Charles University in Prague

Faculty of Social Sciences

Institute of Economic Studies

Karel Jára

Does RIA Really Evaluate Regulatory Impact? The Case of the Czech Republic

Bachelor Thesis

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Author: **Karel Jára**
Supervisor: **PhDr. Jiří Schwarz**

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Declaration of Authorship

1. I hereby declare that I compiled this thesis independently, using only the listed resources and literature.
2. I declare that this work has not been used to obtain any other degree.
3. I agree that the work is made available for educational and research purposes.

Prague, 20th May 2011

Karel Jára

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Abstract

Regulatory Impact Assessment/Analysis (RIA) has become a hot topic in the world politics as well as economic research in the last 20 years. Its basic definition as a tool to improve regulatory quality using cost-benefit analysis is viable only in the case when it is properly implemented for all potential sources of regulation, one of which is parliament with its amendments to bills. After summing up basic information about RIA and its history and surveying relevant literature on RIA, this thesis performs a pioneer analysis of the changes in regulatory impact of laws caused by parliamentary amendments. A sample of all laws passed in the Czech Republic in 2010 is studied. The passed amendments to these laws are analysed and it is found that only 3 out of 20 bills with RIA had amendments which made no changes in regulatory impacts of the bill. This supports the conclusion that the RIA implementation should take these amendments into account. Another finding is that circumventing of the RIA system occurs also in the case of non-governmental bills, which are not subject to RIA in the Czech Republic, as 18 of 32 bills without RIA did not have it due to their non-governmental origin.

Abstrakt

Hodnocení dopadů regulace (RIA) se za posledních 20 let stalo horkým tématem světové politiky stejně jako ekonomického výzkumu. Jeho základní definice jako nástroje pro zlepšení kvality regulace pomocí analýzy nákladů a přínosů je udržitelná pouze v případě, že je správně implementováno pro všechny potenciální zdroje regulace. Jedním takovým zdrojem je parlament se svými pozměňovacími návrhy. Po shrnutí základních informací o RIA a jeho historii a po sumarizaci relevantní literatury k RIA přistupuje tato práce k průkopnické analýze změn v regulatorních dopadech zákonů způsobených parlamentními pozměňovacími návrhy. Je studován vzorek všech zákonů schválených v roce 2010 v České republice. Schválené pozměňovací návrhy k těmto zákonům jsou analyzovány a je zjištěno, že pouze 3 z 20 návrhů zákonů s RIA bylo pozměněno tak, že nedošlo ke změnám jejich regulatorních dopadů. To podporuje závěr, že implementace RIA by pozměňovací návrhy měla brát v potaz. Dalším zjištěním je, že obcházení systému RIA probíhá také v případě nevládních návrhů zákonů (které do něho nejsou v České republice zahrnuty), neboť 18 ze 32 návrhů bez RIA neobsahovalo RIA právě pro svůj nevládní původ.

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Acronyms

ASPI	Automated System of Legal Information
CCA	Compliance Cost Assessment
EU	European Union
IAB	Impact Assessment Board
IIA	Integrated Impact Assessment
OECD	Organisation for Economic Co-operation and Development
OMB	Office of Management and Budget
RIA	Regulatory Impact Assessment/Analysis
RIU	Regulatory Impact Unit
UK	United Kingdom
USA	United States of America

Introduction

In the United States of America (USA) and the United Kingdom (UK) of 1970s and particularly 1980s we can observe strengthening interest in decreasing the burden of regulation. This was a reaction to extensive regulatory activity of 1960s and was mainly part of the liberalisation effort of governments of Ronald Reagan and Margaret Thatcher. Thus in this time a need for some analytical framework for assessing the nascent and also the existing regulation emerged. The USA took from the beginning a wider approach based on the foundations of welfare economics with its benefit-cost analysis. In the UK they were mainly interested in identifying the costs of regulation in business sector. These can be seen as the very beginnings of systematical assessment of regulatory impacts.

Later during the 1990s the trend of 'less regulation' or deregulation gradually shifted into emphasis on 'better regulation'. In 1995 the term Regulatory Impact Assessment/Analysis (RIA) was used in one of the first Organisation for Economic Co-operation and Development's (OECD) recommendations for its countries on improving the quality of regulation. The OECD has continued since in the support of 'better regulation' and has been preparing guidelines and monitoring best practices of RIA. Although the implementation is quite diverse, today RIA is used in a majority of OECD members and in a few other countries.

This shows that the topic of RIA is very lively in the political field, many countries have invested resources in developing their RIA systems. A widespread use of such an instrument makes it a hot topic also in the field of economic research. That is shown in the first part of this thesis where, after the term Regulatory Impact Assessment is properly described and its brief history is presented, a thorough survey of all relevant literature is carried out.

The RIA can generally be described as a systematic instrument and process of *ex ante* evaluation of regulation before it is proposed which is aimed to improve the quality of regulation. When this process is developed, it should further be used to examine *ex post* if the regulation has fulfilled its goals by comparing the actual impacts of regulation with its predicted counterparts.

As is shown in the survey, the literature and research on RIA takes many forms from mainly descriptive studies through various assessments of how RIA

works and performs to some 'unorthodox' types of research. The second part of this thesis brings a contribution to this literature in a form of a unique empirical study which deals with RIA on the case of the Czech Republic. It examines the issue of parliamentary amendments (which do not fall under RIA in the Czech Republic) to legislative acts that RIA has been carried out on. As the process of RIA is aimed to provide a document which can also be used in the future, the possible changes in the legislative act during the legislative process might result in inapplicability of the document in its *ex post* functions. On a chosen sample of passed laws I analyse whether the change of impact caused by parliamentary amendments is significant.

The results of the research presented in this thesis can be helpful in making policy decisions in the Czech Republic, but also in countries with similar legislative arrangement, regarding the extent of implementation of RIA, particularly if it should or should not be compulsory for the amendments proposed to the bills in the parliament.

1 What is RIA?

It is good to start with briefly introducing what the term Regulatory Impact Assessment/Analysis (RIA) represents or rather should represent. What is the ideal of RIA?

Today, RIA is generally percepted (OECD, 2009, pp. 12–14; Kirkpatrick & Parker, 2007a) as a systematic *instrument* and *process* of *ex ante* evaluation of regulation before it is even proposed. It is not a replacement of political decision-making but should help to make informed decisions. Its *instrumental* dimension lies in definition and description of the problem which the intention for regulation is aiming to solve, recognising the options of solving the problem, assessing these options (including option of inaction, 'zero' option) regarding all their intended and unintended positive and negative impacts on any stakeholders who are predictably going to be affected and selecting recommended option while explaining why it has been chosen. Its *procedural* dimension is defined by involving robust process of consultation with all the stakeholders, systematic integration of the instrument into decision-making process and also by building a process of evaluating of RIA itself to provide feedback on its utility. The resultant 'better regulation', which is a broader concept that RIA evolved within, is aimed to be more effective and efficient at the same time and the process of

1. Is the problem correctly defined?
2. Is government action justified?
3. Is regulation the best form of government action?
4. Is there a legal basis for regulation?
5. What is the appropriate level (or levels) of government for this action?
6. Do the benefits of regulation justify the costs?
7. Is the distribution of effects across society transparent?
8. Is the regulation clear, consistent, comprehensible, and accessible to users?
9. Have all interested parties had the opportunity to present their views?
10. How will compliance be achieved?

Figure 1: OECD Reference Checklist for Regulatory Decision-making (OECD, 1995, pp. 9–10)

its creation is to be open and transparent. Apart from *ex ante* evaluation, if RIA system is once developed, it should be used also for *ex post* assessing of existing regulation and especially the RIAs carried out *ex ante* should later be used for comparing the actual results of regulation with the ones predicted. Better image of the wider aims of 'better regulation' can be made by showing the OECD Reference Checklist for Regulatory Decision-making from 1995 (Figure 1).

