                              | 2              | 1,8 | 3       | 3,3  | 3       | 2,6 | 6        | 4,8  | 9        | 6,8  |

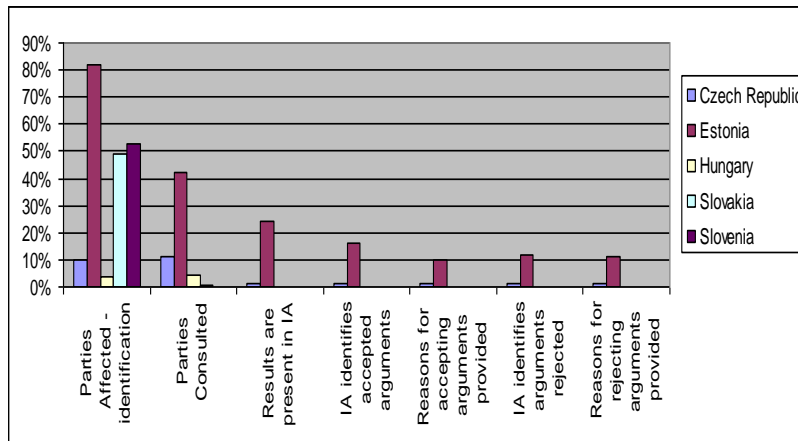
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## RIA - consultation



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## RIA – Type of Analysis

| Type of impact                        |       | Czech republic |    | Estonia |      | Hungary |      | Slovakia |      | Slovenia |      |
|---------------------------------------|-------|----------------|----|---------|------|---------|------|----------|------|----------|------|
|                                       |       | N              | %  | N       | %    | N       | %    | N        | %    | N        | %    |
| Number of proposals passed by Cabinet | Total | 113            |    | 91      |      | 115     |      | 126      |      | 132      |      |
|                                       | EU    | 42             | 37 | 31      | 34,1 | 51      | 44,3 | 45       | 35,7 | 39       | 29,5 |
| RIA attached                          | Total | 12             | 10 | 91      | 100  | 1       | 0,9  | 124      | 98,4 | 119      | 90,2 |
|                                       | EU    | n/a            | -  | 31      | 34,1 | 0       | 0    | 45       | 35,7 | 35       | 26,5 |
| RIA analyzes fiscal impact            | Total | 40             | 35 | 46      | 50,5 | 5       | 4,3  | 59       | 46,8 | 55       | 41,7 |
|                                       | EU    | n/a            | -  | 17      | 18,7 | 0       | 0    | 16       | 12,7 | 15       | 11,4 |
| RIA analyzes social impacts           | Total | 2              |    | 19      | 20,9 | 2       | 1,7  | 1        | 0,8  | 10       | 7,6  |
|                                       | EU    | n/a            | -  | 4       | 4,4  | 0       | 0    | 1        | 0,8  | 2        | 1,5  |
| RIA analyzes economic impacts         | Total | 1              |    | 29      | 31,9 | 3       | 2,6  | 3        | 2,4  | 4        | 3,0  |
|                                       | EU    | n/a            | -  | 11      | 12,1 | 0       | 0    | 1        | 0,8  | 1        | 0,8  |
| RIA analyzes environmental impacts    | Total | 0              | 0  | 8       | 8,8  | 0       | 0    | 15       | 11,9 | 1        | 0,8  |
|                                       | EU    | n/a            | -  | 6       | 6,6  | 0       | 0    | 6        | 4,8  | 0        | 0    |

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## RIA – Type of Analysis

**„no impact“ – HU (95%), SK, SL, CZ (55-65%), EST (36%)**

**Fiscal impact – EST, SK, SL, CZ (35-50%), HU (4%)**

**Social impact – EST (21%), SL (7,5%), CZ, HU, SK, (1-2%)**

**Economic impact – EST (32%), SL, CZ, SK, HU (1-3%)**

**Environmental impact – 1-2 cases in all**

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## Challenges – Quality Issues

**Formality: RIA only formal fulfillment of requirement: yes/no**

**Identification of Parties Affected**

**- Majority state + a few identify additional (municipality, state owned undertaking)**

**Fiscal RIA more than any other (costs to state budget)**

**Analysis and comparison of costs and benefits of the regulation (quantification)**

**-70% institutionalization of a new post (salaries)**

**-Benefits prevail over costs**

**Weighting costs/benefits in a time framework**

**- none**

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## Summary of 2010 Research

| Frame        |                        | Czech republic | Estonia | Hungary | Slovakia | Slovenia |
|--------------|------------------------|----------------|---------|---------|----------|----------|
| Components   | Objectives             | -              | +/-     | -       | +/-      | +        |
|              | Options                | +              | -       | -       | -        | -        |
|              | Statement of impacts   | +/-            | +       | -       | -        | -        |
|              | Implementation         | -              | +       | -       | -        | -        |
| Impacts      | Fiscal                 | +/-            | +/-     | -       | +/-      | +/-      |
|              | Other                  | -              | +       | -       | -        | -        |
| Consultation | Parties identification | +/-            | +       | -       | +/-      | +/-      |
|              | Consultation           | +/-            | +       | -       | -        | -        |

