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# RECOMMENDATIONS ON RIA NATIONAL FRAMEWORK OF GEORGIA

RECOMMENDATIONS ON RIA NATIONAL FRAMEWORK OF  
GEORGIA

USAID GOVERNING FOR GROWTH (G4G) IN GEORGIA

29 December 2015

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## DISCLAIMER:

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# DATA

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## ACRONYMS

G4G	Governing for Growth in Georgia
USAID	United States Agency for International Development
RIA	Regulatory Impact Assessment
IA	Impact Assessment
OECD	The Organization for Economic Co-operation and Development
EU	European Union
MP	Member of Parliament
GoG	Government of Georgia
CEE	Central and Eastern Europe
EPAC	Economic Policy Advocacy Coalition
UNDP	United Nations Development Program
BAG	Business Association of Georgia
SIGMA	Support for Improvement in Governance and Management (a joint initiative of the European Union and OECD)
CBA	Cost-Benefit Analysis
G3	USAID Good Governance in Georgia project

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# 1. EXECUTIVE SUMMARY

The purpose of this Report is to recommend the design of regulatory impact assessment (RIA) national framework for Georgia, which includes the institutional framework, criteria to identify regulations subject to RIA, the RIA Methodology and capacity building needs of the Government of Georgia institutions to effectively implement RIA.

The Report starts with an assessment of the Georgian context related to the legal drafting and analysis of the impacts of normative acts. The regulatory flow is high and the harmonization agenda is contributing with numerous new and unexplored provisions which need to be transposed into the local legislation under a tight schedule. Some degree of analysis of potential impacts of regulations is required to be included into the explanatory notes of draft normative acts. However, according to the internationally recognized RIA standards the existing requirements are insufficient. Moreover, those prescribed are poorly complied with. Insufficient analysis is believed to result in unintended and negative regulatory consequences on citizens and businesses. The evidence is reported by business associations and think-tanks. The Government recognized the need for better and evidence based policymaking and legislative drafting, by having approved the Policy Planning System Reform Strategy 2015-2017, which prescribes the introduction of RIA into the Georgian legislative process. Additionally, this year the Government established the Investors Council, which is expected to serve as a high level cooperation platform for the public and private sectors in shaping a better and more business friendly regulatory framework.

The ultimate mission of the government is to produce better public policies, which effectively deliver social goods, being at the same time business friendly and less costly for citizens. In ensuring that, countries and international organizations developed definitions and principles which public policies need to embrace. RIA is a process of evidence-based policy making, which helps in complying with better regulation principles and designing better regulations.

Internationally recognized standards for RIA are established by the OECD. RIA Guidelines of the EU Commission is another important reference source in designing national RIA frameworks. RIA emerged as a policymaking process to help with producing better regulations. According to the EU 2009 Guidelines, RIA is “a set of logical steps to be followed when you prepare policy proposals. It is a process that prepares evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impacts. The results of this process are summarized and presented in the Impact Assessment report.” RIA starts with problem definition, based on which the objectives can be defined. Options are identified to reach the objectives and solve the problem. Impacts of each of the selected option are assessed and based on that the options are compared and the most appropriate one is recommended. RIA has to describe monitoring and evaluation arrangements, which need to be followed when implementing the normative act.

Most of the countries with an effective RIA system have mandated it through the laws and/or government decrees and set up a strong oversight and scrutiny body. International best practices and recommendations of expert organizations suggest that, as RIA is an effort and time consuming exercise; it should be applied to the normative acts featuring most significant potential impacts. Moreover, it is suggested to introduce, especially at the initial stage of RIA implementation, a lighter RIA methodology. An important concept here is the proportionality principles, meaning that analysis should be carried out to the extent it is sufficient to see whether the proposed intervention is justified and what the unintended consequences would be.

Given the high flow of draft normative acts in Georgia and the current limited capacity and resources, in discussions with stakeholders and the Government Parliamentary Secretary, it was concluded that the most reasonable solution for Georgia would be to implement RIA in two stages. The first stage, lasting for two years, would cover the draft laws with potentially significant impacts. It would include significant capacity building measures proposed in this report, the main ones being to train the civil servants supposed to carry out and scrutinize RIA, to develop a manual providing guidance in applying analytical tools and organize campaigns to motivate large participation of the private sector and civil society in consultations and scrutiny of RIA.

The results of the first stage will be assessed to identify any needs for improvement in the RIA system, conclude whether sufficient capacity for RIA was created and explore the opportunity to expand the scope of RIA to cover secondary legislation with potentially significant impacts.

At the Government level the unit responsible for the implementation and scrutiny of RIA would be the Parliamentary Secretary. The Secretary and Parliamentary Committees will select legal initiatives to be subject to RIA at the planning stage, i.e. when legislative plans are being developed. This would enable proper allocation of time and resources for carrying out RIA and allow the private sector to get involved into the process, thus, contributing to the quality of policymaking. The process of RIA was designed to ensure a transparent and participatory process, making certain that views of stakeholders are taken into account.

It is proposed for Georgia to introduce requirements for RIA and RIA Methodology into the legal framework. The Methodology includes principles of better regulation and requirements related to the RIA content and process of RIA. The requirements for RIA content were designed to serve as quality check criteria, which could guide effectively both the RIA drafters and its reviewers/scrutinizers, such as the Government Parliamentary Secretary and stakeholders. The principle of proportionality is suggested for each RIA element, providing flexibility to match the analysis with the capacity of RIA drafters and significance of the issues addressed by RIA.

## 2. BACKGROUND

This Report was prepared under the assignment “Recommendations on RIA National Framework of Georgia” funded by USAID/Governing for Growth in Georgia Project (G4G).

G4G supports Government of Georgia (GoG) in informed policy decisions through increasing the role of data and evidence. Regulatory impact assessment (RIA) has proved to be an effective policy making tool and has been integrated into policy and legislative processes in increasing number of countries. The donor organizations, including USAID, made significant efforts in recent years to raise GoG’s awareness on RIA. GoG officials attended several RIA trainings and participated in pilot RIAs on selected regulatory reforms.

As opposed to previous ad-hoc interventions, GoG is now taking systemic approach to RIA and considers the ways of its incorporation into national policy-making framework. The GoG’s commitment to the evidence-based policy is demonstrated in GoG Strategy on Policy Planning System Reform adopted in June, 2015. The document recognizes the absence of impact assessment as a serious gap of policy making practice and, in order to “minimize the negative impacts of the regulations on citizens, businesses, trade and investments”, proposes to make RIA as a mandatory step in legislative process. According to the Strategy the introduction of RIA national framework is planned in 2016. The Department of Political Analysis, Strategic Planning and Coordination under Prime Minister’s Office requested G4G’s assistance in designing the RIA national framework.



# 3. METHODOLOGY

## OBJECTIVE OF THIS ASSIGNMENT

The objective of this assignment is to assist the Government of Georgia in designing and developing a RIA national framework. This report with assessment and recommendations includes the institutional and procedural aspects of RIA as well as RIA methodology.

## SCOPE OF WORK

This report was drafted according to the following tasks:

1. Review of relevant documents about Georgia (legislation, reports and other relevant papers related to policymaking and legislative process in Georgia):

- Policy Planning System Reform Strategy 2015-2017
- Regulation of the Government
- Regulation of the Parliament
- Law on Normative Acts
- Government Decree on Economic Council
- Government Decree on Investors Council
- Law of on Business Ombudsman of Georgia
- Legislative Process in Georgia: Observations & Recommendations for Training & Policy, August 2014, The USAID Good Governance in Georgia Project
- Assessment of the Legislative Process In Georgia, OSCE Office for Democratic Institutions and Human Rights, Warsaw, January 2015
- Examples of explanatory notes and tables of correspondence with EU directives
- Memorandum of the Economic Policy Advocacy Coalition (EPAC), Georgia, 15/09/2015
- Policy Planning Manual/Guidelines for Georgia, draft: November 2014 (prepared with the support of the Good Governance in Georgia Program funded by the USAID)

2. Review of international best practices in RIA (recommendations of international organizations, research papers and RIA methodologies from different countries):

- Regulatory Impact Analysis in OECD Countries: Challenges for developing countries, OECD, June 2005
- Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA), OECD, October 2008
- Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers, OECD, 2008
- Sustainability in Impact Assessments. A Review of Impact Assessment Systems in selected OECD countries and the European Commission, OECD, 2012
- Oversight mechanism for regulatory impact assessment: comparative study of five CEE countries, Katarína Staroňová, Comenius University, Institute of Public Policy, UK, April 2015
- Making It Work: 'RIA Light' for Developing Countries, World Bank Group, 2010
- The Green Book. Appraisal and Evaluation in Central Government, UK Treasury (updated in 2011)
- Recommendation of the Council of the OECD on improving the Quality of Government Regulation, including the OECD Reference Checklist for Regulatory Decision-Making (adopted on 9 March, 1995)

- Mapping of ex-ante Policy Impact Assessment: Experiences and Tools in Europe, UNDP, September 2007
- Irish RIA Guidelines, 2009
- EU Commission Impact Assessment Guidelines, 2009
- EU Commission Better Regulation Guidelines, 2015
- Guidance for doing Regulatory Impact Assessment in Bulgaria, 2014
- RIA Methodology from Moldova, 2007
- Regulatory Impact Assessment in the Czech Republic, Leoš VÍTEK, 2013
- Regulatory Impact Assessment in Macedonia and Estonia: Lessons (to be) Learned, Marija Risteska, Centre for Research and Policy Making, 2011
- The Lithuanian Government's Policy of Regulatory Impact Assessment, „Management and Business Administration. Central Europe”, Jaroslav Dvorak, 2015
- Diffusion of Regulatory Impact Assessment: Georgia as a “Newcomer”, LL.M. in the Rule of Law for Development, Tamar Kusikashvili, Loyola University Chicago, School of Law, 2013
- Regulatory Impact Assessment: A survey of selected developing and emerging economies, EU funded project “Linking Impact Assessment Instruments to Sustainability Expertise”, 2014
- Guidelines for development of Legislative Policy until 2018, Estonia
- Government of the Republic of Lithuania Resolution No 276 on the approval and implementation of the Manual on Impact Assessment of Draft Proposals, 26 February 2003, Vilnius
- Regulatory Impact Assessment Guidelines, Northern Ireland, 2014

### 3. Meetings related to understanding and performing the work:

In carrying out this assignment, representatives of the following relevant stakeholders have been consulted:

- Parliamentary Secretary of the Government of Georgia Administration
- Unit for Governmental Plans and Innovation
- Investors Council (IC)
- GoG's Economic Council and Business Ombudsman
- USAID Governing for Growth in Georgia Project (G4G)
- EU Technical Assistance Project “Legislative Impact Assessment, Drafting and Representation”
- Ministry of Justice of Georgia (Administrative and Analytical Departments)
- Ministry of Economy and Sustainable Development (MoESD)
- Ministry of Regional Development and Infrastructure
- Ministry of Labor, Health and Social Affairs of Georgia
- Ministry of Education and Science of Georgia
- Ministry of Agriculture of Georgia
- ISET Policy Institute, hosted by International School of Economics at Tbilisi State University
- Business Association of Georgia (BAG)
- American Chamber of Commerce
- Policy and Management Consulting Group (PMCG)
- USAID Good Governance Initiative (GGI)

#### 4. Organization of two workshops with stakeholders:

The first workshop was organized on November 3, 2015. The duration of workshop was 4 hours. The workshop was attended by stakeholders from public sector, including head of Parliamentary Secretary of the Government of Georgia Administration, representatives of Parliament of Georgia and line ministries. During the workshop the following issues were discussed:

- Best international practices in RIA
- Georgian context and preliminary recommendations for implementation of RIA in Georgia

The second workshop was conducted on December 4, 2015. The workshop lasted for 1.5 hours and was attended by the stakeholders from public and private sector. During the workshop the following issues were discussed:

- RIA institutional framework, RIA coordinating/quality assurance body and roles and responsibilities of different GoG institutions
- Criteria to identify regulations subject to RIA
- RIA steps and procedures, including the role of public consultation and quality control
- RIA methodology
- Capacity building needs of GoG institutions to effectively implement RIA

#### 5. Development of recommendations on RIA national framework, based on Georgian context and international best practices. Recommendations cover:

- RIA institutional framework
- Criteria to identify regulations subject to RIA
- RIA Methodology, which includes RIA definition, better regulation principles, principles of good RIA, RIA elements and RIA steps and procedures
- Capacity building needs of GoG institutions to effectively implement RIA.

