

INSTITUTIONALIZATION OF REGULATORY IMPACT ASSESSMENT (RIA) IN GEORGIAN LEGISLATION

The draft amendments to the Law on Normative Acts are initiated in the Parliament of Georgia, which envisages the implementation of the regulatory impact assessment. Submitting the regulatory impact assessment under the current legislation is not mandatory.

LAW, INITIATOR

Law: [Amendments to the Organic Law of Georgia on Normative Acts](#)

Initiator: Government

Authors: Ministry of Justice, Administration of the Government

ESSENCE OF THE DRAFT LAW

The Government will have an obligation to present a Regulatory Impact Assessment (RIA)¹ along with its initiated draft laws, in cases defined by the law.

WHAT IS REGULATORY IMPACT ASSESSMENT (RIA)?

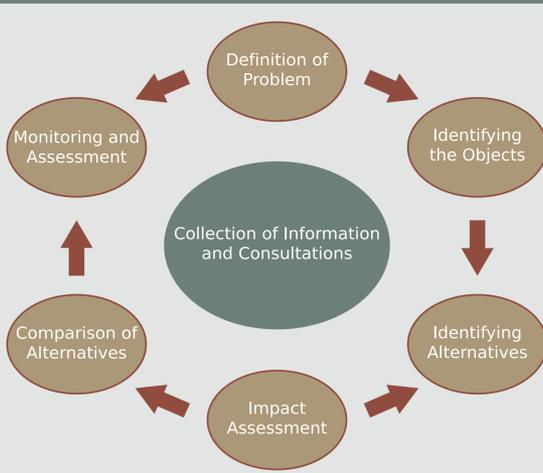
Regulatory Impact Assessment (RIA) is an opportunity to verify and evaluate the possible benefits, expenses and results of the law.² In fact, it represents the process which identifies and evaluates the expected outcomes and impact stemming from the regulation.³

During the proper implementation of the RIA, it is important to consult with the interested persons⁴ at any of its stages and transparency and publicity, which gives more legitimacy to the RIA.

The RIA answers the following questions:

- What is the essence of the problem?
- What is the goal of the policy?
- Is it necessary to intervene?
- What is the cost and benefit of the problem solving?
- What is the best alternative to solve the problem?

Elements and Process of RIA



WHO HAS THE OBLIGATION TO PRESENT THE RIA?

The Government will have the obligation to submit a RIA in the following cases:⁵

- Preparation of the draft law periodically defined by the Government Ordinance if the initiator is the Government;
- In separate cases, by the decision of the Government, in the preparation of the draft law by the institution of executive power;

The author or initiator of the draft law (except the Government) can choose to present a RIA.

EXCEPTIONS – WHEN IS RIA NOT OBLIGATORY?

The obligation to prepare the RIA will not apply if the relevant draft law:

- Relates to state security, budgetary (including annual budget law) as well as issues related to defense, penitentiary and probation;
- Changes the date or terminological nature or other technical nature of the law, as well as remediation in the law if it does not change the general principle and basic provisions of the law;
- Complies with the legislative act of Georgia with the predominant legal force, the Constitutional Agreement of Georgia, the international treaty and the agreement and / or the Constitutional Court of Georgia;
- The legislative package is part of the bill and does not include issues not covered by the main draft of the package.

WHAT ISSUES SHOULD THE RIA COVER?

In cases where the regulatory impact assessment is mandatory, and where the project author or initiator is exercising its own desire to evaluate the impact of the regulation, the draft law shall be included in the Regulatory Impact Assessment Report instead of specific parts⁶ of the Explanatory Card.

RIA Report

- 1 Essence and analysis of the existing problem, reasons behind it
- 2 Aim that the regulation wants to achieve
- 3 Alternative ways of achieving the goal
- 4 Arguments that prove that the presented solution is the best
- 5 The draft law's
 - a. Expected results (economic, fiscal, social, ecological, security-related, etc)
 - b. Risks of regulating the issue in a non-normative way or leaving it as it is
- 6 Other important factors and circumstances that conditioned the preparation of the draft law and which will be impacted by the adoption of the law
- 7 Detailed description of the process of drafting of the draft law (short analysis of main points and summary of results)
- 8 Ways of enforcing the law, the role and functions of the bodies responsible for the enforcement
- 9 Ways of monitoring and assessing the enforcement of the law

ASSESSMENT/RECOMMENDATION

The issue of regulatory effect was envisaged for years in the international and national policy documents of Georgia.