The scope of RIA application should be as wide as possible while maintaining the vague rule that 'costs should justify benefits'. Generally, RIA should be performed for primary legislation and for delegated regulation which can potentially impose significant costs. As defined above, the target of RIA is economic analysis of pros and cons but some other specific types of assessment might be included in it, e.g. health impact assessment or analysis of impact on sustainable development, race equality or competition. The methodology used is largely benefit-cost analysis including risk assessment. (OECD, 2009, pp. 25–43)

2 History of RIA

Much more about RIA is told by its history. That is what is dealt with in this section starting with the beginnings in two main pioneers of RIA, the United States and the United Kingdom, and continuing with the internationalisation of the concept. After that, one specific case of RIA implementation and its history is described, that of the European Communities/European Union (EU).

2.1 Beginnings in the USA[1]

First roots of Regulatory Impact Assessment can be traced back to the USA of 1970s under the Nixon administration when US companies began to complain about costs of mainly environmental regulation. The administration introduced Quality of Life Review which required firms' costs to be calculated before environmental regulation was developed. The Review was not very transparent and therefore it got controversial.

A more transparent program of early impact assessment was introduced by the Executive Order 11,821 of president Ford which required all agencies to conduct Inflation Impact Assessments before creating new regulation. This was a reaction to the stagflation which hit the USA in the first half of 1970s. A Council on Wage and Price Stability was established to monitor if the Assessments were carried out correctly and if not, it could propose a regulation not to be adopted. By an impulse from within the Council, which was staffed mainly by economists, the assessment gradually converted into more profound cost-benefit analysis based on the theories of welfare economics. This was acknowledged by Executive Order 11,949 which changed the name from Inflation Impact Assessment to Economic Impact Statement.

The RIA as it is implemented in the today's USA was essentially established by president Reagan in 1981 by Executive Order 12,291. This mandated agencies to issue only regulations whose benefits were greater than costs which was assessed by Regulatory Impact Analysis. The RIA should contain description and possible quantification of costs and benefits, their distribution and alternative

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[1] This subsection is based largely on Morrall III (2001), Ogus (1998, pp. 54–55) and Renda (2006, pp. 10–25).

options of achieving the regulatory goal. The oversight was given to the Office of Management and Budget (OMB). During the Bush Sr. administration the focus turned more to the US firms' competitiveness but generally everything stayed the same. In this time an institutional dispute broke out. It was argued by Democrats, some economists and others that the OMB has too much power over the regulatory process and could stop any regulation.

President Clinton made some changes in RIA by Executive Order 12,866. This removed the right of the OMB to veto any regulation and also made only the regulations with impact higher than $100 million per year subject to RIA which allowed for superior assessment of less regulations (less than a half). It also redefined the desirable goal from 'more benefits than costs' to 'benefits justifying the costs'. The model was later slightly changed by president Bush Jr. Some of these changes were later revoked by president Obama (Harrington, Heinzerling, & Morgenstern, 2009, p. 10).

We can see that in the USA, the cradle of RIA, it has gone through quite a long development process. It is distinctive from the beginning by its foundation on the principles of welfare economics and at its heart lies cost-benefit analysis.

2.2   RIA in the UK[2]

The second birthplace of RIA is definitely United Kingdom. The first implementation was established in 1986 during the Thatcher administration in the context of its deregulation efforts. It was called Compliance Cost Assessment (CCA) of proposed regulation and was focused *de facto* only on the administrative burdens borne by businesses. For oversight, a government unit was set up which was called Enterprise and Deregulation Unit, later only Deregulation Unit.

During the administration of John Major, the scope of impact assessment expanded. Seven new units were created in 1992 but the efforts were rather unsuccessful. An important change was that newly CCA was extended to parliamentary bills and the directives coming from the European Commission. Later, in 1996 the rather narrowly focused CCA was widened by risk assessment and quantification of benefits and costs.

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[2]   This subsection is based mainly on Ogus (1998, pp. 55–56) and Renda (2006, pp. 26–42).

Again, after these very beginnings, an almost today's RIA came in 1998 when prime minister Blair was in the office. This included a cost-benefit analysis and finding most possible regulatory options including 'zero' option. The Deregulation Unit was reformed and changed to Regulatory Impact Unit (RIU). Within the RIU the Better Regulation Task Force (later Better Regulation Commission) was established which started to evaluate the efforts of RIA and collects and issues best practices. In 2001 a Regulatory Reform Act was enacted which goes further mainly in the issue of *ex post* evaluation of existing regulation.

In 2005 a new ambitious Better Regulation Action Plan was launched. It began a big change to more risk-oriented approach to regulatory assessment, which was aimed at further reducing the administrative burdens. It meant that regulation should come only where it was really necessary and should be proportionate to risk of imposing burdens. Also the plan launched a new initiative where the businesses themselves could suggest regulations that they perceive as excessively burdensome. Since 2006 the National Audit Office has been thoroughly assessing all the RIA processes and regularly issuing reports with the results of this appraisal.

On the one hand the history of RIA in the UK is a bit shorter but on the other hand it is certainly a lot more interesting to most European countries because of more shared features in the form of government with the UK rather than with the USA. We can see that the UK's RIA drags its history along mostly in the never-ending main focus on reducing administrative burdens on firms.

2.3 International diffusion of RIA

I have briefly described the two principal initiators of the RIA phenomenon. There were some other countries among early adopters of some type of regulatory impact assessment, e.g. Australia since 1985, but we can say that further dissemination of the ideas is associated with the recommendations and generally 'better regulation' or regulatory reform agenda of OECD and later also EU. One of the first publications on this emerging topic is e.g. OECD (1993), where design and use of checklists for ensuring very basic regulatory quality in various OECD countries is described. In 1995, putting together the experiences of its member states in this field, the Council of OECD issued the Recommendation on

Improving the Quality of Government Regulation with its Reference Checklist for Regulatory Decision-making (OECD, 1995).

OECD continued in its efforts and in 1997 it started to use the terms Regulatory Impact Analysis or Assessment officially. In the same year it also released the first summary of best practices in RIA (OECD, 1997a) where it defined what RIA is, stated its main objectives and summarised what each country had achieved and what the results had been. The information was acquired generally in a form of consultations. This book was one of the seminal works for those governments that wanted to implement RIA in their country and it also started the era of common debate with the use of common dictionary in the field of 'better regulation' in the OECD countries.

According to S. Jacobs (2006, p. 5) some 15 of 30 OECD member countries adopted formal requirements of use of RIA during preparation of regulation by the year 2000. This enabled the OECD to proceed to further analysis of the state of RIA in those countries. E.g. in 2004 it issued RIA Inventory (OECD, 2004) which was an overwhelming descriptional overview of what type of analysis RIA contains in each country, what regulation it covers, how public RIA is, what type of quality control is in place or how risk is assessed.

In 2005 the OECD published Guiding Principles for Regulatory Quality and Performance which was another brief document for policy-makers of its members (OECD, 2005). In 2009 they released a whole book on the topic which presents alleged determinants of quality of RIA, suitable methodological frameworks to use and also chapters on how to integrate competition analysis into RIA and ideas on how to apply RIA in the area of corporate governance (OECD, 2009).

Mainly the endless concern of the OECD about 'better regulation' and particularly Regulatory Impact Assessment helped to spread this 'brand' and idea about its content into the world and made it a global phenomenon. Again, as S. Jacobs (2006, p. 5) shows, at the end of 2000s already 23 of 30 OECD member countries and 8 non-OECD countries had implemented some form of RIA. This shows that RIA has been successful at least in attracting many governments' attention.