## 4. FINDINGS

### CONTEXT IN GEORGIA

#### QUALITY OF REGULATIONS

Previously, Georgia was intensively deregulated in an attempt to improve its business environment. The effects were mirrored in the international indicators on quality of business environment, such as Doing Business indicators, where Georgia was positioned among the best performing countries in the world.

It is believed that following a rapid deregulation some regulatory gaps have emerged giving rise to a number of public problems, including such related to safety and environment. This required new regulations and resulted recently in regulatory inflation, which was amplified by the country agenda to harmonize its legal framework with the EU legislation.

Being enacted under time and resource constraints, certain new regulations are believed to cause unintended negative consequences on citizens and businesses. This resulted in frequent amendments of the legislation<sup>1</sup> and complaints from the private sector. The issue was confirmed during the interviews with Business Association of Georgia, AmCham and ISET Policy Institute. ISET provided the following example: “the new Law on migration, proposed in 2015, binding to implement the visa liberalization plan agreed with the EU, intended to prevent trafficking. The law included restrictions for Georgian companies in hiring foreigners. The law could affect seriously the companies, making it impossible for them to hire international experts with skills unavailable among the local labor. Even though the proposal was submitted to the Parliament for consideration, business associations in cooperation with the Ministry of Economy and Sustainable Development, managed to remove those restrictions from the draft law.”

The Parliamentary Research Unit carries out quality assessments of the regulatory framework in certain areas occasionally or upon MPs’ requests. In an interview, their representatives mentioned that sometimes the regulatory framework is poorly analyzed during the legal drafting, which results in numerous overlaps and conflicting provisions in the legislation.

Annually, the Government of Georgia initiates around 100 laws and approves 500-600 government decrees. The Parliament of Georgia initiates more than 10 laws annually. Numerous other subordinated normative acts are being approved by ministries and agencies. For example, the Ministry of Agriculture, which is one of the most burdened ministries in drafting normative acts, is producing, on average, 50 acts per year. This includes draft laws, government decrees and ministry orders. The EU harmonization dominates the legislative process agenda, the Ministry of Agriculture having to transpose 272 EU acts during the next 10 years.

According to the Georgian legislation, provisions of EU technical regulations can be introduced into the national legislation either as laws or as government decrees. Civil servants from ministries and representatives of the business community mentioned, during the interviews and workshops that lower level legislation, such as ministry orders, could have significant economic, social and environmental impact.

The Parliamentary Secretary of the GoG’s Administration is responsible for quality check of the draft normative acts submitted to the Government for approval. The Secretary prepares legislative plans twice a year. Lists of laws shall be prepared by all ministries, while the plan shall be duly compiled and submitted to the Parliament. Once agreed, the plan remains open for reasonable changes proposed by the ministries. The list of laws proposed in the plan is based on the EU harmonization agenda, policy documents and public issues that are believed to need regulatory solutions. Currently the new Government rules and procedures are being drafted, which will require the legislative plan to be approved by the Government and restrict the number of draft laws to not more than 60.

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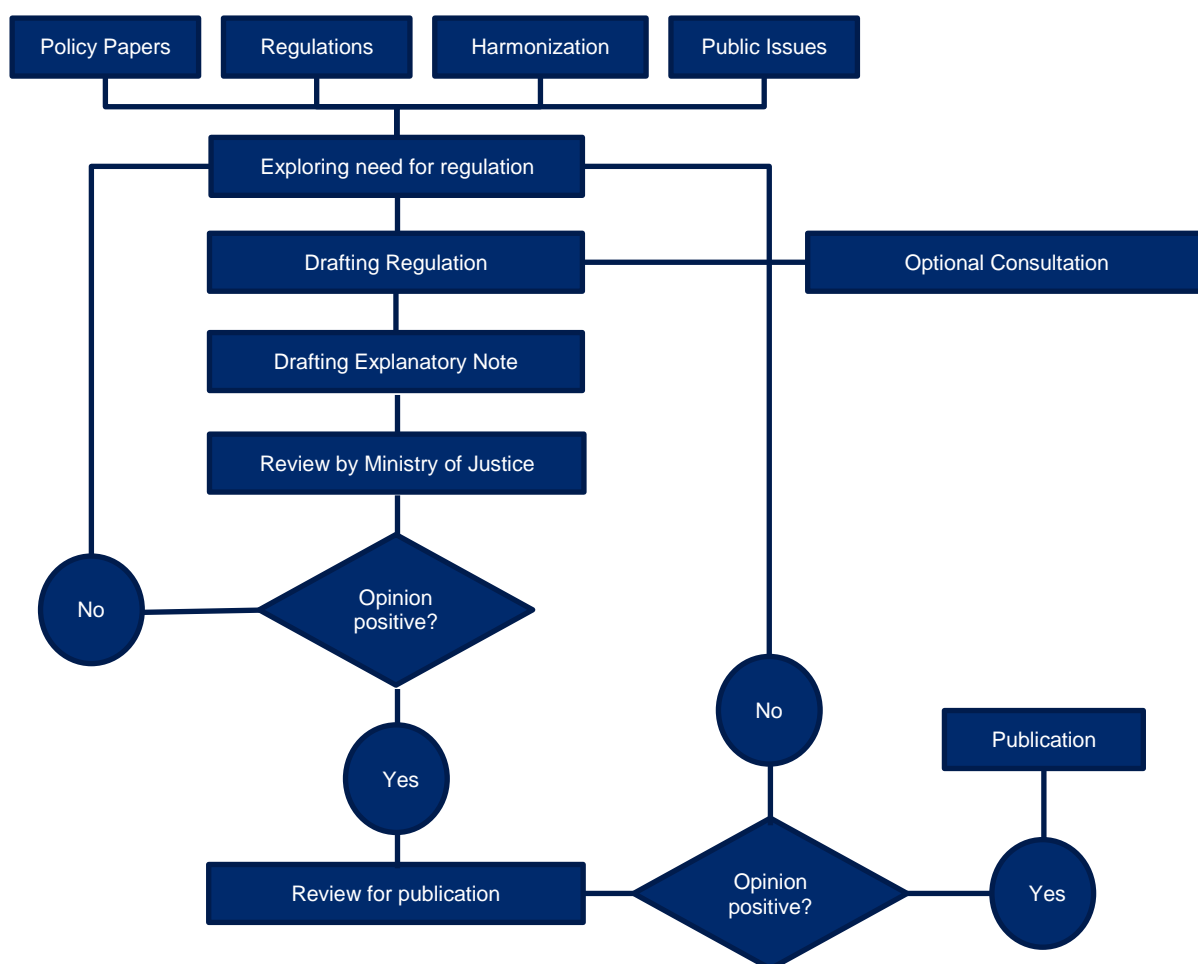
<sup>1</sup> Assessment of the Legislative Process in Georgia, OSCE Office for Democratic Institutions and Human Rights, Ulica Miodowa, Warsaw, January 2015

Recognizing the problems with quality of normative acts and challenges related to increasing flow of new regulations, primarily those required by harmonization with EU acts, the Government of Georgia in partnership with the private sector and with donors' support, established the Investors Council. The Council is a high level partnership platform that is expected to play an important role as a champion of the regulatory reform.

## THE PROCESS OF DRAFTING NORMATIVE ACTS

RIA is introduced to improve the quality of policy-making and is supposed to precede and accompany the draft normative acts. To be effective, it has to be properly carried out and scrutinized. Therefore, the design of RIA framework has to take into account steps and existing institutions involved in regulatory drafting and scrutiny. The main steps of current regulatory drafting by types of normative acts are presented in the charts below.

*Chart 2: Current main steps of drafting normative acts initiated by the central public administration bodies subordinated to the Government*

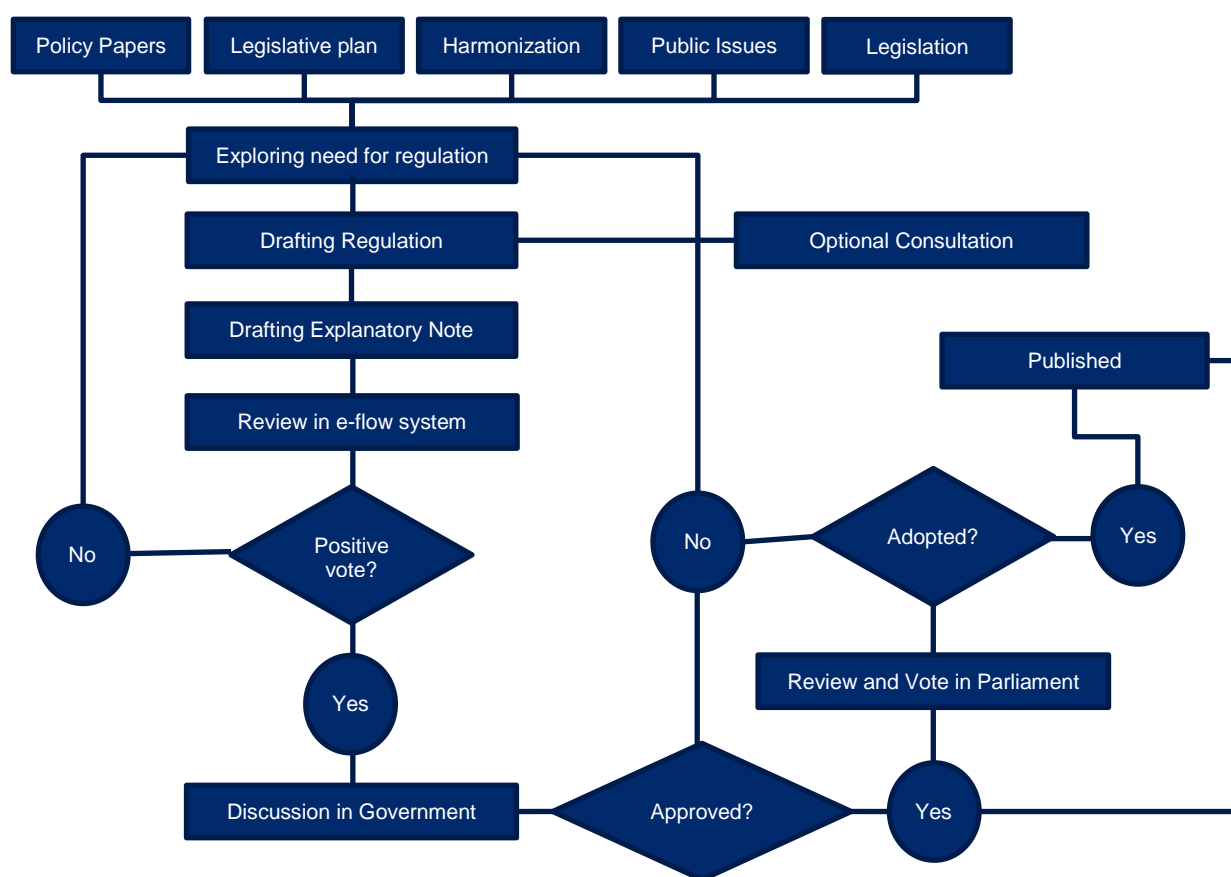


The main steps of drafting normative acts according to the chart above are as follows:

1. The Central Public Administration Body explores the need for intervention/regulation based on public issues/problems or actions prescribed in policy papers, existing regulations or harmonization agenda.

2. The Central Public Administration Body proceeds with drafting the normative act. At this stage, optionally, consultation takes place. For important normative acts, working groups could be established.
3. The Central Public Administration Body proceeds with drafting the explanatory note. Optionally, consultation results are included into the explanatory note.
4. The normative act and explanatory note are sent to the Ministry of Justice, which carries out legal review of normative act. Following the review, the Ministry of Justice is providing an opinion. If the opinion is negative, the Central Public Administration Body, which initiated the normative act, cannot get it published.
5. If the Ministry of Justice's opinion is positive, the draft normative act is sent for publication on Matsne.