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## Conclusions

**Analytical information extremely poor (formalistic approach): legitimacy of decisions**

**Considering RIA for public sector (not private or citizens)**

**WHY**

**-RIA made ex post to fulfill bureaucratic measure**

**-Absence of clear methodology, guidance and training (interpretations, how to conduct, etc.)**

**-Absence of supervision and quality control mechanism**

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## Modernizing RIA systems across EE countries from 2010

### Contents of RIA:

- consultation process: Estonia, Czech republic, Hungary
  - Options: Czech republic
- Anchoring Supervising Body into the System:**
  - RIA Committee: Czech republic
- 1 Body: Estonia (MoJustice), Hungary (MoPAJ)
  - Several Bodies: Slovakia (4)
- Application of a two-tier process:**
  - Preliminary vs. full RIA: Czech republic
  - Quick Test: Slovakia
- Introductory policy document: Estonia (??? As of 2014)
  - Delegated complicated assessments: Hungary
- Linking RIA to EU policy making: Slovenia**

17  
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## Linking RIA to EU policy making

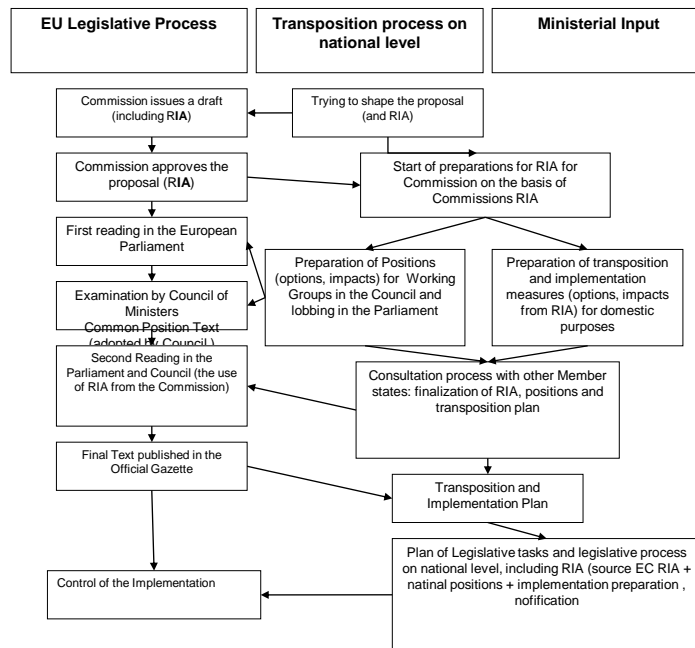
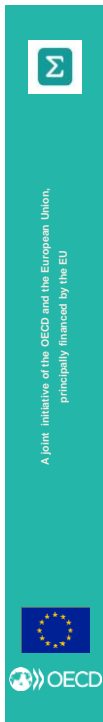
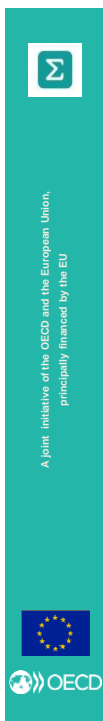
**Community law: EC legislation to be implemented in timely,  
effective and proportionate manner**

### Co-decision procedure

#### Use of RIA

- 1) To inform EU negotiations and to shape national positions in the EU working groups before a directive is agreed
  - Basis for discussions with Commission, other Member states and the Parliament
  - Contribute information from own RIA to Commissions (+ consultations)
- 2) To increase the quality of transposition and implementation on domestic level (to consider how European proposal will be implemented)
  - Avoiding over-implementation

18  
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19  
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## RIA – becoming part of a system

**Anchoring requirements in the legislation (building policy capacity framework)**

**Preparing manuals and guidelines to assist fulfillment and implementation of the legislation for civil servants**

**Designating specific posts within civil service to deal with some of the issues more specifically: network of professionals**

**Establishing regular civil service training linked to career civil service**

**Establishing central coordinating (and quality control) unit**

**Limiting volume of material to which RIA is required**

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