2.4 RIA in the European Communities/European Union[3]

Another main player that should not be forgotten when talking about history of RIA is the European Union, or formerly European Communities. The first system of impact assessment of European regulations was established under the UK Presidency in 1986. It was called Business Impact Assessment and was along the lines of the British approach aimed mainly at reducing the burdens borne by businesses. There were also two other types, Sustainability Impact Assessments and the impact notes. But all these analyses were used far from systematically and the assessment was too fragmented.

We can say that (in that time already) the EU truly jumped on the wave of 'better regulation' only in the beginning of the 21st century. In 2001, Mandelkern Group on Better Regulation, which was given mandate in 2000 based on Strasbourg Resolution on improving the quality of regulation, issued a report with an action plan within which by June 2002 a new form of Integrated Impact Assessment (IIA) on the European level should be established and used on all legislation with possible regulatory effect. It also set out common principles of regulation, which should comply e.g. with general principles of proportionality and subsidiarity defined in the Treaties, and recommended practices on performing the analyses. The model came into effect as of 2003 and incorporates not only analysis of economic impact but also of social and environmental impacts. Moreover, some regulations are to go through an even deeper analysis, Extended Impact Assessment. From 2005 the IIA covers all legislative proposals of European Commission and in the same year also *substantive amendments* by the European Parliament and the European Council were made subject to impact assessment. This is an interesting information with regard to the topic of this thesis.

To summarise, after being injected to the European level from the UK, RIA finally took its own way in the EU in big manner. It incorporates not only assesing of the economic impacts but also other types of impacts, such as the environmental ones.

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[3]   This subsection is based on Mandelkern Group on Better Regulation (Mandelkern, 2001), Meuwese (2008, pp. 2–3, 55–56) and Renda (2006, pp. 43–56).

3 Literature on RIA

One of the aims of this thesis is to present a comprehensible and extensive survey of relevant literature on RIA in the field of economic research, which is not or is only partially present in the existing literature. That is done in the following section.

We cannot say that the literature on RIA and adjacent or wider topics like 'better regulation' is scarce. There is actually quite a lot of it and it is very diverse.

As I have presented above, mostly the evaluation and the assessment of RIA is understood as a part of the RIA process itself. That means that there is some literature on RIA produced by the performers of RIA themselves or by specially established RIA supervising bodies. This gives us the first information that we can divide literature on this axis into two groups. The first is the type of literature that I have just described, which I would call *administrative* literature, and the second is the *scholarly* one, which generally has higher methodological and analytical quality.

The second axis on which we can divide the literature is, of course, the target of study. Harrington and Morgenstern (2004) introduce three basic types of analytical evaluation of RIA:

- *Content tests* – These are tests of the material contained in RIA. They are aimed at checking whether it meets the defined guidelines or whether appropriate components of RIA are present. A subtype, *intensive content tests*, is also aimed at assessing further the quality of the components.
- *Outcome tests* – These tests deal with examining the outcomes of regulation *ex post* and comparing the actual results to their predicted counterparts in RIA.
- *Function tests* – These generally try to find out whether the outcomes of regulatory processes are in some way different from what they would have been in the absence of RIA.

Ladegaard (2007) shows similar three groups, *compliance, performance* and *function tests*. The last is the same as above and the first two would fall into the *content* group above, where *compliance tests* will be *extensive content tests* and *performance tests* will be *intensive content tests*.

But there is, mainly among the *scholarly* literature, much more than this. In some studies the three-types concept does not stand because, as economics is quite a broad science, there are many more approaches and even paradigms whose view RIA can be depicted in. Therefore, for the purpose of this thesis, I introduce my own division of wider literature into general types of research which I recognised throughout the study of it. The division is as follows:

1. *Descriptive study* – Various types of generally descriptive works, including e.g. *administrative* literature of best practices.
2. *Content analysis* – The same as abovementioned *content tests*.
3. *Procedural analysis* – Studies which concentrate on the procedural aspect of RIA, e.g. on the process of implementation or on what procedural problems are present and undermine the efficacy of RIA.
4. *Functional analysis* – The same as abovementioned *function tests*.
5. *Comparative study* – Studies concentrating on comparison of various RIA implementations across different countries.
6. *Public choice approach* – Studies of the motivations and interests of various stakeholders, e.g. businesses, politicians etc., in implementing RIA.
7. *Institutional approach* – Research from the institutional branch of economics, e.g. of the influence of the former institutional environment on the shape of RIA implementation.

I go through these groups one after another and describe the seminal papers in each type of research and their results and conclusions.

3.1 Descriptive study

I start with the group of what I called descriptive literature. One part of the literature I assigned to this group deals with the recommendations for good implementation of RIA and 'better regulation' in general. Some of it has already been mentioned in subsection 2.3. This encompasses e.g. OECD recommendations and best practices (OECD, 1993, 1995, 1997b, 1997a, 2005, 2008, 2009), Mandelkern Report (Mandelkern, 2001) or Baldwin (2005), which I won't describe further.

The second subtype are papers presenting the description of research on policy appraisal and 'better regulation', where RIA belongs. These are generally two papers (Radaelli & Meuwese, 2009; Turnpenny, Radaelli, Jordan, & Jacob, 2009) both of which find out that the research on this topic is making its way into the economic mainstream and describe some of the groups of research as I have defined them for the purpose of this thesis. They show some limitations of the current research and perspectives for the future. They also confirm that the topic is on the boundary of many economic or even other scientific disciplines.

The third subgroup which I put here are papers dealing with RIAs in individual countries in a descriptive manner. Chren (2008) shows the history and implementation of RIA in Slovakia where he shows that despite being priority of many consecutive governments, RIA is implemented rather weakly. Mazal (2006) describes basic facts about RIA beginnings in Croatia. Guerin (2003) besides some general remarks about regulation and RIA depicts the shape of RIA in New Zealand. Harrison (2009) presents a critique of RIA mainly in Australia based on other research papers belonging into the next group, content analysis.

Ogus (1998) studies thoroughly on the US cost-benefit analyses contained in RIAs how practice of the methods used differs from the welfare economics theory. He argues that the rise of this agenda makes the field of possible research much wider for economists of public choice and welfare economics and can help the scholars to sharpen their theories which in turn should help to smooth the processes in practice.

The literature in this group is useful mainly for obtaining the basic picture of RIA, some survey of its research or the description of its basic form and implementation in particular countries.

3.2 Content analysis

The second group of literature focuses, as has been outlined, on either checking the contents of RIA against compulsory guidelines defining how it should be performed or further assessing the contents by own analysis of the quality.

Hahn, Burnet, Chan, Mader, and Moyle (2000) conduct a scorecard research on 48 major environmental, health and safety regulations in USA. It comprises of a checklist against the requirements for the US RIAs outlined in appropriate

Executive Orders. They find out that only 29% of RIAs quantified net benefits of regulation or that in 27% of cases agencies failed to discuss alternative options. As to the clear presentation of results, only 56% of analyses provided executive summaries. The paper presents numerous recommendations on how to improve the state of affairs by making compulsory the use of clear executive summaries, the provision of RIAs online or e.g. an explanation why quantification of costs and benefits was not done.

In a follow-up study Hahn and Tetlock (2008) confirm the previous results and also add that the quality of analysis has not changed much over time. They cite other studies as well which found out the similar.

Renda (2006) makes the same type of study, a scorecard evaluation, on the case of the EU. She examines 70 Extended Impact Assessments of the European Commission and found similarly disappointing results. Again, to choose some of them, costs are seldom estimated, costs for businesses are almost never quantified, alternatives seldom compared, presentation of results is obscure, administrative burdens are not considered an issue and a new one with regard to the European treaties: the subsidiarity and proportianality principles are not always taken into account. What is interesting is that the evidence shows that the assessments were rather worsening then getting better over the years 2003–2005, which are subject to the study.