*Chart 3: Current main steps of drafting government decrees and laws initiated by the Government*



The main steps of drafting normative acts according to the chart above are as follows:

1. The Central Public Administration Body explores the need for intervention/regulation based on public issues/problems or actions prescribed in policy papers, legislative plan, existing legislation or harmonization agenda.
2. The Central Public Administration Body proceeds with drafting the normative act. At this stage, optionally, consultation takes place. For important normative acts, working groups could be established.
3. The Central Public Administration Body proceeds with drafting the explanatory note. Optionally, consultation results are included into the explanatory note.

4. The normative act and explanatory note are uploaded into the Government e-flow system of normative acts for review and vote. Ministers have 10 days in case of draft laws and 5 days in case of government decrees to review the normative act, comment on it and vote. There could be three types of vote: positive, partially positive (accompanied by comments) and negative. To be submitted for consideration at the Government session, the normative act must get positive or partially positive vote from the majority of ministers. In case of laws, even if voted positively by the majority of ministers, it has to get a positive vote from the Ministry of Justice, Ministry of Finance, Ministry of Economy and Sustainable Development and Ministry of Internal Affairs. In case of draft government decrees, the procedure is similar, with no need for the Ministry of Internal Affairs' positive vote. At this stage the draft regulation is also reviewed by the Parliamentary Secretary.

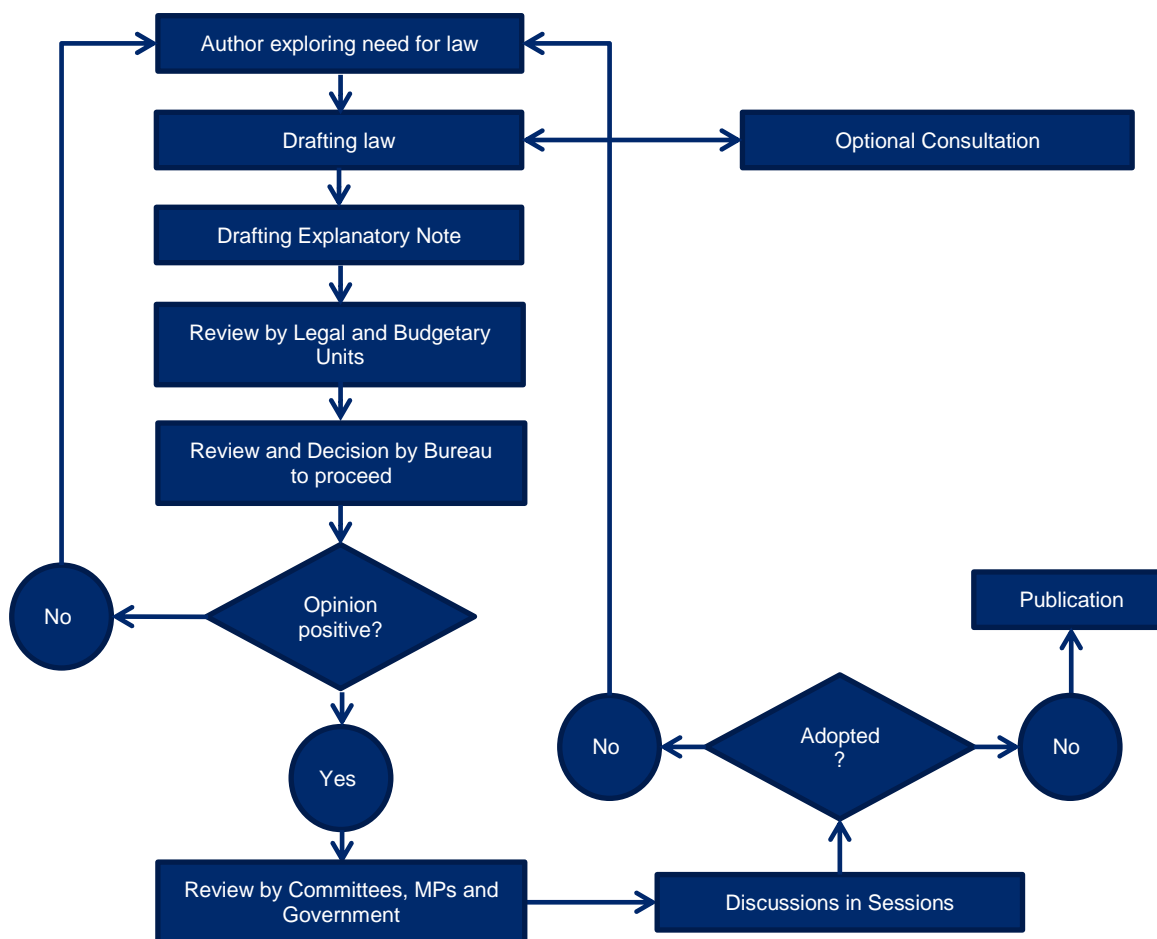
5. The draft normative act, accompanied by the explanatory note, table of opinions (consultation), opinions of ministries and opinion from the Parliamentary Secretary are reviewed, discussed and voted in the Government.

6. In case of government decree, if voted and approved by the Government, the normative acts are published on Matsne accompanied by the explanatory note and table of consultation.

7. In case of draft laws, if voted and approved by the Government, the normative acts are submitted to the Parliament, accompanied by the explanatory note. Documents are passed through review process established by the Parliament and if accepted, the draft law is adopted.

8. If the draft law is adopted by the Parliament, it is published on Matsne.

*Chart 4: Current main steps for the process of drafting normative acts in the Parliament*



The main steps of drafting normative acts according to the scheme above are as follows:

1. Members of the Parliament or Parliamentary Committees explore the need to initiate drafting a law.
2. Members of the Parliament or Parliamentary Committees proceed with drafting the law. At this stage, optionally, consultation takes place. For important draft laws, working groups could be established.
3. Members of the Parliament or Parliamentary Committees proceed with drafting the explanatory note. Optionally, consultation results are included into the explanatory note.
4. The draft law and explanatory note must be submitted to the Parliamentary Legal and Budgetary Units for review. The Legal and Budgetary Units shall review the draft normative act and explanatory note and issue an opinion. If the opinion is negative, the MPs cannot proceed with sending the draft normative act to the Parliamentary Bureau.
5. The Parliamentary Bureau shall review the draft law, explanatory note and the opinion of the Legal and Budgetary Units and decides whether to propose the draft law for discussion in the Parliamentary sessions.
6. If accepted for discussion in the Parliamentary sessions, the draft law and explanatory note are submitted to the Parliamentary Committees, MPs and Government for consultation.
7. The draft law and explanatory note are discussed and voted in the Parliamentary sessions.
8. If adopted, the law is published on Matsne.

## CONSULTATION AND TRANSPARENCY IN DRAFTING NORMATIVE ACTS

As mentioned by the interviewed representatives of ministries, they use to organize consultation events for the important draft normative acts. As a rule, the working groups are established with the participation of implementing agencies. Sometimes, the private sector representatives are also invited to participate. When dealing with important and sensitive proposals, other ministries could be consulted in order to anticipate any negative opinion when proposals are uploaded in the Government e-flow system of normative acts. However, the stakeholders believe that generally the consultation process is weak and ineffective. The representatives of business associations complain that it is rather often the case that they learn about important draft normative acts at an advanced stage, when the acts are submitted by the Government to Parliament. At such stage it is less feasible to contribute to its quality or too late to prevent potential unintended negative consequences.

There are no mandatory requirements to consult stakeholders in drafting normative acts. The explanatory note accompanying the normative acts includes a section on consultation; however it is supposed to be completed if the consultation has taken place while the extent to which it was completed is left to the discretion of the authors of the normative act.

## ANALYSIS OF NORMATIVE ACTS

Certain provisions related to the regulatory impact assessment are currently required to be included into the explanatory note accompanying the draft normative act. According to the Georgian Law on Normative Acts, the explanatory note for draft laws shall include the following components:

- a) general information on the draft law, specifying:
  - a.a) the reason for adopting the draft law;
  - a.b) the purpose of the draft law;
  - a.c) the essence of the draft law;
- b) the financial feasibility of the draft law, specifying as follows:
  - b.a) source of funding of necessary expenses related to adoption of the draft law;
  - b.b) the impact of the draft law on the revenue part of the State Budget;
  - b.c) the impact of the draft law on the expenditure part of the State Budget;
  - b.d) new financial commitments of the State;



- b.e) expected financial outcomes of the draft law for those persons to whom the draft law applies;
- b.f) procedure (principle) for determining the amount of taxes, duties or other forms of fees under the draft law;
- c) compliance of the draft law with international legal standards, specifying:
  - c.a) compliance of the draft law with the European Union (EU) Directives;
  - c.b) compliance of the draft law with the obligations of Georgia for joining international organizations;
  - c.c) compliance of the draft law with bilateral and multilateral agreements and treaties of Georgia;
- d) consultations received in the draft law preparation process, specifying:
  - d.a) state, non-state and/or international organizations (institutions), experts, if any, participating in the preparation of the draft law;
  - d.b) evaluation of the draft law by organizations (institutions) and/or experts, if any, participating in preparation of the draft law;
- e) the author of the draft law;
- f) the initiator of the draft law.

For secondary legislation the requirements related to the explanatory note are less elaborate and include:

- a) the reason for adopting (issuing) the draft normative act;
- b) its basic characteristics;
- c) financial and economic calculation of the outcomes associated with the adoption (issuance) of the proposed draft;
- d) the author(s) and presenter of the draft normative act shall be indicated in an explanatory note.

There are important components of the regulatory impact assessment which are missing in explanatory notes:

- On problem definition, it is not clear whether: the state intervention needs to be justified; causes of the problem need to be defined; existing regulatory framework and policies need to be reviewed. As a consequence, the reasons for adopting new regulation can be defined as lack of regulation or need to regulate, which is prescribing solutions before carrying out the analysis.
- On setting objectives, it is not clear whether the objectives need to be clearly related to the problem and its causes, thus, allowing for general objectives, which do not enable proper targeting of interventions and monitoring the effectiveness of implemented regulations.
- No section is provided on identification of options (potential alternative solutions).
- On impacts, there is limited requirement to consider the costs. It is limited primarily to budgetary implications and to the costs for those targeted by regulation. Social and environmental benefits and costs are not being considered, same as economic impacts on sectors untargeted by regulation (unintended consequences).
- No section is provided on monitoring and evaluation of the proposed regulation.
- Consultation section is not requiring to carry out any consultation. It asks just for some information about those consulted and their opinion, if any.

In interviews and during the workshop, both public and private sector stakeholders agreed that explanatory notes are poorly developed. Usually, they are short and do not include answers to all sections. Most often the sections on impacts and consultation are incomplete. Currently, the Parliamentary Secretary is working on enforcing better development of explanatory notes.

## POLICY PLANNING SYSTEM REFORM

Based on SIGMA recommendations<sup>2</sup>, recently the Planning and Innovations Unit was established within the Administration of the Government, charged with responsibility for planning, monitoring, and quality control of policy planning in the Government. Moreover, Policy Analysis Units were established in the majority of line ministries, having the role confined primarily to coordination and offering assistance in developing policy documents.

The Planning and Innovations Unit developed the Policy Planning System Reform Strategy 2015-2017, which was adopted recently. The Strategy identified a number of weaknesses in policy making, including the one related to the link between policy planning and legislation drafting. Rather often policy documents are not sufficiently explicit with regard to potential legislative measure, which might need to be explored in reaching policy objectives. On the other side, often the legislation does not respond to policy objectives or turns to be ineffective in achieving such. The Strategy provides an example of how legislation prescribed equal rights to women and men for parental leave but failed to ensure its efficient implementation.