The Association Agreement talks about the readiness of the parties to cooperate with the exchange of information on the impact of regulation policy and regulation by sharing information and sharing best practices.⁷

Also, the United States Agency for International Development (USAID) project G4G has developed “Recommendations on Institutionalization of Regulatory Impact Assessment (RIA) in Georgia”, which recommends the preparation of the RIA in the case of both government and parliament.⁸

In addition, the OSCE Office for Democratic Institutions and Human Rights, in its report, has suggested that a single legislative framework for regulatory impact assessment should be developed.⁹

Periodically, the implementation of the RIA was stated in:

- The country’s basic and directions documents (BDD).¹⁰
- Government programs.¹¹
- [Open Parliament Action Plan 2018-2019](#).¹²

The obligation to implement the RIA is defined in the European Parliament, as well as in the following countries: Estonia, Finland, Italy, Great Britain, Czech Republic, France, Germany, Greece, Poland, Sweden, etc.

There are different approaches to the impact of the regulatory report. For example, the Czech Republic, Germany, Greece, Hungary, Latvia, Poland, Sweden, Spain are preparing reports on all types of regulation.

Institutionalization of RIA should be assessed positively, but the initiative does not respond to the challenges of the legislative process, and the exceptional cases allow for the adoption of significant laws without RIA.

According to the project, the RIA can be formally mandatory, but the draft law provides the possibility of significant initiatives without regulatory impact assessment.

In order to actually carry out the RIA implementation it is important that:

- The obligation to implement the RIA should be applied to both government and parliamentary initiatives if the initiative relates to the business sector or the economy. Gradually, the obligation to implement the RIA must be extended to all the draft laws that may affect the following fields: budget, competition, market openness, public sector, impact of international commitments.
- The RIA report should also include a component of compliance with [UN 2030](#) sustainable goals. Georgia has identified 17 goals for the sustainable development of the UN and 98 tasks as national priorities. [The Action Plan of 2018-2019](#) of the Parliament of Georgia provides for the promotion and monitoring of the UN Sustainable Development Goals (SDGs) by the Parliament as an obligation. In this regard, determining compliance with SDGs as one of the components of the report will be a positive step from the Parliament.
- It is advisable to create a specialized structure that will control the quality of the RIA.¹³
- The exceptions of when RIA is not obligatory should be narrowed down and the obligation to carry out RIA should gradually be implemented for subordinate acts.

1 Regulatory Impact Assessment (RIA) - this is an assessment of what impact the law will have on other spheres
 2 Explanatory note <https://info.parliament.ge/file/1/BillReviewContent/214950?>
 3 Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA), Version 1.0 October 2008, Organisation for Economic Co-operation and Development (OECD), <https://goo.gl/Z6M5uo>
 4 For more, see: Background Document on Public Consultation, OECD, <https://goo.gl/fHX42g>
 5 According to Article 45 of the Constitution of Georgia, the Government, a member of Parliament, a parliamentary faction, a Parliamentary committee, supreme representative organs of the Autonomous Republics of Abkhazia and Ajara, and no less than 25,000 voters shall have the right of legislative initiative. The Parliament shall discuss a draft law submitted by the Government upon its request extraordinarily.
 6 The reason for the adoption of the bill: the problem that the draft law aims to solve; The necessity of adopting the law to solve the existing problem; Expected Results of the Draft Law
 7 See Article 225 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, <https://goo.gl/Kagj9d>.
 8 Recommendations on RIA National Framework of Georgia, Roman Ladus, December 2015, <https://goo.gl/4sZ6cA>
 9 Assessment of the Legislative Process in Georgia, Report of the OSCE ODIHR, January 2015, <https://goo.gl/gVdr4y>, Explanatory Note: <https://goo.gl/2MWWX5>
 10 The country’s 2019-2022 main data and directions document states that “the RIA is an instrument of valuation, which gives us the opportunity to influence the impact of each decision on the economy to avoid possible negative consequences.” <https://goo.gl/XpJU7B>
 11 The 2018-2020 Government Programme <https://goo.gl/NBCcuY>, stated that the RIA aims at removing additional burdens for businesses, aimed at assessing the effectiveness of new legislative initiatives and existing legislative acts on business environment and economy. Moreover, see also: 2015 Government Programme. <https://goo.gl/J3cGoy>; Main data and directions of the country for 2019-2022 :” <https://goo.gl/DAvK4c>; Main data and directions of the country for 2018-2021 <https://goo.gl/jhuhhw> :For more, see the BDD document at <https://mof.ge/BDD>
 12 Open Government Action Plan 2018-2019 <https://goo.gl/2fjTGK>
 13 For more, see: Oversight mechanism for regulatory impact assessment: comparative study of five CEE countries, Katarína Staroňová, Comenius University, Institute of Public Policy <https://goo.gl/FiMZXX> , Also: Regulatory Impact Assessment: Towards Better Regulation? C. H. Kirkpatrick, David Parker, 2007, p.22