Staroňová (2009) makes basic statistical analysis of RIAs in Slovakia. It shows very weak methodology and says that the evidence indicates that RIAs are conducted rather after the decision about the regulation was made.

A substantial part of the content analysis literature rests in the reports from RIA oversight bodies. One example are the reports of National Audit Office in the UK (e.g. National Audit Office, 2006, 2009, 2010). These are produced bi-yearly and use their own method of 'traffic light scorecards', rating the RIAs green, amber or red in various areas. The last cited reviewed 50 randomly selected final impact assessments from 2008–2009. The foundings are that option development is the strongest area and that the situation in quantification of costs and benefits is improving. Shortcomings are e.g. lack of evidence for assertions or absence of sensitivity analysis. The second example are Impact Assessment Board (IAB) Reports of the European Commission (e.g. Impact As-

sessment Board, 2009, 2010, 2011). Those have been produced yearly since 2008. The board is part of the RIA process and makes comments to RIAs as they are conducted. The reports show some statistics about what admonitory remarks the IAB sent to the Directorates-General performing the RIAs, which might indicate the shortcomings present in them.

To summarise this type of literature, generally we can say that for those countries where some content analysis was made it was found that the RIAs in rather a majority of cases do not comply with the guidelines set. On the other hand, the case of the UK shows that a gradual improvement and fine-tuning of RIA is possible and may be effective.

3.3 Procedural analysis

Into this group I put the literature which might seem to study the same issues of RIA as the one above but the difference is that these papers are more concentrated on the procedural point of view.

Carroll (2010) summarises with the help of other studies that the lack of relevant data is often not acknowledged, the data interpretation is often severely biased towards confirming the benefits of assessed policy or that non-economic knowledge sources are neglected in RIAs. He attributes this to low level of commitment to RIA and the resulting or concurrent inadequate capacity for rigorous analysis in places where RIA is conducted and negligible effort to improve RIA processes and learn from the previous experience.

S. Jacobs (2006) studies trends in RIA processes in the years 2002–2006 in the most advanced countries. He sees that civil servants are often not adequately prepared for the analytical techniques and that the quality might decline as application of RIA widens. The conclusions for him are that there must be a clear strategy in RIA implementation and institutionalisation which should encompass 'clearer targeting strategies, development of multi-level consultation strategies, more attention to data collection and data quality issues, much more investment in training, more effective quality control through central RIA units and ministerial accountability, better use of scarce scientific resources, and better technical RIA manuals' (p. 3). He also argues that the concentration on the procedural dimension is very important as RIA expands and evolves.

Many of the papers considering the procedural aspect of RIA deal with the problem of implementing the processes in developing countries. One of these is Zhang (2010) who uses available questionnaire studies and finds out how 7 developing countries (India, Pakistan, Malaysia, the Phillipines, Sri Lanka, Ghana and Nigeria) progressed in the years 2003–2007 in implementing some form of RIA. He finds out that not much progress was made and that despite the fact that some of the countries introduced some administrative procedures, only one e.g. set up a central oversight body which would review the assessment of regulation. Other studies (Zhang & Thomas, 2009; Kirkpatrick, Parker, & Zhang, 2003; Kirkpatrick & Parker, 2007b) in developing countries also using questionnaire approach come with similar results but express support for implementation of RIA there and believe that it is the right way to improve the state of law and order in these countries. They also give advice on how the implementation should be done. E.g. Ladegaard (2005) criticises the efforts to directly transfer RIA to developing countries according to the OECD guidelines because these countries should put greater focus on sustainability and poverty reduction. Also capacity to perform high-level analysis is limited there. The RIA in developing countries should also, according to Ladegaard, be used much more on reviewing existing regulation because of its widespread unsatisfying quality rather than on new regulation. He concludes with eight-item list of his own recommendations.

Radaelli (2010a) performs a very specific research which studies the proceduralisation and institutionalisation of RIA. He constitutes four ideal types – images that RIA might represent – and then he uses objective and subjective indicators of these types in six countries with long tradition of RIA (Canada, Denmark, the EU, the Netherlands, Sweden, the UK and the USA) and tries to find if some of these images are more common. The ideal types are 'rational policy-making', 'political control of bureaucracy', 'public management reform' and residual image 'symbolic action'. He finds many interesting results, e.g. only the USA and the UK have strong inclination to 'rational policy-making' ideal type.

In conclusion, the procedural analysis literature finds out mainly that the training of public officials in the field of conducting RIA is insufficient and that RIA might succumb to the bureaucratisation during its development and there-

fore decrease in quality. On the other hand, RIA could introduce an element of stability in the case of developing countries.

3.4   Functional analysis

The functional analysis is a really valuable type of literature because it tries to find out if there is some real change in the regulation brought about by the RIA and its processes which is in my opinion an important prerequisite for justifying its costs. On the other hand, this is quite hard to assess and, moreover, this type of literature is very scarce.

One of these studies was performed by Hahn, Malik, and Dudley (2004). They review a previous economic analysis of 100 US goverment RIAs and make a sensitivity analysis of key variables in the study. They offer three interesting conclusions in the matter of functional analysis of RIA. These are that 'aggregate net benefits for final regulations are positive under a wide variety of assumptions', that 'a substantial number of final regulations do not pass a benefit-cost test under a wide variety of assumptions' and 'by rejecting at least some of these regulations, government could have increased aggregate net social benefits' (Exec. Summary), and finally that 'aggregate benefits exhibit a wide range across regulations, which suggests that a reallocation of regulatory resources could increase the aggregate net benefits of regulation' (p. 15).

The second study in this category is from Jacobzone, Steiner, Ponton, and Job (2010). They use previous surveys of indicators for not only RIAs but systems of the management of regulatory quality in a wider sense. These are correlated with other available datasets on regulatory quality from the OECD, the World Bank and the World Economic Forum. Then they apply some regressions to find out relation between these indicators and general macroeconomic indicators. The results are that improving regulatory management quality such as by implementing RIA brings significant economic benefits.

Completely different conclusions are reached by Torriti (2010) in his case study of Impact Assessment on the liberalisation of EU energy markets performed by European Commission. He argues that the choice of the final policy option and also stakeholders whose consultation is included in the report is defined by the political context regardless of what is found by the RIA. In the

particular Impact Assessment an option which disregards the available evidence about costs and benefits was chosen. Also the use of particular tools might be biased in favour of one policy option. This poses a question for him which is expressed right in title of the study and it is if the Impact Assessment in the EU is 'evidence-based policy-making' or rather 'policy-based evidence-making'.

As I have already mentioned, the functional analysis literature is quite scarce but those papers that have been shown are quite positive for RIA. Generally, they find out that RIA produces positive impact on the quality of regulation which brings more benefits to the society than without RIA. Nevertheless, it is a space for various interest groups to intervene which might impose costs. Further literature on this case is presented in subsection 3.6.

3.5 Comparative study

The literature I put into comparative category deals with comparison of RIA systems in various countries in various ways.

One of the first of this type are the already cited OECD's first RIA best practices (OECD, 1997b) which, of course, also compare the RIAs in individual countries. Further, wider and more thorough comparison and description of RIA implementations in various countries is present in OECD's RIA Inventory (OECD, 2004). Another early one is a comparative report prepared for EU's Better Regulation Group by three consecutive Council presidencies (Italian, Irish and Dutch presidencies of the Council of the European Union, 2004).

Jacob et al. (2008) make comparison of 27 EU member countries and find out that impact assessment has been quickly adopted in Europe over the last 15 years but that under the 'RIA' name various actual procedures, targets and tools are hidden.