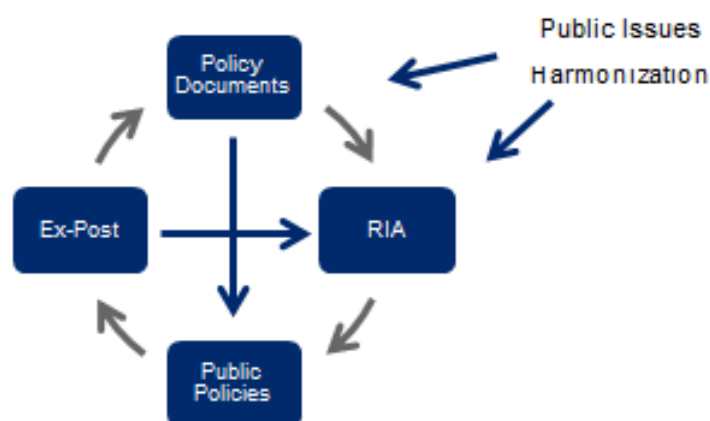
The Strategy provides solutions to address the aforementioned issues. It suggests better planning of legislative activities by integrating the legislative plan into the Government action plan. It also prescribes implementation of legislative impact assessment as a systemic approach for assessing positive and negative impacts of existing and planned regulations and an essential component for designing evidence-based policy. Legislative impact assessment is supposed to become a component of the policy development and decision-making process. The Strategy Action Plan requires mandatory introduction of RIA by 2017 and development of a handbook on lawmaking activities, including RIA, by 2016. This will be combined with numerous capacity building measures, which include public awareness campaigns, trainings and study tours.

RIA is an evidence-based process that informs decision in choosing the intervention solution by the Government. Obviously it is part of the policy making system and helps with establishing clear link between policy planning and legislation drafting. According to the Policy Planning Reform Strategy, requirements for drafting policy documents will be designed and approved. The policy documents, which include strategies, programs and action plans, serve a broader scope in policymaking, being developed usually for one or several policy sectors. They include numerous measures of different nature, such as public campaigns, budgetary spending, market incentives, several regulatory interventions and other solutions. RIA is usually related to specific regulatory intervention and has to precede that and accompany it to inform decision. Therefore, RIA would be more of a micro level policy document to deal with normative acts. The chart below presents the relationship among policy documents, RIA and public policies.

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<sup>2</sup> Policy Planning System Reform Strategy 2015-2017

*Chart 1: Relationship among policy documents, RIA and public policies*



Policy documents are developed based primarily on public issues that need to be solved, but also could address harmonization needs, provisions of existing normative acts and monitoring and assessment results of previously implemented policies (ex-post analysis). Specific regulatory interventions prescribed by policy documents, when they are due to be designed, would require a regulatory impact assessment. However, given that policy documents do not cover all possible sectors and possible needs for regulatory interventions, RIA might originate from other sources, such as public issues, harmonization agenda and other normative acts containing such prescriptions. Similarly to policy documents, RIA would be informed by ex-post assessments of existing policies as well. Public policies, which are of regulatory nature result from RIAs. On the other hand, many measures (public policies) prescribed by policy documents could be of non-regulatory nature, such as budgetary spending, education campaign etc., and would not require to be preceded by RIA.

## CAPACITY BUILDING

A number of RIA capacity building efforts have taken place in Georgia. Most effective RIA initiatives started in 2007, when the Ministry of Economy established a RIA Unit and began to promote RIA in Georgia. Several RIA trainings have been organized since then, including:

- RIA trainings delivered by Scott Jacobs in 2007 and 2012.
- RIA courses delivered by USAID Good Governance in Georgia Project (G3).
- Cost-Benefits Analysis (CBA) courses delivered by ISET Policy Institute. The course lasted for 7 days and covered basics/concepts of CBA. The training was attended by persons with different background, including economists, lawyers and persons with specific public policy background. The subject turned to be very difficult for participants and not all of them were able to receive course completion certificates. Nevertheless, lecturers believed that the introductory course helped participants to understand the concepts that would enable them to formulate more appropriate terms of reference for assistance in carrying out quantified analysis in RIA. Currently ISET lecturers deliver CBA courses to university students, who are potential future civil servants.
- Other RIA related trainings, including in Standard Cost Model, delivered by technical assistance projects.

During the interviews under this assignment, most of the civil servants mentioned they had not attended previous trainings and did not know much about RIA.

In addition to trainings, several pilot RIAs have been drafted in Georgia with donor support, which could serve as examples for civil servants and could be used for trainings and RIA manuals. Most recent examples include:

- RIA on Tax Payment Simplification, drafted in 2014;

- RIA on Construction Code, drafted in 2014;
- RIA on Georgian Law on Securities Market, drafted in 2014.

Civil servants mentioned that for significant legal proposals they usually established working groups, inviting implementing agencies and rarely private sector stakeholders to participate. Usually, the working groups generate important evidence, which unfortunately is considered just in drafting normative acts and is not properly analyzed and included in any impact assessment report, not even into the explanatory note. This is a waste of an important resource which could contribute to RIA.

## BEST INTERNATIONAL PRACTICES

### PRINCIPLES OF BETTER REGULATION

The ultimate mission of the government is to produce good public policies, which effectively deliver social goods but at the same time are business friendly and less costly for citizens. In ensuring that, countries and international organizations developed definitions and principles which public policies need to embrace. If followed, principles are supposed to ensure better or smarter regulation.

For the EU Commission "Better Regulation means designing EU policies and laws so that they achieve their objectives at minimum cost. Better Regulation is not about regulating or deregulating. It is a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders."

The Commission has one of the most advanced set of better regulation principles, which are presented in Table 1 below.

Table 1: Principles of Better Regulation according to EU Commission Better Regulation Guidelines 2015.

<b>Better Regulations should be:</b>	
Embedded in the planning and policy cycle	Be well-planned and timely. All the preparatory and analytical work, including stakeholder consultations, must be done in time to feed into the policy development process. Lessons from implementation and retrospective evaluations must be taken into account as part of the "evaluate first" approach to policy development. Possible implementation challenges should always be considered in impact assessments and future monitoring needs should also be sketched out.
Of high quality	Be of the highest quality. The basis of any stakeholder consultation should be clear, concise and include all necessary information to facilitate responses. The Commission's impact assessments, fitness checks and evaluations should conform to the requirements of the relevant guidelines as judged by the independent Regulatory Scrutiny Board.
Evidence-based	Be based on the best available evidence including scientific advice, or a transparent explanation of why some evidence is not available and why it is still considered appropriate to act.
Participatory/Open to stakeholders' views	Ensure wide participation throughout the policy cycle. Every effort should be made to ensure that the Commission has sought and considered a wide and balanced range of views and that all relevant parties have had the opportunity to express their opinions. Open web-based public consultations should be mandatory elements of any consultation strategy associated with and evaluation or impact assessment. Stakeholders must be given sufficient time to respond (12 weeks for consultation) or prepare responses (4 working weeks for meetings).
Respect for subsidiarity and proportionality	Explain how these two principles are respected. EU action must be relevant and necessary, offer value beyond what Member State action alone can deliver and not go further than is necessary to resolve the problem or meet the policy objective.

Comprehensive	Be comprehensive. They must consider relevant economic, social, and environmental impacts of alternative policy solutions. Stakeholders' views must be collected on all key issues.
Coherent/ Conducted collectively	Be coherent across different policy domains; and instruments coherent within policy areas. New initiatives, impact assessments, consultations and evaluations must be prepared collectively by all relevant services in the framework of underservice groups.
Proportionate	Be proportionate to the type of intervention or initiative, the importance of the problem or objective, and the magnitude of the expected or observed impacts.
Transparent	Be clearly visible to the outside world if they are to be understood and credible. Results of evaluations, impact assessments and consultations should be widely disseminated. Stakeholder responses should be acknowledged and consultation results widely disseminated through a single access point. The reasons for disagreeing with dissenting views must be explained.
Unbiased	Be objective and balanced. They should inform political choices with evidence - not the other way around.
Appropriately resourced and organized	Be underpinned by sufficient human and financial resources to enable each evaluation, impact assessment or consultation to deliver a timely high quality result. Directorates should establish centers of expertise (or functions) to support "Better Regulation activities throughout the policy cycle.

Numerous countries defined their own principles of better regulation, which relate to best international practices. An example of better regulation principles adopted at national level is presented in the box below.

### Box 1: Scottish principles of better regulation

**On the web site of Scottish Government the following principles of better regulation are defined<sup>3</sup>**

**Consistency** - rules and standards must be joined up and implemented fairly.

- Regulators should be consistent with each other, and work together in a joined-up way.
- New regulations should take account of other existing or proposed regulations, whether of domestic, EU or international origin.
- Regulation should be predictable in order to give reasonable stability and certainty to those being regulated.
- Enforcement agencies should (work together to) apply regulations consistently across the country.

**Transparency** - be open and keep regulations (and how they are implemented) simple and user-friendly.

- Policy objectives, including the need for regulation, should be clearly defined and effectively communicated to all interested parties.
- Effective consultation must take place before proposals are developed, to ensure that stakeholders' views and expertise are taken into account.
- Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultations.

<sup>3</sup> <http://www.gov.scot/Topics/Business-Industry/support/better-regulation/5principlesofBetterRegulation>

- Regulations should be clear and simple.
- Those being regulated should be made aware of their obligations, with law and best practice clearly distinguished.
- Those being regulated should be given the time and support to comply. It may be helpful to supply examples of methods of compliance.
- The consequences of non-compliance should be made clear.

**Accountability** - be able to justify decisions and be subject to public scrutiny.

- Proposals should be published and all those affected consulted before decisions are taken.
- Explain how and why final decisions have been reached.
- Regulators and enforcers should establish clear standards and criteria against which they can be judged.
- There should be well-publicized, accessible, fair and effective complaints and appeals procedures, underpinned by clear lines of accountability to Ministers, Parliaments and assemblies, and the public.

**Proportionality** - only intervene when necessary. Remedies should be appropriate to the risk posed and costs identified and minimized.

- Policy solutions must be proportionate to the perceived problem or risk and justify the compliance costs imposed – don't use a sledgehammer to crack a nut.
- All the options for achieving policy objectives must be considered – not just prescriptive regulation. Alternatives may be more effective and cheaper to apply.
- “Think small first”. Regulation can have a disproportionate impact on small businesses, which account for most Scottish businesses.
- EC Directives should be transposed without gold plating<sup>4</sup>.
- Enforcement regimes should be proportionate to the risk posed; and regulators should consider an empowering and educational, rather than a punitive approach where possible.

**Targeting** - regulation should be focused on the problem and minimize side effects.

- Regulations should focus on the problem and avoid a scattergun approach.
- Where appropriate, regulators should adopt an outcomes approach, with enforcers and those being regulated given flexibility in deciding how to meet clear, unambiguous targets.
- Guidance and support should be adapted to the needs of different groups.
- Regulators should focus primarily on those whose activities give rise to the most serious risks.
- Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.

## RIA AND ITS ELEMENTS

RIA is a process of evidence-based policy making, which helps in complying with better regulation principles and designing better regulations. The OECD and EU Commission RIA definitions and guidelines serve as references in defining RIA at the national level. Examples of RIA definitions are provided below:

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<sup>4</sup> “Gold plating” is a term used to describe the process where a basic EU directive is given extra strength when being incorporated into UK law

- According to EC Impact Assessment Guidelines (2009):

Impact assessment is a set of logical steps to be followed when you prepare policy proposals. It is a process that prepares evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impacts. The results of this process are summarized and presented in the Impact Assessment report.

- OECD Definition:<sup>5</sup>

RIA is a process of systematically identifying and assessing the expected effects of regulatory proposals, using a consistent analytical method, such as benefit/cost analysis. RIA is a comparative process: it is based on determining the underlying regulatory objectives sought and identifying all the policy interventions that are capable of achieving them. These “feasible alternatives” must all be assessed, using the same method, to inform decision-makers about the effectiveness and efficiency of different options and enable the most effective and efficient options to be systematically chosen.

