

Review *Politiques et management public*

International symposium

European Court of Auditors

Luxembourg

23 and 24 November 2017

Regulatory Impact Analysis

Call for papers

Regulatory impact analysis (RIA) is a public policy instrument that is advocated by the OECD and used by the European Union and in numerous European countries. While various studies and reports have already been carried out on the subject, the premises of RIA, the difficulties it raises, its potential effectiveness and the sheer variety of implementation methods warrant in-depth discussion. That is the aim of our symposium.

RIA appears to be an essential tool for governance and public policy and administration, based on the various paradigms used to characterise its objectives.

The first is the rationalisation of public action. The obligation to specify the objectives of a text, establish a link between the methods used and the expected impact, and rank the proposed measure in relation to the alternatives, refers explicitly or implicitly to cost-benefit analysis and ex-ante evaluation, of which RIA was and is the preferred and most ambitious version.

Next, the rebalancing of power. In France, for example, the requirement to perform an impact assessment for each draft law was introduced in this context, leading to the constitutional reform of 2008. More generally, the idea of providing better information to the legislative authorities or the deliberative assemblies was frequently mentioned as a reason for the need to carry out impact assessments.

As well as serving to inform the assembly that approves or consults on a given text, the information generated must make the public authorities more accountable to the general public and stakeholders. The executive should be accountable for its intentions, and its accountability regarding results should be improved by the link between the ex ante study and the ex post evaluations, the precision brought to the objectives sought, or indeed the ex ante identification of indicators

rendering those objectives operational. This further illustrates the idea that public policies should be made “measurable”.

Where it is recommended that stakeholders be involved in the analysis as far upstream as possible in the process, this no longer or not only highlights an improvement in representative democracy, but is also inspired by a desire to strengthen participatory or deliberative democracy.

In many cases, the impact analysis also falls under the paradigm of regulatory simplification. This paradigm, in turn, encompasses a number of wishes. The first is to avoid increasing the complexity of substantive law, which is inaccessible to citizens, who might therefore find themselves at fault as they are not aware of their actual rights and duties in virtually every area. Another wish is more restricted in scope, as it mainly concerns companies and ensuring they are spared the excessive costs generated by multiple regulations – costs (expenses) in the accounting sense of the term, but also opportunity costs associated with prohibitions or restrictions on their actions, which can be detrimental to the flexibility and adaptability of businesses. The impact analysis is then part of the trend in which the law is a key element in nations’ competitiveness, at least from the point of view of the attractiveness of economic activity.

We should not forget that IA is often understood to be a part of good legislative drafting (laws or regulations), equating to the completion of a number of steps or activities and devoting sufficient time to the monitoring, assessment, or even consultation activities included in the process.

In France, the impact assessment may also be associated more loosely with the fight initiated in the administrative and constitutional courts against the inclusion of non-legislative passages in legal texts (the so-called *loi bavarde*).

The papers may relate to any one of the many issues raised by impact analysis, i.e. to the contradictions that can exist between its designated purposes, the realistic or unrealistic nature of the function that some wish to attribute to it, the desire to discipline power, the neo-liberal inspiration that some see insofar as it can be very “corporate-oriented”, or the ambiguities that can be associated with “cost-benefit analysis”.

The papers could aim to place impact analysis, from an academic standpoint, for example in the context of neo-institutionalisms, the sociology of translation, management instruments or public governance. They could consider the implicit and explicit visions of the notion of public policy that impact analysis conveys (instrumentality, for example, as compared with a more cognitive approach), concern critical reviews of analyses carried out, or focus on examining the actual role played by these

analyses in the decision-making process. They could also be comparative. Work pertaining to the various social sciences is welcome, as is a legal approach.

Proposed papers should be emailed to Patrick Gibert (patrick.c.gibert@orange.fr), copying Danièle Lamarque (daniele.lamarque@eca.europa.eu), by 30 June 2017. They should take the form of a 1500-character abstract, setting out the issues addressed, the methodology used and the main results.

These proposals will be evaluated and the results sent to the authors by 8 July 2017 at the latest.

Final acceptance of a paper is contingent on at least one of the authors enrolling for the seminar by 1 October 2017, and their final paper being received by 30 October 2017.

The symposium sessions will be simultaneously interpreted into English, French and German, and papers (and abstracts) may be submitted in English or French.