Staroňová (2010) compares the institutionalisation of RIA in Central and Eastern European countries (the Czech Republic, Estonia, Hungary, Slovakia and Slovenia) and examines how the process of it has influenced RIA's performance. It is surprising that she finds out that only the Czech Republic has implemented the requirement to consider various options of how exactly to regulate which is so central for RIA.

Two of the studies I placed into comparative group set indicators of quality of diverse aspects of RIA for comparing countries based on these indicators. De Panizza (2007) shows how composite indicators consisting of various subindicators using available data should be made. She builds those in three major fields: 'readiness', which assesses resources used and legal framework, 'usage', which relates to compliance to guidelines, properties of RIA and the width of its use, and 'impact', which tries to evaluate its efficiency and efficacy. This is a very complex and important contribution to the literature about RIA but no analysis using the outlined indicators is actually made here. Jacobzone, Choi, and Miguet (2007) under the head of OECD set rather simple indicators in similar fields and not relating only to RIA but to the wider concept of 'better regulation'. The indicators are based on questionnaire survey that was done among the national governments of chosen countries which makes them subjective.

Nilsson et al. (2008) compare what tools are used in widely conceived 'policy appraisal' (not only RIA) in three European countries (Germany, Sweden and the UK) and the European Commission. They divide them into advanced, formal and simple. They find out that the use of the tools is varying and on the whole very limited, particularly in the case of more advanced tools. The majority of tools used was 'of a very simple and qualitative type' (p. 352). They also try to explain how and when the tools are used in the process.

In summary, the comparative study literature can bring valuable findings, especially if we combine some future studies based on the developed indicators of RIA quality with the descriptively comparative studies of the existing RIA systems. This might possibly indicate which of the strategies have been successful.

3.6 Public choice approach

The last two groups of literature I recognise are very different from the previous. They do not assess RIA from its own viewpoint but rather analyse the viewpoint and paradigm itself. The first of them is what I called the public choice approach which tries to identify interests behind implementing, institutionalisation and expansion of RIA or at least point out where the issue of various other interests than those that support the goals RIA should achieve can emerge.

Smith, Fooks, Collin, Weishaar, and Gilmore (2010) show on the case of the EU's Integrated Impact Assessment (IIA) and policies in the field of public health that large tobacco and chemical companies influenced even the formation and shaping of IIA in accordance with their own interests and that they can use it to delay implementing legislation that promotes public health or protects the environment. Another thing they emphasise based on study of other literature is that it is often easier to predict or quantify costs in the case of businesses than potential benefits for the citizens or environment which might add to the bias in favour of not implementing policies that could harm the abovementioned businesses.

Radaelli (2007) states that the research in the field of RIA is rather descriptive and is obsessed by 'analysis for policy' as opposed to 'analysis of policy'. The core of his study deals with the impact of Regulatory Impact Assessment on the political opportunity structure. He suggests that 'better regulation' should be studied on the one hand as a variable dependent on political, institutional and administrative context and on the other hand as an independent variable influencing core mechanisms of collective decesion-making and macro-trends in regulatory governance.

In his other study, Radaelli (2010b) draws up a picture of RIA from the political economy viewpoint as an administrative control device which is designed to solve problems of political uncertainty. He finds evidence to this hypothesis mainly in the United States and the United Kingdom.

Finally, the study of Torriti (2010) already mentioned at the end of subsection 3.4 and also the Radaelli's (2010a) paper from the end of subsection 3.3 should be put into this group as well. This later paper of him (Radaelli, 2010b) actually examines one of his ideal types (Radaelli, 2010a) more thoroughly.

To conclude, the public choice approach in the literature on RIA is rather marginal but is an important contribution and should be developed further because it has the potential to show the unseen behind RIA.

3.7 Institutional approach

Literature from the field of institutional economics studies influence of the institutional environment present in each country on the process and results of

implementing RIA. It may also go the other way, examining impact of the RIA implementation on the institutions.

Turnpenny, Nilsson et al. (2008) try to discover those institutional capacities that support and those that constrain or impete efforts to make RIA more integrated in three EU countries (the UK, Germany and Sweden) and the EU. They find out that 'in spite of the differences in political history and institutional arrangments between the jurisdictions, many of the constraints to the execution and use of integrated policy assessments are common to a majority, or all, of them' (p. 771). The found institutional constraints are e.g. disciplinary and professional backgrounds of the policy officials; the fact that perceived role of analysis is rather that it should support the policy than determine it; unfamiliarity with the tools used; percieved superiority of expert judgement; or previous policy commitments.

Radaelli (2004) breaks down the wider context in which the RIAs are being implemented into four dimensions and explains the variability in RIA processes and results across the countries. The four dimensions are 'stakeholders', 'insitutions', 'policy process' and 'legitimacy'. He shows that the weight of different stakeholders leads to lack of convergence in the first dimension. In the second and the third he concludes that especially the European and the US but also among the European states institutional environments and policy processes are very different which is another reason for divergence. The last dimension lies in the fact that the perceived legitimacy and credibility of the RIA processes is seminal for the quality of results. He further studies the issue of RIA divergence and diffusion, particularly in Europe, in his later papers (Radaelli, 2005a, 2005b).

The patterns of diffusion of RIA and prerequisities of its adoption are also dealt with by De Francesco (2008). He shows that in the first phase the adopters were generally big countries and the diffusion took place mainly in the horizontal dimension. Later the diffusion tended to draw vertical direction through the OECD and the EU. The overall administration innovations are found necessary condition for adoption of RIA.

A specific institutional study is performed by C. Jacobs (2005), in which he examines the influence of RIA implementation on democratisation of five Central and Eastern European countries (Estonia, Latvia, Lithuania, Poland and Bul-

garia). The results he presents are that RIA as designed cannot replace political decisions in democratic procedures but 'can play an important role in reducing space for politicians to make unfair, expensive, arbitrary or shortsighted decesions.' (p. 19) It might be a democratising tool in the sense of engaging the stakeholders in the regulatory process.

To summarise, we can see that the aims of institutional approach are quite diverse and that it can bring insights into the complex process of mutual interactions between institutional environment and the process of building a new institutional system of policy appraisal.

4 Empirical part

As we have seen in the previous survey, the literature on RIA encompasses wide range of approaches and techniques.

The second part of this thesis comes with a pilot contribution to the functional analysis literature (as defined for the purpose of this thesis) in the form of study of the influence of parliamentary amendments to bills mostly on the *ex post* functions of RIAs performed for these bills. It deals with the issue of changes in the bills during the parliamentary legislative process on the case of the Czech Republic, where there is no requirement to perform RIAs for parliamentary amendments.

My hypothesis states that there are substantive changes in impacts of the bills made by the amendments during the legislative process. If the hypothesis is confirmed it means that mainly the *ex post* functions of the given RIAs, such as to serve for comparison of real impacts with the predicted ones, are undermined. Moreover, if the bill can be substantively changed in the parliamentary process, the RIA process is circumvented and the precise lowest-cost alternative found in RIA may not be achieved.

The results of the study are an important clue for making policy-decisions about the width of implementation of RIA mainly in the Czech Republic, but also in the countries with similar legislative setting, such as Slovakia. The database made for the study can also be used in further research, which is described more in detail in the conclusions.

4.1 RIA in the Czech Republic

In the Czech Republic a form of RIA has been implemented as of 1st November 2007. The first step of the implementation process was done in 2000 when the Government of the Czech Republic acknowledged by its resolution the OECD Recommendation on Improving the Quality of Government Regulation from 1995. During following years several more resolutions were adopted and in 2005 first draft of the Regulatory Impact Assessment Guidelines was released. Based on these, on 13th April 2005 another government resolution required a pilot RIA project to be started. A commitment to implement RIA was also made part of

National Reform Programme in late 2005. (Government of the Czech Republic, n.d.)