RIA process is about answering a set of questions. These questions are quite similar in most RIA methodologies/guidelines. EU Commission defines questions in the following way:

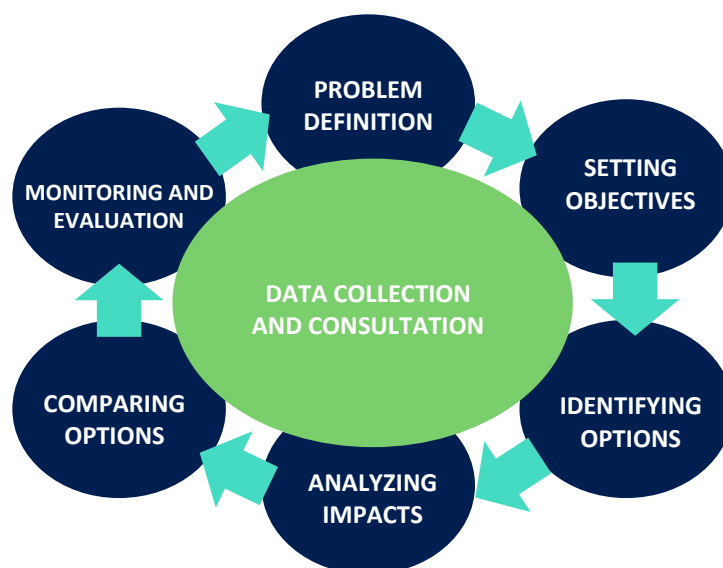
- What is the problem and why is it a problem?
- Why should the EU act?
- What should be achieved?
- What are the various options to achieve the objectives?
- What are their economic, social and environmental impacts and who will be affected?
- How do the different options compare in terms of their effectiveness and efficiency (benefits and costs)?
- How will monitoring and subsequent retrospective evaluation be organized?

The above questions are turned into basic RIA elements, which are presented in the chart below as a process. It starts with problem definition, based on which the objectives can be defined. Options are identified to reach the objectives and solve the problem. Impacts of each of the selected option is assessed and based on that the options are compared and the most appropriate one is recommended. RIA has to describe monitoring and evaluation arrangements, which need to be followed when implementing the normative act. When the normative act comes into effect, based on monitoring and evaluation, its effectiveness and efficiency is assessed and, if needed, corrections are introduced. It also provides valuable evidence for carrying out other RIAs and drafting other normative acts. Captured in the core of RIA process are data collection and consultation, which is a major crosscutting element.

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<sup>5</sup> Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA), OECD, October 2008

Chart 5: RIA Elements



Each of the RIA elements is detailed into a set of requirements, which could be also called quality check criteria. If clearly formulated, these could guide effectively both RIA drafters and its reviewers/scrutinizers, such as RIA Unit experts and stakeholders. The EU Commission RIA Guidelines serve as an example of good practice for many countries in defining requirements for each RIA element. The EU RIA Guidelines (2009) prescribe the following requirements for RIA:

### ***Problem Definition***

A good definition of the problem and a clear understanding of what causes it are preconditions for setting objectives and identifying options to address the problem. A good problem definition should:

- Describe the nature of problem in clear terms and support the description with clear evidence,
- Set out clearly the scale of the problem,
- Set out clearly who is most affected by it,
- Identify clearly the drivers or underlying causes of the problem,
- Describe how the problem has developed over time and how existing policies at Community or Member State level affect it,
- Identify a clear baseline, i.e. describe how the problem is likely to develop in the future without new EU action,
- Identify clearly assumptions made, risks and uncertainty involved.

### ***Policy Objectives***

All RIAs must have clear objectives which are directly related to solving the problems which have been identified.

Only clearly defined objectives will make the level of ambition visible, show that the proposal respects the principles of subsidiarity and proportionality, help ensure coherence of Commission policies, and allow for identification and comparison of options for action and their likely impacts.

Without clear objectives, it is impossible to evaluate the extent to which the action has generated its intended effects.



Defining objectives may be an iterative process: the objectives are refined in the course of the IA work. The definition should:

- Set out objectives that are clearly linked to the problem and its root causes, respect the subsidiarity and proportionality principles, and correspond to Treaty objectives and Commission priorities and strategies (such as the Lisbon and Sustainable Development Strategies or the EU Chart of Fundamental Rights);
- Set out general objectives and translate them into specific and, where appropriate, operational objectives, thus setting a hierarchy of objectives.
- Express the objectives in SMART terms (Specific, Measurable, Achievable, Realistic, Time-dependent).

### ***Identification of Options***

- Options must be clearly related to the objectives and must be proportionate.
- Start by considering a wide but credible range of options.
- Avoid presenting only the status quo option, the 'extreme' option and the preferred option or presenting complementary actions only.
- The set of options should include:
  - the 'no policy change' baseline scenario,
  - 'no EU action' (e.g. discontinuing existing EU action),
  - where legislation already exists, improved implementation/ enforcement, perhaps with additional guidance,
  - self- and co-regulation,
  - international standards where these exist.
- Narrow down the options by screening them for technical and other constraints, and by assessing them against criteria of effectiveness, efficiency and coherence with other overarching EU policy objectives.
- Explain clearly the reasons for excluding certain options from further analysis.
- Analyze the remaining options in depth.
- Where relevant, distinguish options at two levels:
  - options for the content of the intervention.
  - options for the type of intervention – Regulation, Directive, Recommendation, Communication, self-regulation, co-regulation.

### ***Analysis of Impacts***

- Identify direct and indirect environmental, economic and social impacts and how they occur,
- Identify who is affected by these impacts (including those outside the EU) and in what way,
- Identify whether there are specific impacts that should be examined (fundamental rights, SMEs, consumers, competition, international, national, regional),
- Assess the impacts in qualitative, quantitative and monetary terms or explain in the IA why quantification is not possible or proportionate,
- Consider the risks and uncertainties in the policy choices, including expected compliance patterns.

### ***Comparison of Options***

- Use the following criteria for the comparison of options, and explain how they have been applied:
  - Effectiveness of the option in relation to the objectives,
  - Efficiency of the option in achieving the objectives,
- Compare the options against the baseline scenario.
- Present a summary overview of all positive and negative economic.

### ***Monitoring and Evaluation Arrangements***

- Identify core progress indicators for the key objectives of the possible intervention. Provide a broad outline of possible monitoring and evaluation arrangements. Ensure that evaluations are designed and timed in a way that the results can be used as input for future impact assessments.

### ***Data Gathering and Consultation***

- Good quality data – facts as well as figures – are an essential part of any IA;
- You need them to define the problem and the baseline scenario, and to identify the impacts of alternative options for dealing with the problem;
- Particular attention needs to be paid to quality and credibility of data;
- Consulting interested parties is an obligation for every RIA and it must follow the Commission's minimum standards. You should:
  - Plan your consultations early,
  - Ensure that you engage all affected stakeholders, using the most appropriate timing, format and tools to reach them,
  - Ensure that stakeholders can comment on a clear problem definition, subsidiarity analysis, description of the possible options and their impacts,
  - Maintain contact with stakeholders throughout the process and provide feedback,
  - Analyze stakeholders' contributions for the decision-making process and report fully in the RIA report on how the input was used.

When properly applied, Regulatory Impact Assessment offers important advantages, and namely:

- Facilitates better-informed decision making throughout the legislative process;
- Ensures early co-ordination of consultation with relevant stakeholders;
- Takes into account input from a wide range of external stakeholders, in line with the policy of transparency and openness towards other institutions and civil society;
- Helps to ensure coherence of policies and consistency with other government objectives;
- Improves the quality of regulatory proposals by providing transparency on the benefits and costs of different policy alternatives;
- Helps to achieve government objectives by keeping intervention as simple and effective as possible to improve compliance with regulation;
- Encourages consideration of enforcement of regulation to assist effective implementation.

## RIA MANDATE AND INSTITUTIONAL FRAMEWORK

International experience suggests that the Government should be committed to apply and use RIA. Most of the countries with effective RIA system have mandated it through the laws and/or government decrees. Often, the requirement to carry out RIA and its definition are included into the law on normative acts. Provisions related to the content of RIA and its process are often approved by a government decree.

RIA is part of the policy making process providing evidence for decision makers. Therefore, in countries with effective RIA implementation the authors of normative acts are responsible for carrying out RIA and drafting RIA reports. In some countries RIA Units or RIA clerks are appointed within the institutions responsible for carrying out RIA. These units/individuals help the regulatory units with drafting and scrutinizing RIAs.

Strong oversight and scrutiny body is crucial in implementing an effective and sustainable RIA system. Depending on drivers of RIA implementation, such as regulatory reform and the EU harmonization agenda, and the national context, countries around the world applied different models of oversight.<sup>6</sup> In some countries this role is played by line ministries, primarily by the Ministry of Justice, Ministry of Economy, and Ministry of Finance.<sup>7</sup> However, ministries usually do not have proper powers over other ministries to effectively enforce RIA. Moreover, they get into conflict of interest when they have to scrutinize RIAs produced by them. Therefore, a better solution would be to assign this role to a unit within the center of government, which is usually responsible for quality check of draft regulations.

In some countries expert bodies were established composed of independent individuals to deal with scrutiny of RIA reports. Such examples are available in the UK, Czech Republic and Moldova. The expert bodies could consist of a group of full-time experts having academic or other professional background. In Moldova there are six experts involved in the unit called RIA Secretary, each being responsible for certain regulatory sectors and regulators. They are permanently in touch with supervised institutions, providing assistance and advice in drafting RIA and regulations and checking compliance of RIA reports with the provisions outlines by the RIA Methodology and the extent to which the provisions of draft regulations are assessed in RIA and comply with the principles of better regulation.

## CRITERIA FOR IDENTIFYING REGULATIONS SUBJECT TO RIA AND PROPORTIONALITY PRINCIPLE

RIA is an effort and time consuming exercise and therefore should be applied to the normative acts featuring most significant potential impacts. International experience varies considerably in determining which acts should be subject to RIA.

In some countries there is a quantitative threshold, so that the normative acts with potential impacts on citizens and business above certain amount require RIA. Examples of such amounts are: 10 million TL in Turkey, 10 billion won in Korea, US\$100 million in the US, \$50 million in Canada. This approach is usually applied when fully quantified and detailed RIAs are required. Nevertheless, almost all normative acts are accompanied by explanatory notes covering certain aspects of RIA, such as purpose pursued by the regulation and the problem addressed.

Some countries chose to apply RIA to laws only, as such have more powers to regulate and therefore are potentially riskier in terms of impacts. Such countries as Poland, Slovakia and Estonia have applied this approach at different stages of RIA implementation. Later on, some countries extended the scope of RIA to include secondary legislation as well, since some of those regulations have

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<sup>6</sup> Oversight mechanism for regulatory impact assessment: comparative study of five CEE countries, Katarína Staroňová, Comenius University, Institute of Public Policy, 2015

<sup>7</sup> Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers, OECD, 2008

proved to be burdensome for citizens and businesses. Moreover, having the focus on laws only might constitute an incentive for regulators to move some of regulatory burden to secondary legislation, thus avoiding RIA.

In other countries the regulatory reform agenda was the driver for RIA implementation. Therefore, RIA was established for normative acts with potential impact on businesses. Later on, some countries realized that to improve the overall outcome of public policy a broader spectrum of normative acts needed to be covered. Those would be acts with potential impact on the environment, economy and society as a whole.

Implementation of RIA was not easy in any country. Monitoring and evaluation reports signal deficiencies and identify significant rooms for improvement. In Lithuania, basic impact assessment was carried out usually for all draft proposals that were submitted to the Government, except for draft proposals with editorial and technical amendments. During 2004–2010, 1428 basic and 10 extended impact assessments were carried out on the average each year.<sup>8</sup> However, recent assessments of RIAs allow concluding that most of the RIAs were of poor quality, drafted on a couple of pages and containing insufficient evidence. In Moldova, on the average, about 90 RIAs were carried out annually during 2008–2014 for draft normative acts with potential impacts on businesses.<sup>9</sup> Currently a World Bank project concluded that the leakage (percentage of draft proposal that escaped RIA) is rather high and better enforcement is needed. In the UK, one of the most advanced countries in terms of RIA, 490 RIAs were carried out on the average each year during 2010-2014.<sup>10</sup> Between 2007 and 2014, the European Commission produced over 700 impact assessments (around 86 per year).<sup>11</sup> However, it is worthwhile mentioning that certain provisions relevant for RIA were included in the explanatory notes accompanying draft normative acts and were uncovered by the above statistics.