After two years and evaluation of the pilot project, the final version of RIA Guidelines (Government of the Czech Republic, 2007a) was prepared and on 13th September 2007 the government adopted a resolution (Government of the Czech Republic, 2007b) in which it required all members of government and heads of other administrative offices to ensure compliance with the guidelines.

The guidelines contain and define basic principles of RIA implementation, when it is applied, on which legislative acts it is used, its content and quite exact methodology of its conduct. In the guidelines, RIA is made compulsory for generally binding legislation prepared by ministries and other central administrative offices according to Government's Legislative Rules including implementation of the European Union/European Communities law. There are several exceptions such as the state budget, the bills being proposed in state of legislative emergency or general procedural legislation (e.g. administrative or criminal procedure). A two-stage RIA process was chosen, which means that for all aforementioned legislation it is required to work out basic RIA (small RIA) and in the case that major impacts are expected or revealed during performing the small RIA, a deeper analysis is conducted (large RIA). The final output of the whole process is RIA Final Report, which is required to be included in the explanatory memorandum of the bill and whose goal is to summarise the performed RIA concisely and understandably for the policy-maker. The compulsory structure and content of small and large RIA is included in Figure 2. The structure of the RIA Final Report is the same.

4.2 Goals of the study and the hypothesis

The empirical study contained in this thesis deals generally with the issue of changes in the bills during the parliamentary legislative process on the case of the Czech Republic. RIA, as described above, should be performed in the very beginning of the legislative process, that means before a bill is written and proposed to the government. This is in accordance with best practices released by the OECD (OECD, 2008, pp. 4–5). But this also means that only after the RIA has been completed, the bill goes through the larger part of the legislative pro-

1. The reason for introducing regulation
   - Title
   - Identifying of the problem, goals that should be achieved and risks associated with inactivity
2. Proposal of the solution variants
   - Proposal of possible solutions including 'zero' scenario
   - *Further assessment of the variants or further assessment of implementation and enforcement options for the best variant chosen in the small RIA*
   - *Identification of all possible stakeholders*
3. Evaluation of costs and benefits
   - Evaluation of costs and benefits of all the variants
   - *Reevaluation of costs and benefits of all the variants for all the stakeholders*
   - Consultations
   - *Further compulsory consultations with the stakeholders*
   - Proposal of implementation and enforcement
   - *Detailed plan of implementation and enforcement for all the variants*
   - Determination of the future review of efficacy
4. Proposed solution
   - Final summary with recommendation of the best variant
   - Contacts

Figure 2: Structure and content of small and large (in emphasis) RIA in the Czech Republic (Government of the Czech Republic, 2007a)

cess. This part comprises of readings in the lower chamber of the Czech Republic's bicameral Parliament, Chamber of Deputies. In the second reading amendments to the bill may be proposed. If Chamber of Deputies passes the bill, it is moved to the Senate, the upper chamber, where it may be passed or not dealt with, or it may be amended as well and this means it is sent back to the Chamber of Deputies who choose either to pass the text sent back to them by the Senate or to insist on the text approved by themselves before (for which majority of all is needed). After this, the bill goes to the President who may use his right of suspensive veto and therefore send it back to the Chamber of Deputies, or pass

it. The Chamber of Deputies may outvote the suspensive veto again by majority of all.

My hypothesis is that the amendments that, as described above, may be approved during the legislative process substantively change the impacts recognised by RIA. The consequences of the issue are manifold. Although many of the functions RIA should perform, such as to find the best means of regulation from a broader perspective, may stay intact, other, particularly the ones connected with *ex post* evaluation but also e.g. the ability to find the precise lowest-cost alternative among various settings of the chosen regulatory paradigm, may be completely undermined.

In the Czech Republic it is currently under discussion that the obligation to perform RIA might be expanded also to the parliamentary amendments to bills. One of the goals of this study is to identify if this makes sense from at least two perspectives. On the one hand it is to assess if performing RIA for the amendments is feasible at all due to their character and after putting it into context of the quality and detail of the actual RIAs conducted for the bills analysed in the study. On the other hand, and this one is the more obvious, it is to analyse if there are potentially some sufficiently substantive impacts inflicted in the amendments and if it is therefore necessary and reasonable to impose the costs of conducting RIA on these amendments as well.

4.3 Methodology and data selection

In the first place it was necessary to choose a sample of enacted laws which RIA was worked out for. The selection of the sample dataset would always be quite arbitrary if we did not make a random sample from all laws enacted after RIA was made compulsory but that would make our sample undesirably out-of-date. Therefore I simply chose to analyse all laws with RIA which were enacted in the year 2010. In this sample, I found RIA Final Report for each of these laws, which is compulsorily included in the explanatory memorandum of the bills proposed to the Parliament that are required to have RIA. The next step was going through the Chamber of Deputies Prints and Senate Prints and finding all adopted amendments to the bill, that means those that are present in the text of the law finally enacted, and finally analysing the changes in the regulat-

ory impact of the law and how it would have been reflected in the RIA if the amendment had been present in the original bill.

An ideal methodology of assessing the impacts of the amendments would be to perform some kind of *ex post* mini RIA based on the compulsory structure of RIA (Figure 2) on each individual amendment or at least on each set of amendments that represents a complex regulatory change in the proposed bill and therefore can be analysed together. In the first place this would mean to try to recognise what was the particular problem that was being solved by each of the amendments, to make a proposal of solutions and finally this might also include consultations of the stakeholders. That would be highly impractical, especially with regard to recognising or finding out the intentions of the lawmakers and particular problems aimed to be solved by each amendment. Needless to say that it would definitely be out of the scope of resources available for this thesis. Therefore I chose a methodology which makes use of only the RIA Final Report for the bill and amendments to it.

My first aim was to find out where each of the amendments would make a change in the RIA Final Report and from this to conclude the impact. This approach turned out to be impossible due to varying but essentially low detail of the RIAs, which might have been partly predicted in the perspective set out by the survey of literature in section 3. Finally I developed different approach which rested in determining directly the impact of the amendment, or in other words in finding out what changes the amendment would cause rather in a hypothetical ideal RIA for the bill than in the actual RIA.

This determination was done based on the methodology for conducting RIA from the RIA Guidelines and with consideration of the actual RIA Final Report for the analysed bill. Because most of the usual steps performed during RIA were, as is explained above, left out, the analysis is rather finding out which amendments are probable to have some impacts and thus would be appropriate to be performed RIA for. Therefore it is a highly qualitative assessment. I decided to perform it in the following way.

In a preliminary analysis I recognised widely defined groups which represent type of impacts that the amendments cause and whom these affect. These

groups were 6 in the end, which I found exhaustive regarding the amendments, and are described as follows:

1. Direct impact on the state budget,
2. impact on the scope of activity of an administrative office,
3. impact on the profits of some businesses,
4. impact on the administrative burden on businesses,
5. impact on the expenses of consumers/citizens,
6. impact on the administrative burden on citizens.

Based on the preceding, each amendment was put into zero or more groups and assigned one of the values –2, –1, 1 or 2 in each of the groups. The assigned value represents the magnitude and certainty of the impact where 1 means small or uncertain impact and 2 is greater and certain impact or even an impact directly quantifiable from the text of the amendment. The sign of the value determines if the impact is negative or positive for those who are affected. In the case of the state budget negative means additional expenditures and in the case of the scope of activity of an administrative office negative means expanding the scope.