It is not easy to compare the performance of different countries in the implementation of RIA. This is because most of the evaluation reports assess just one country. The methods and criteria used to assess the countries are not consistent and are usually superficial, such as checking for quantification of impacts in RIA reports rather than thinking about proportionality and added value of the assessed analysis. The reports that assess and compare several countries are usually based on other reports with single country analysis or apply more superficial criteria for assessment.

Best international practices suggest that RIA methodology should be lighter/softer, especially at the beginning of RIA implementation, allowing for flexibility and matching available resources.<sup>12</sup> Moreover, RIA should be targeted to normative acts with most significant potential impacts. The EU Commission RIA Guidelines is among the best international practices, stating that: "impact assessments are prepared for Commission initiatives expected to have significant economic, social or environmental impacts. The benchmark criterion of "significant impacts" applies both to the macro- and the micro-level. This implies that RIA is not only required for proposals expected to have far-reaching impacts on the economy or society as a whole, but also for initiatives likely to have a significant impact on a particular sector, societal group or geographical area."<sup>13</sup> The EU Commission is preparing 3-4 page roadmaps for its initiatives, which include a statement on whether RIA is necessary. Out of 133 roadmaps currently placed for consultation on the EU Commission web site, 93 (70%) are accompanied by the statement stipulating that the Impact Assessment is not necessary, providing the argument in support of such.

Based on experience of implementing RIA, Ireland, in its 2009 edition of RIA guidelines replaced two types of RIA (screening and full RIA) with just one RIA applied proportionately. It is applied for all draft laws, except for the Finance Bill, emergency, security and some criminal legislation. To ensure

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<sup>8</sup> The Lithuanian Government's Policy of Regulatory Impact Assessment, „Management and Business Administration. Central Europe”, Jaroslav Dvorak, 2015

<sup>9</sup> Based on author's interview with representatives of the Ministry of Economy from Moldova

<sup>10</sup> <http://www.legislation.gov.uk/ukia>

<sup>11</sup> [http://ec.europa.eu/smart-regulation/impact/key\\_docs/docs/iab\\_stats\\_2014\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/key_docs/docs/iab_stats_2014_en.pdf)

<sup>12</sup> Making It Work: 'RIA Light' for Developing Countries, World Bank Group, 2010; Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA), OECD, October 2008

<sup>13</sup> [http://ec.europa.eu/smart-regulation/guidelines/tool\\_5\\_en.htm](http://ec.europa.eu/smart-regulation/guidelines/tool_5_en.htm)

proportionality, secondary legislation is subject to RIA only when its potential impacts could be significant. It is up to authors of regulations to decide which secondary legislation should be considered significant. However, the Government is supervising the process and might intervene to decide whether RIA is necessary. This is also done at the stage when secondary legislation is planned or prescribed by a bill.

The best practices of other countries are quite similar, the authors of regulations having to issue a statement providing the reason for not conducting RIA, based on self-assessment of significance of potential impacts, which is made public and accompany the draft regulation. Public consultations serve as an important filter to check the validity of that statement. The next stage is the quality check by RIA Unit or Government, which might intervene if there are grounds to believe that the issue is rather important and requires more thorough thinking (RIA).

If carrying out RIA the proportionality principle should be applied, meaning that analysis should be carried out to the extent it is sufficient to see whether the proposed intervention is justified and what the unintended consequences would be. The principle of proportionality relates to both thoroughness of RIA, in general, and each RIA element, in particular, such as data collection and consultation of stakeholders; problem definition; setting objectives; identification of options; analysis of impacts and monitoring and evaluation actions.

Presented below are some examples of criteria for estimating the required level of analysis appearing in RIA guidelines prepared by other countries:

- According to the EU Impact Assessment Guidelines, while defining the adequate level of analysis, the following questions should be answered:
  - How significant are the possible impacts of the proposed options?
  - How important is the proposed initiative from the political point of view?
- According to the British RIA Guidelines, the key factors for determining the level of analysis are:
  - The level of interest and sensitivity towards the proposed initiative.
  - How new, disputable, and irreversible the proposal is.
  - The policy development stage.
  - The size, duration, and distribution of potential impacts.
  - The uncertainty degree of potential impacts.
  - Data already available and resources required for additional data collection.
  - The time available for policy development.
- According to Bulgarian RIA Guidelines, to determine the depth of the analysis in the impact assessment one should give answers to the following basic questions:
  - What are the possible consequences and what is the likeliness for their occurrence;
  - What is the significance of the likely impacts and what is their scope;
  - How important in terms of public interest is the initiative.

According to the OECD, “RIA’s most important contribution to the quality of decisions is not the precision of the calculations used, but the action of analyzing – questioning, understanding real-world impacts and exploring assumptions”.<sup>14</sup>

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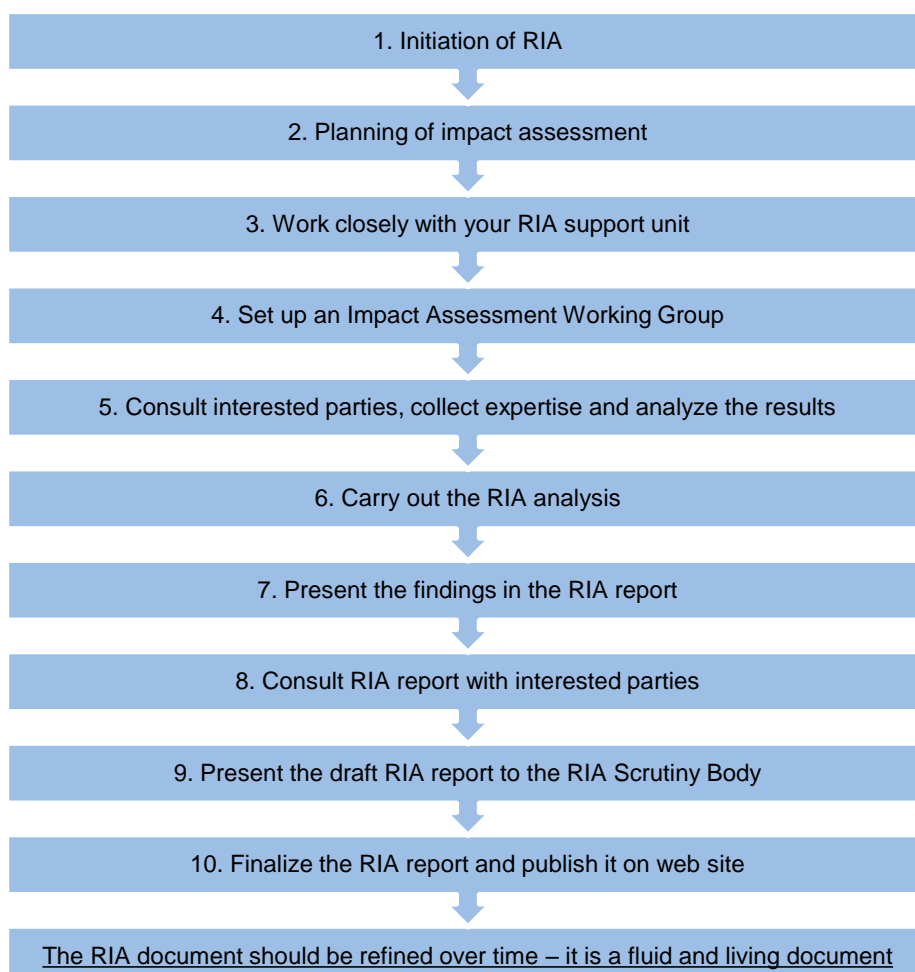
<sup>14</sup> Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance. OECD (2002), p 47

Proportionality is an important principles applied in Light/Soft RIA. Similarly to the decision on whether RIA is necessary, as disused above, the extent to which RIA is done is decided by the authors first. Secondly, the public consultation should indicate whether there are any concerns or important missing issues to be explored. Finally, the Government should be satisfied with the evidence presented in the report.

## RIA STEPS AND PROCEDURE

Most important RIA steps, suggested by international best practices (EU, OECD and advanced countries) are presented in the chart below.

Chart 6: RIA Steps/Process



The steps are described in the following way:

1. The process starts with initiation of RIA, which is usually based on a social problem that requires solutions. RIA is supposed to explore the problem and answer two basic questions: whether state intervention is necessary and what is the best option to intervene. The process could also be initiated following prescriptions in legal acts, policy papers or international commitments, such as EU harmonization agenda. For the like cases the focus of RIA would be on choosing the best solution rather than exploring the need to intervene.
2. RIA is time and effort consuming exercise, involving evidence gathering and consultation. Therefore, it is a good practice to plan the process and necessary resources for carrying out RIA

elements, including problem definition, setting objectives, identification of options, analysis of impacts and comparison of options.

3. RIA units or colleagues experienced in RIA from institutions initiating RIA can help better plan resources and guide on significant RIA issues. RIA people are usually linked to other similar expert in networks and can draw on even wider experience from outside institutions.
4. RIA usually requires a set of different skill, including knowledge of regulated sector, legal analysis and economic appraisal skills. Thus, setting a working group can help with having necessary skills at hand during the whole process of carrying out analysis.
5. Consultation is a key part of RIA process. It ensures transparency, gives more credibility to the expected outcomes and contributes to better compliance with potential future public policies drafted based on RIA. Additionally, it helps with gathering evidence and making assumptions. Consultation is a mandatory step. It has to be done properly, i.e. the purpose of consultation has to be clear to those consulted, all major stakeholders need to be involved in consultation, enough time has to be allowed for those consulted to respond and its results have to be presented and commented in RIA report. Consultation starts at the early stages of RIA and continues throughout its duration.
6. The actual RIA is being carried out by each RIA element, according to RIA plan and in cooperation with RIA working group members and consultation with stakeholders. The sequence of RIA elements should be followed, starting with problem definition and continuing with setting objectives, identification of options, analysis of their impacts and options comparison. However, RIA is an iterative process, meaning that once the evidence is gathered at any step, it might be necessary to get back to any of the previous steps to redefine the required element.
7. The findings and results of RIA are presented in a report, which is structured according to RIA elements and provides information on those consulted and sources of evidence used. The Report has to be objective and clear for all stakeholders.
8. RIA report is being disseminated for consultation to stakeholders. At this stage RIA findings and recommendations are tested and validated. Consultation is also supposed to help understanding whether some of the important potential impacts were omitted and whether the analysis is sufficient (proportionate) given the importance of issues assessed and significance of the potential impacts. RIA is an ex-ante analysis, meaning it is being carried out before deciding on intervention. However, normative acts could be drafted and disseminated for consultation together with RIA report.
9. Once all of the consultations are completed, RIA is submitted for scrutiny to the central RIA Unit, which is usually located in the center of government and is also responsible for scrutiny of normative acts. RIA Unit assesses the quality of analysis by RIA elements and the extent to which RIA process was followed, primarily the consultation with stakeholders. If the consultation was done properly, then the opinion shared by stakeholders is valuable as part of RIA scrutiny as it highlights the identified deficiency or shows major concerns with regard to recommended intervention. RIA unit shall state its opinion on the quality of RIA, which could be positive, or partially positive, recommending improvements, or could be negative, meaning that RIA has to be significantly reconsidered.
10. Finally, RIA reports need to be published. It helps to increase the transparency of policy making and accountability for consequences generated by the policies implemented. RIA report could help in monitoring and evaluation of public policies by their authors and stakeholders. Finally, RIA report could serve as an example in drafting other RIAs.

## CAPACITY BUILDING

The international good practices suggest that capacity building is crucial for proper implementation of RIA. Capacity building should include at least the following measures:<sup>15</sup>

- RIA Guidelines/Manuals. Basic RIA requirements, including RIA elements and quality check criteria are usually prescribed in laws or Government Decrees. However, in order to be effective, they need to be explained in greater details, supported by methods and assisted by examples explained in guidelines or manual, which is usually not mandatory, allowing for flexibility in applying different approaches and methods.
- RIA Trainings. All civil servants supposed to carry out RIA and scrutinize it need to be trained based on RIA guidelines/manual. Given the high number of people to be trained and turnover of civil servants, the RIA trainings need to be institutionalized and delivered on a permanent basis.
- Communication. RIA is most effective when the major stakeholders participate in the process and are being consulted. They could bring their contribution by providing precious evidence and anticipate unintended negative impacts. This is achieved by raising awareness about the advantage of RIA and ensuring a proper consultation process.

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<sup>15</sup> Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers, OECD, 2008



## 5. RECOMMENDATIONS

This section provides recommendations related to the implementation of RIA framework in Georgia, including the Institutional Framework, RIA Methodology, RIA Process (Steps) and Capacity Building Measures. The recommendations are based on explored international best practices and assessed context of Georgia, as described in the previous sections.

### RIA INSTITUTIONAL FRAMEWORK

Given the Georgian context and based on the international good practices, the following roles are recommended for involved institutions:

Authors of regulatory impact assessments. The central public administration bodies responsible for drafting normative acts will be also responsible for carrying out RIA and drafting RIA reports for those acts. This is because RIA is part of the policy making process helping in deciding whether the government intervention is necessary and which type of intervention is most desirable/appropriate.

The policy making institutions would be responsible for:

- Planning RIAs;
- Carrying out RIAs;
- Drafting RIA reports;
- Consulting RIA reports and drafting tables of opinions;
- Drafting normative acts;
- Drafting explanatory notes.

In carrying out RIA, the authors can outsource the preparation of some RIA parts to other organizations, however, the ultimate responsibility for the quality of RIA remains with the authors.

In case of draft laws initiated in the Parliament, those who intend to propose the drafts which are subject to RIA would be responsible to prepare a RIA report. In the Parliament the right of legal initiative belongs to MPs, committees and factions. The authors of RIA would seek assistance from the Parliamentary staff in carrying out RIA, however, the ultimate responsibility for the content of RIA remains with the authors of the draft law.

Policy Analysis Units within regulatory institutions. These units could provide assistance to the civil servants responsible for carrying out RIAs. Being in the position to coordinate and develop policy documents (strategies and other planning documents), these units could help with understanding the context of the regulated sector, gather evidence and develop better problem definition and objectives for RIA. Such units shall have the following responsibilities within their respective institution:

- Promote and monitor implementation of RIA;
- Coordinate planning of RIA exercises;
- Provide methodological support to regulatory units in carrying out RIA (helping with problem definition, setting objectives, identification of options, analysis of impacts, consultation). In providing assistance to different regulatory units, the Policy Analysis Unit will gradually gain valuable experience in a variety of areas, building skills for innovative solutions and getting to know skills of RIA drafters within their institution, which would enable them to recommend involving these people into specific RIA issues/components. The Policy Analysis Unit would also gather experience from other institutions, setting fruitful cooperation for exchanging information and good practices. It could also recommend RIA documents which can assist with examples of applying analytical tools.
- Scrutinize RIA documents before they are submitted to stakeholders for consultation.
- Participate in networking and knowledge sharing activities with other institutions involved in carrying out RIAs.

Other potential support units within the policy making institution. There are other units within the policymaking institutions which can help with RIA. Currently, the Economic Units are involved in assessing the costs of policies for the public budget. These estimates could be also used for RIA. Moreover, having an economic background, the staff of these units could help with understanding the mathematics behind the impacts and assessing the regulatory costs to be incurred by citizens and businesses. Legal Units could help with understanding the current regulatory framework and the range of possible regulatory options. Thus, overlapping and conflicting regulatory provisions could be curtailed. These units do not need to be officially assigned for such support, but it could well be suggested to cooperate with them.

Agencies and other implementing institutions. According to line ministries, their subordinated agencies and other similar policy implementing institutions are very helpful in drafting new policies, as they have firsthand experience in implementing and monitoring the public policies. They often provide expertise to be used in designing the policy interventions. For instance, the Ministry of Agriculture relies heavily on the experts from the National Food Agency when drafting food safety regulations. Obviously, in carrying out RIA these institutions would be even a more valuable source of evidence and expertise, helping with problem definition, setting objectives, identification of options and assessment of impacts. Cooperation with the implementing institutions should be suggested to RIA authors.

Other policy making institutions. Ministries would have an important role to play in reviewing RIA document to find out whether the impacts related to their sectors were sufficiently identified and assessed and whether RIA failed to assess any important unintended potential effects. This should be feasible given the current involvement of these institutions in reviewing the draft regulations. These institutions do not need to be officially assigned to take the role in checking for specific impacts, as they are anyway in charge of their sectors and are doing it when consulted about draft normative acts. The structure and content of RIA helps in this sense by facilitating understanding of potential effects of the proposed regulation.

Institutions involved in enforcement of RIA. According to the Law on Normative Acts, it is mandatory to seek for the Ministry of Finance, Ministry of Justice, Ministry of Economy and Sustainable Development and Ministry of Internal Affairs consent on the draft laws in the e-flow regulatory system. The same applies for draft Government Decrees, except for the consent of the Ministry of Internal Affairs. These ministries would check whether the draft regulation is accompanied by the appropriate RIA document, table of opinions, opinion stated by any of the important independent stakeholders and whether it took into account the major concerns expressed during the consultation process.

For other draft secondary legislation, the Ministry of Justice is performing quality check and issues an opinion, without which the draft regulation cannot become effective. When the scope of RIA will be expanded to secondary legislation, the Ministry of Justice could check whether the regulation is accompanied by a RIA report, and whether it was published for consultation as prescribed by law.

In the Parliament, the Legal and Budgetary Units, Parliamentary Bureau and Committees review draft laws and explanatory notes, having the power to refuse issuing opinions and, thus, banning the draft law promotion. These units could check whether proper RIA was prepared and consulted for the drafts which are subject to RIA.

RIA Scrutiny/Quality Control Unit. Scrutiny of RIA quality is a technical task of checking whether RIA is compliant with the RIA methodology provisions, which include the following key components:

- Problem definition,
- Setting objectives,
- Identification of options,
- Analysis of impacts,
- Comparison of options,
- Consultation,
- Monitoring and evaluation.

It is combined with scrutiny of draft regulations, when those are submitted together with RIA reports and checked for consistency with RIA. The best international practices suggest RIA unit to be a key

institution in effective RIA system implementation. It recommends having the RIA Unit within the center of government. Fortunately, in Georgia, this role is planned to be assigned to the Parliamentary Secretary, which is currently responsible for the scrutiny of normative acts and explanatory notes. It is recommended for RIA Unit to cooperate with Policy Analysis Unit of GoG's Administration in refining the methodology and exploring public policy priorities in determining initiatives (potential normative acts) which need to be subject to RIA. The RIA Unit would also provide advice and methodological support to drafters of RIA.

Additionally, it is recommended to assign the Parliamentary Secretary the role of determining, in consultation with stakeholders, which draft normative acts should be preceded by RIA. For draft laws, this could be done at the stage of legislative plan, when based on selection criteria and capacity of ministries, the Parliamentary Secretary could select the list of issues/drafts to be preceded by RIA. Likewise, for initiatives of drafting normative acts by ministries, which were not included into the initial plan, the Secretary could decide whether RIA is needed.

In case of draft laws initiated by MPs in Parliament, it is recommended to assign the role of RIA Unit to an appropriate existing unit, such as the Parliamentary Budget Unit or to establish a separate dedicated unit for this purpose.

Stakeholders. The stakeholders of policies and RIA, in addition to public sector institutions, are business associations, individual businesses, think-tanks, and civil society in general. They shall participate in the RIA process during consultation at different RIA stages and when RIA reports and draft regulations are published for consultation and discussed at different forums. The stakeholders are supposed to provide valuable evidence for RIA and ideas for more efficient state interventions.

Independent Expert Group. Optionally, in partnership with the public and private sectors and with donor support, an independent expert group could be established vested with the responsibility to scrutinize RIA reports and issue independent opinion about their quality. The expert group should maintain permanent contact with the private sector and, therefore, be effective in determining potential drawbacks or unintended consequences in RIA reports. This could help significantly the Parliamentary Secretary in carrying out their official oversight role of RIA quality. The experience of independent groups has been gained in the UK, Czech Republic and Moldova, where they contributed considerably to the implementation of sustainable RIA systems.

It is recommended to explore the opportunity of establishing such an expert group under the Secretary of recently created Investors Council, which is an important high level public-private dialogue platform.

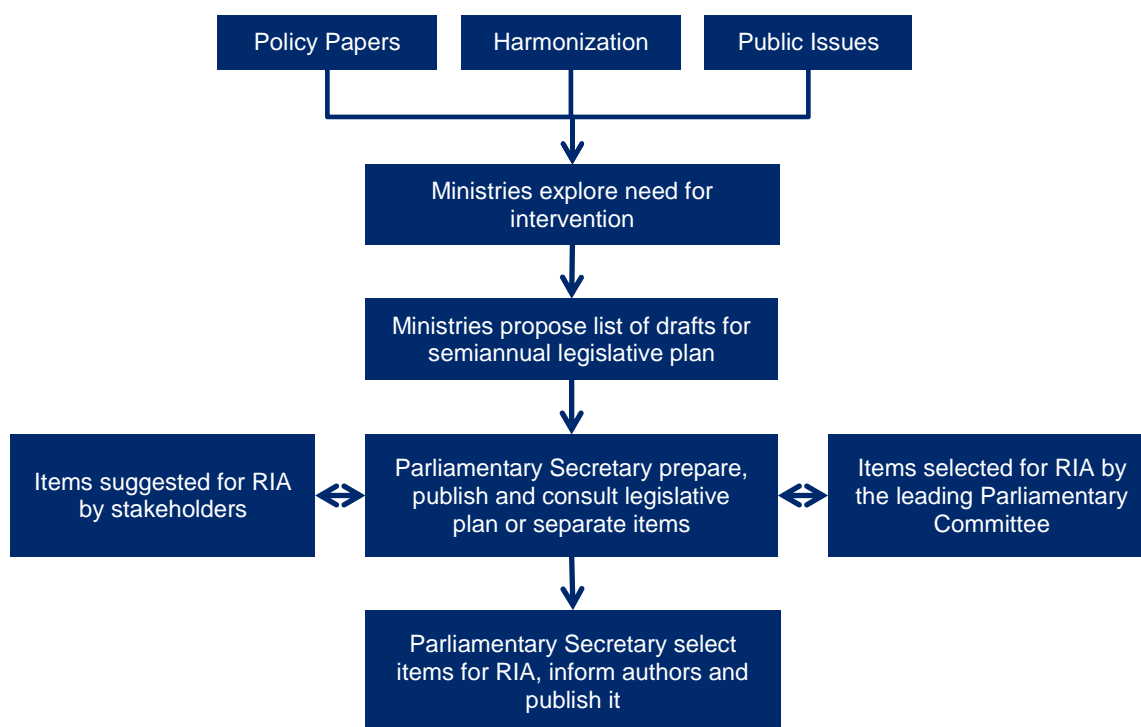
## SCOPE OF RIA

Laws, Government Decrees and other normative acts of central public administration authorities could potentially produce a significant impact on the state budget, environment, societal groups or businesses. RIA is a resource intense exercise and, therefore, it is important to ensure its better targeting, i.e. focusing primarily on the issues featuring the highest potential impacts. Based on the international best practices, it is recommended to introduce the following criterion of significance to be applied in determining whether RIA is necessary: "Whether the initiative/proposal is likely to have significant economic, social and environmental impacts in general and/or on population or businesses in a particular sector, societal group or geographical region?".

Given the high flow of draft normative acts in Georgia and current limited capacity and resources, in discussions with stakeholders and the Parliamentary Secretary, it was concluded that the most reasonable solution for Georgia would be to implement RIA in two stages. The first stage would cover the draft laws with potentially significant impacts and would last for two years. It would include significant capacity building measures described in a separate section of this report. Besides, the donors are willing to support the Government in carrying out proper RIAs. It is worthwhile mentioning that the proportionality approach will be embedded into RIA methodology to allow for matching the analytical effort with human, financial and time resources available for policymaking.