I used the following sources to obtain the data I needed. The list of passed laws is available in the application Collection of Laws and Collection of International Treaties on the website of Ministry of the Interior (Ministry of the Interior of the Czech Republic, n.d.). The Chamber of Deputies Prints and Senate Prints where the original bills and amendments for them are found can be downloaded from databases of the Prints on the websites of the respective institutions (Chamber of Deputies of the Czech Republic, n.d.; Senate of the Czech Republic, n.d.). To find out which of the amendments were adopted I needed to go through the stenographic reports from relevant meetings and votes of the Chamber of Deputies, which is always the one which makes the final decision. These are again available on the website of the Chamber of Deputies. In the cases when bills were themselves amendments to existing laws and when amendments to these bills changed some parts of the law that were not originally changed in the bill, I also used Automated System of Legal Information (ASPI) (Wolters Kluwer ČR, n.d.) to find the text of the law from the time before the contested bill was enacted and what changes were actually made in it.

4.4   Results of analysis

As I have mentioned above, in the beginning I chose a sample of all laws enacted in 2010. I made a database of information for each law. I present here some preliminary statistics to introduce the scope of the issue studied and then the overall statistics of the results. After that I show some notable cases found during the analysis and examples of what was evaluated as each of the magnitudes.

There were 66 laws enacted in the Czech Republic in 2010, out of which 34 were RIAs performed for. That is about 52%. That might seem to be a low ratio but this is the result of on the one hand the various exceptions presented in RIA Guidelines and on the other hand the fact that only bills proposed by the government are required to have RIA. The particular reasons for not performing RIA were following: The majority of non-RIA bills, 18, were not proposed by the government but either by a group of deputies or senators or by a Regional Assembly. Four were only technical changes, two were begun work on before 1st November 2007, two were proposed in the state of legislative emergency and one was the state budget. In 4 cases there was provided no reason for not including RIA although this is obligatory in the case RIA is not performed. In one case it was assumed that RIA need not be conducted because the bill was only a transposition of an EU law. Nevertheless, this is not given an exception in the RIA Guidelines and thus the RIA should have been performed. All the mentioned data are presented in well-arranged format in Table 1. Only the laws with RIA were subject of the further analysis.

I also included in the database additional information about whether the law was a 'pure' transposition of an EU Directive, that means that there was not any other goal in the part 1 of the RIA Final Report (Figure 2) that should be achieved than implementing the EU Directive into the law of the Czech Republic to avoid disciplinary action from the European Commission. This can be used in further research as is mentioned in the conclusions. There were 13 'pure' transpositions out of 34 laws with RIA, which is about 38%.

Next step are the amendments themselves. Out of 34 laws in our sample, 20 were proposed to be amended in the Chamber of Deputies and 4 in the Senate (all of which are those that were before amended in the Chamber of Deputies). In this part I encountered the problem of counting the amendments, especially

Reason for no RIA	No. of bills
proposed by group of deputies	16
proposed by group of senators	1
proposed by Regional Assembly	1
technical changes only	4
work began before 1st November 2007	2
proposed in the state of legislative emergency	2
state budget	1
transposition of EU law (no exception for this!)	1
no reason given	4
Σ	32

Table 1: Number of bills according to reason why RIA was not performed for them

in the case of the complex ones. Basically, there are two ways to count them, either I could count as one amendment each set of items on the print of amendments that was actually voted together, or I could count as one amendment each item that could potentially be voted separately. Trying to do something in between would mean to recognise which amendments are tightened together such that they could not be voted separately and which not. Choosing different options can in my case influence the results of the basic statistics presented in the next paragraphs but in the case of some future more complex research done on the data, it could substantively influence the results.

Finally, I chose quite arbitrarily the latter of the two basic options because it is independent on the actual will of the deputies to vote this or that separately or together. This way, there was total of 667 amendments proposed in the Chamber of Deputies and 25 amendments proposed in the Senate, which is an average of 19.62 per bill and 0.74 per bill respectively. The most amendments proposed for one bill was 158 in the Chamber of Deputies and 10 in the Senate.

In the case of the Chamber of Deputies the amendments can be divided into three groups, those that were adopted, those that were rejected and those that could not be voted about due to either their identity with another rejected or adopted amendment for the bill or the fact that the same part of the bill is changed differently by another adopted amendment. For Senate I took into account only amendments that were sent back to the Chamber of Deputies to-

	Chamber of Deputies	Senate
total bills with RIA	34	34
bills where amendments proposed	20	4
amendments proposed	667	25
average per bill	19.62	0.74
most for one bill	158	10
adopted	470	19
rejected	110	6
not votable	87	–

Table 2: Overall amendments statistics

gether with the disapproval with acquired text of the law. Those can be just accepted or rejected altogether in the Chamber of Deputies as was mentioned in the description of the legislative process in subsection 4.1. I did not include amendments not approved in the Senate itself. Out of 667 amendments proposed in the Chamber of Deputies, 470 were adopted, 110 were rejected and 87 were not votable. Out of 25 amendments sent to the Chamber of Deputies from the Senate, 19 were adopted, it was the case of 2 out of 4 bills. All of the previous data is summarised in Table 2.

We continue towards the core of the study which is the amendments that were adopted. On these the analysis of impacts was done. Out of 489 adopted amendments, 74 were assigned to one or more groups, that means that an impact was recognised. That is about 15%. The key result of putting the amendments into groups and assessing their potential impact on the scale –2, –1, 1 or 2 is shown in Table 3.

Another possible representation of the results is to show for how many bills there was at least one amendment of the chosen magnitude. In this case, out of 20 bills analysed, only 3 had no amendment with any impact, 13 bills had amendments with maximum magnitude 1 and 4 bills had at least one amendment with magnitude 2. This is summarised in Table 4.

Now I show some notable cases of bills and amendments which I found interesting during the analysis. These are mainly of the magnitude 2. After that I also describe the examples of amendments with magnitude 1 and 0.

Type of impact	–2	2	–1	1	Σ
direct impact on the state budget	1	4	4	5	14
impact on the scope of activity of an admin. office	0	0	10	0	10
impact on the profits of some businesses	6	1	16	18	41
impact on the administrative burden on businesses	0	0	9	3	12
impact on the expenses of consumers/citizens	0	0	7	2	9
impact on the administrative burden on citizens	0	0	2	0	2
Σ	7	5	48	28	
Σ total for each magnitude of impact	12		76		

Table 3: Amendments according to type and target of impact and its magnitude

The first one is the bill enacted as the Act no. 402/2010 Coll., Amendment to the Law on the Support of Renewable Resources. The amendments made to this bill in the Chamber of Deputies should actually not be called amendments but rather writing a completely new bill. The topic regulated in the bill was under extensive discussion in the Czech Republic in connection with the boom of the solar power in 2009 and 2010. The bill originally only modified the support in such way that most of the new solar powerplants would not acquire any support as of the beginning of 2011. Only the amendments entirely changed the bill and there was generally built a new system of distributing the burden of this support, which was previously held only by the electricity consumers in the form of contribution to renewable resources on their electricity bills, among more agents. I am not going to describe it further and I naturally do not know what was the specific reason that these changes were done only in the amendments. Nevertheless, this is a good example of how vast economic impacts were imposed or redistributed from one stakeholders to others in the parliamentary amendments, therefore completely circumventing the established Regulatory Impact Assessment system.

	0	1	2	Σ
bills with each maximum magnitude of amendments	3	13	4	20

Table 4: Bills according to maximum magnitude of their amendments

Another one is the Act no. 425/2010 Coll., Amendment to the Law on Salaries of Representatives of State Power. There is one notable amendment to this bill which I assigned magnitude –2 in the group of impact on the state budget. This amendment shortens the reduction of base salary of state attorneys from next 4 years to only next one year. This reduction was calculated in the RIA for the bill to save 39 million korunas in 2011 and at least the same order in following years. Due to the amendment additional costs in order of tens of millions are imposed on the state budget for the years 2012 to 2014.

To offer an image of the amendments with magnitude 1, there was e.g. a change in the Law on Registers which extends the scope of changes in the case of which people must compulsorily request an issue of a new ID card. This means a not easily quantifiable increase of the administrative burden borne by the citizens. Another was a change made in the Law on Radio and Television Fees by an amendment to the Act on On-Demand Audiovisual Media Services and on Amendments to Certain Related Acts which removes the obligation to pay the radio and television fees for more than one receiver that is built into a smart mobile phone. This means a modest reduction of expenses of some businesses and probably some decrease in yield from these fees for the public television.

Just briefly, the amendments with magnitude 0, which means no impact, were generally some technical changes that only replaced e.g. a link to some other paragraph in response to a change of its numbering or such amendments where no impact could be recongised, one was for example a very slight change in the length of the period in which the investor must post information in the process of announcing a public contract. This change was made by an amendment to the Act on Public Contracts.

4.5   Discussion

We can see in the results that most of the impacts of the amendments were small or rather uncertain but there were also cases of certain or larger impacts, these were particularly negative impacts on the profits of some businesses and positive impacts on the state budget. In terms of the type and target of the impact, the most frequent was impact on the profits of some businesses.

The results clearly show that the parliamentary amendments may cause additional impacts or change the impacts of the bill during the legislative process. As I have shown in the 'notable cases', there was an amendment that was rather a complete rewriting of the bill or an amendment bringing additional costs in order of tens of millions to the state budget. Although I found only 4 amendments like this, those which I assigned the magnitude 2, there were only 3 bills which had no amendment with any impact. This strongly demonstrates that my hypothesis is satisfied.

From this point of view the answer to a question whether it would be useful for the ex-post analysis to extend the obligation to conduct RIA on the parliamentary amendments is clearly 'yes'. How to do this is a more difficult question. The quality of RIAs that I encountered with during this research was not outstanding and the level of detail varied which gives a clue on what should be recommended in the case of parliamentary amendments. I would advise to perform the RIA on each set of amendments that represents a systematic change in the bill as this set is created in a parliamentary committee or in a deputy's or senator's office. Another question is the issue of resources which is not such a problem in the case of ministries but the parliamentary committe or deputy's office probably will not be capable of conducting an extensive analysis.

To close this part, I think that the results bring valuable insights for the policy-makers into the process of RIA which may help them in their decisions about its future.

Conclusions

There is a lot of literature on Regulatory Impact Assessment written from numerous points of view but rather large part of it deals with RIA theoretically. There are not that many studies doing really empirical research of the issues in the field.

This study comes with completely innovative empirical research which has further extension possibilities to the future. It deals with the problem of changes in impact of a bill caused by parliamentary amendments made to this bill during the legislative process. The hypothesis is that these changes are substantive and therefore some functions of RIA are undermined, such as the ability of *ex post* evaluation or to find the precise lowest-cost alternative of regulation.

To test the hypothesis I chose a qualitative analysis of the adopted amendments to bills which were enacted as laws in 2010. I found out there were potential impacts in about 15% of the amendments. Most of these impacts were considered small or rather uncertain but there were some larger and more certain impacts recognised as well. I showed a few particular cases where circumventing, whatever the reason, of the now-established Regulatory Impact Assessment process was obvious.

The interpretation of the result should be very cautious. On the one hand, it shows that the fuctioning of RIA might be deteriorated by the parliamentary amendments and that obligatory RIA should be expanded to them but on the other hand, how to do that is rather more difficult question. As I showed in the description of the methodology of this study, implementing RIA for parliamentary amendments may be quite difficult due to their nature and quantity and it is also questionable if it makes sense with regard to the actual quality of the RIAs themselves performed on the bills at this time.

Another accompanying result of my analysis is that out of 66 laws enacted in 2010, 32 did not have RIA at all, which is about 48%. Out of these 32 laws, in 18 cases the reason for RIA not having been performed was that these bills were not proposed by the government, but rather by a group of deputies or senators or by a Regional Assembly. This shows that the obligatory system of RIA is probably

even more circumvented by the fact that these bills are not included in it. These bills were neither included in my further analysis.

As has been mentioned, further research can be based on the collected database of information. For example, taking into consideration the issue of counting the amendments described in the subsection 4.4 it could be analysed if existence and quality of RIA has statistically significant influence on the number and characteristics of the parliamentary amendments for the bill or on other observable parameters of the legislative process, e.g. its length. Also the influence of the fact that a bill is a 'pure' transposition of EU law on the quality of RIA or on the amendments can be assessed. This can bring further insights into what exact scope of application of RIA is efficient.

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A   Bachelor Thesis Proposal

UNIVERSITAS CAROLINA PRAGENSIS
založena 1348

Univerzita Karlova v Praze
Fakulta sociálních věd
Institut ekonomických studií

Opletalova 26
110 00   Praha 1
TEL: 222 112 330, 305
TEL/FAX: 222 112 304
E-mail: ies@mbox.fsv.cuni.cz
http://ies.fsv.cuni.cz

Akademický rok 2009/2010

TEZE BAKALÁŘSKÉ PRÁCE

Student:	Karel Jára
Obor:	Ekonomie
Konzultant:	Jiří Schwarz

Garant studijního programu Vám dle zákona č. 111/1998 Sb. o vysokých školách a Studijního a zkušebního řádu UK v Praze určuje následující bakalářskou práci

Předpokládaný název BP:

Does RIA really evaluate regulatory impact?
The case of the Czech Republic

Charakteristika tématu, současný stav poznání, případné zvláštní metody zpracování tématu:

Regulatory Impact Analysis/Assessment (RIA) is a process used in many countries today before a new government regulation is introduced. It is aimed to provide a detailed and systematic appraisal of the potential (especially economic) impacts of a new regulation in order to assess whether the regulation is likely to achieve the desired objectives. By regulation in this case are meant all kinds of legislative acts. RIA also involves consulting major affected groups such as citizens, entrepreneurs, farmers etc. According to its proponents it leads to higher transparency and efficiency of the process of creating legislative proposals and higher quality and consistency of the legislation. The history of conducting these assessments can be seen as going back to late 1970s when Inflation Impact Assessments and later also Benefit-Cost Analyses were performed in the USA when a new legislation was proposed. Since 1990s RIA requirements for new legislation have spread to most OECD countries and today also a number of development countries have adopted it. There have been numerous studies about conducting the RIAs itself and the above-mentioned proponents perception is generally accepted or not challenged.

Struktura BP:

Abstract
In the Czech Republic the duty to conduct RIA has been imposed on all new legislation proposals drawn up by government since 2007. As a matter of fact by passing the bill to the parliament the legislative process is just started. In the Chamber of Deputies it goes through chamber committees where amendments or other changes might be proposed. These are then

approved or disapproved by the chamber and the bill is passed to Senate which cannot change it but can only return it back or pass it on to the president who has the right of veto. The objective of this study is especially to find out how much the legislation and therefore also its economic impact change during the parliamentary legislative process and thus if the RIA do actually assess the impact of the passed regulation or not. This will be performed by comparing selected set of government legislation proposals with the final legislation passed based on these proposals.

Outline
1. Introduction
       What is RIA?
       History of RIA
2. Theoretical background
       Why RIA?
       Survey of Literature
3. Empirical study
4. Conclusion

Seznam základních pramenů a odborné literatury:

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Sněmovní tisky – Poslanecká sněmovna PČR, <http://www.psp.cz/sqw/sntisk.sqw>

Knihovna připravované legislativy – Vláda ČR, <http://eklep.vlada.cz/eklep/page.jsf>

Stejnopisy sbírky zákonů – MVČR, <http://www.mvcr.cz/clanek/sbirka-zakonu.aspx>

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Podpisy konzultanta a studenta:

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