The charts below recommend the procedures for selecting the legal initiatives to be subject to RIA

Chart 6. Procedures for selecting the Government legal initiatives to be subject to RIA



1. The ministries, based on public issues or actions prescribed by policy papers, existing regulations or harmonization agenda, explore the potential need for new legislation or amendments to the existing laws.

2. The ministries compile the list of draft laws and amendments to the existing laws to be drafted during the next half of the year and submit it to the Parliamentary Secretary. During the year, the ministries could identify additional items which were not included into the legislative plan initially. The titles of additional items and the arguments behind them are submitted to the Parliamentary Secretary for consideration. Currently the letter proposing the inclusion of draft laws into the legislative plan provides the title of the law to be amended or drafted, the reason for drafting the law and the expected budgetary implications. This list could be extended to include a statement made by the ministry, based on their knowledge and preliminary consultation with stakeholders, if any, on “whether the initiative/proposal is likely to have significant economic, social and environmental impacts in general and/or on population or businesses in a particular sector, societal group or geographical region”. This statement could help the Parliamentary Secretary select the items for RIA.

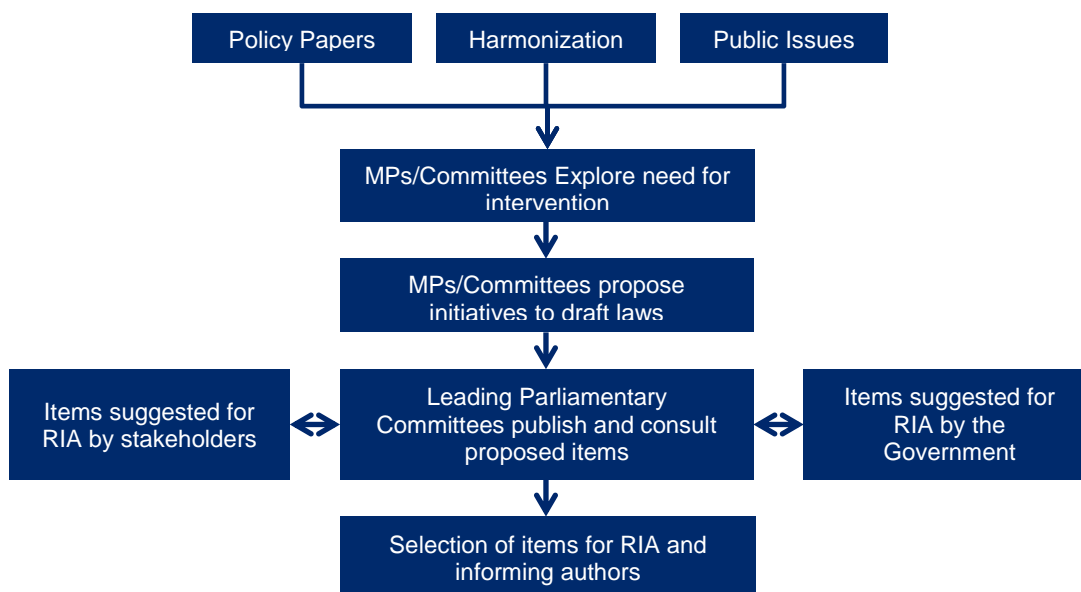
3. The Parliamentary Secretary compiles the semiannual legislative plan based on the proposals from all ministries. The semiannual legislative plan would be published on Matsne<sup>16</sup> for 2 weeks. At the same time the plan would be sent to major stakeholders and to the leading Parliamentary Committee for consultation. The additional items, which were not included initially into the legislative plan, are consulted similarly to the legislative plan. The Parliamentary Committee and stakeholders would choose the items they consider with potentially significant impact and which need to be preceded by RIA.

4. The Parliamentary Secretary shall prepare the final list of items from the legislative plan to be preceded by RIA, which should include the selection made by the leading Parliamentary Committee and may include items suggested by stakeholders. The final list of items subject to RIA is sent to the authors of items and to the Parliamentary Committee and is published on Matsne. The additional

<sup>16</sup> Official gazette of Georgia.

items which were not included initially into the legislative plan would be included into the plan and a new updated version of it would be published.

*Chart 7. Procedures for selecting the legal initiatives initiated in the Parliament to be subject to RIA*



1. The MPs or Committees, based on public issues or actions prescribed by policy papers, existing regulations or harmonization agenda, explore the potential need for new legislation or amendments to the existing laws.

2. The MPs submit the tentative title of proposed draft law or amendments to the existing laws to the leading Parliamentary Committee. The letter of submission would include, besides the title of the proposed draft law, the reason for proposing the draft. It would be beneficial to include into the letter a statement made by the authors, based on their knowledge and consultation with stakeholders, if any, on “whether the initiative/proposal is likely to have significant economic, social and environmental impacts in general and/or on population or businesses in a particular sector, societal group or geographical region”. In case when a Committee acts as an initiator of legal drafting, it prepares the letter mentioned above.

3. The leading Parliamentary Committee publishes the proposed initiative for two weeks on Matsne and consults it with stakeholders and the Government (Parliamentary Secretary).

4. The Parliamentary Committee shall decide whether RIA is necessary for the proposed initiative, including based on opinion of the Government Parliamentary Secretary and stakeholders. The decision is sent to the authors of the initiative and is published on Matsne.

The results of the first stage (first two years of RIA implementation when only draft laws with potentially significant impacts will be subject to RIA) will be assessed to identify any needs for improvement in the RIA system, conclude whether sufficient capacity for RIA was created and explore the opportunity to expand the scope of RIA to cover the secondary legislation with potentially significant impacts as well during the second stage of RIA implementation.

There are about 500/600 Government Decrees drafted annually. Although most of them are potentially insignificant, many could have sensible impacts on citizens and businesses. The current legislation allows transposition of EU acts through Government Decrees. The share of potentially significant issues here is expected to be lower than in case of laws. Additionally, the Government Decrees usually come to implement laws and, therefore, are mandated with much less powers to regulate compared to the laws. It is recommended, for the second stage of RIA implementation, to apply the criteria of significance in case of Government Decrees. The significance would be first of all determined by the authors of normative acts, presumably in consultation with stakeholders and RIA Unit. In order to reduce discretion, it would be recommended to include a statement in the explanatory

note explaining why RIA is not necessary based on criteria about significance of impacts and publish the draft normative acts and explanatory notes for two weeks on Matsne for public review. Awareness campaigns would ensure involvement of stakeholders in reviewing the published draft normative acts, who could signal to the authors and the RIA Unit about any normative act with potentially significant impacts. Based on such response, the authors could decide on their own or be advised by RIA Unit to prepare a proper RIA for the proposed act. If following the consultation process the authors decide to proceed with submitting the draft normative act to the Government without RIA, it has to append the explanatory note to it, which should include the statement of the need for RIA and the consultation results. Proposals coming to the Government without RIA would be reviewed by RIA Unit. The Unit is going to issue an opinion to be considered by the Government when deciding to approve the respective normative act.

In addition to laws and Government Decrees, the workshop participants agreed that sometimes the orders issued by central public administration bodies could be of significant impact. Therefore it would be recommended to explore treating such similarly to government decrees during the second stage of RIA implementation. However, the procedure should be different. Instead of submitting those drafts to the Government, these should be sent out to the Ministry of Justice for review and opinion. The Ministry of Justice should check whether the draft normative act is accompanied by proper explanatory note, the statement on the need for RIA and whether the documents have been posted during two weeks for public consultation.

A helpful addition to the above procedures would be an independent review by an expert group of the normative act and explanatory note. If such a group is established, as explained in the section on institutional framework, it would be important to make it mandatory for the authors of normative acts to attach the opinion of such independent expert group to the draft normative act.

## **RIA METHODOLOGY**

This section is providing recommendations on contents of RIA methodology, to be adopted by a Government Decree. RIA Methodology needs to include the following sections:

- Definition of RIA;
- Better Regulation Principles;
- Principles of Good RIA;
- RIA Elements;
- Policymaking Process for Normative Acts and RIA.

Recommended content of each of these sections is presented below.

### **DEFINITION OF RIA**

The following definition of RIA is recommended for RIA Methodology in Georgia:

Regulatory Impact assessment is a set of logical steps to be followed before and during preparation of normative acts. It is a process that prepares evidence on the advantages and disadvantages of possible regulatory and non-regulatory options by assessing their potential impacts. RIA should be carried out at an early stage in the development of a regulatory proposal and revised as evidence is collected and considered. The results of this process are summarized and presented in the RIA report.

### **BETTER REGULATION PRINCIPLES**

It is recommended to include the following principles of better regulation in RIA Methodology:

## **Consistency**

New normative acts or amendments to normative acts should take account of other existing or proposed normative acts, making sure that inconsistencies among normative acts will be avoided. Normative acts should build on experience of implementing previous and existing normative acts and apply best practices from that experience. They should be predictable, resulting from policy documents and expected intentions, in order to give reasonable stability and certainty to those being regulated.

## **Transparency**

Effective consultation must take place before and during development of proposals, to ensure that stakeholders' views and expertise are taken into account. Stakeholders should be given sufficient time and information to respond to consultations of draft normative act. Normative acts should be clear and simple. Those being regulated should be given the time and support to comply. The consequences of non-compliance should be made clear.

## **Accountability**

It should be clear in normative acts who is responsible to whom and for what in implementing it. Normative acts should be subject to clear and effective appeals process.

## **Proportionality**

Normative acts must be proportionate to the perceived problem or risk and justify the compliance costs imposed. Alternatives to prescriptive regulation should be considered in achieving policy objectives, as those could be more effective and cheaper to apply. Take into consideration that normative acts can have a disproportionate impact on small businesses. EU and international legislation should be transposed without exceeding their strength and, to the extent possible, least interventionist and costly solutions to transpose them should be considered. Enforcement regimes should be proportionate to the risk posed; and regulators should consider an empowering and educational, rather than a punitive approach where possible.

## **Targeting**

Regulations should focus on the problem and minimize side effects. Where appropriate, regulators should adopt an outcomes approach, with enforcers and those being regulated given flexibility in deciding how to meet clear, unambiguous targets. Regulators should focus primarily on those whose activities give rise to the most serious risks. Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.

## **Resource allocation**

In drafting normative acts, sufficient time, human and financial resources should be provided to enable carrying out consultation and proper drafting of normative act.

## **PRINCIPLES OF GOOD RIA**

It is recommended to include in RIA Methodology the following principles for carrying out good RIA:

### **Embedded in the planning and policy cycle**

RIA needs to be well-planned and timely. RIA and stakeholder consultations must be done in time to feed into the normative act development process. Lessons from implementation and retrospective evaluations must be taken into account.



### **Evidence-based**

RIA need to be based on the best available evidence including scientific advice, or explanation of why some evidence is not available and why it is still considered appropriate to act, based on clear assumptions.

### **Participatory**

Every effort should be made to ensure that a wide and balanced range of views was considered and that all relevant parties have had the opportunity to express their opinions. Stakeholders must be given sufficient time to respond.

### **Proportionate**

RIA should be detailed to the extent when it answers clearly major concerns of stakeholders and is sufficient to inform decision. Most of RIAs do not require full quantification of impacts. The more significant the impacts are likely to be, the deeper the analysis should be, involving greater efforts for data collection, stakeholder consultation and quantification of impacts.

### **Transparent**

Results of RIA and consultations should be included in RIA reports and widely disseminated. Stakeholder responses should be acknowledged. The reasons for disagreeing with dissenting views must be explained.

### **Unbiased**

RIA should be objective and based on a balanced range of stakeholders views and interests.

### **Appropriately resourced**

RIA should be underpinned by sufficient human and financial resources to enable proper and timely analysis and consultation.

## **RIA ELEMENTS**

This section recommends a set of RIA elements and quality check criteria based on good international practices and, in particular, European Commission Impact Assessment Guidelines and OECD Recommendations. These criteria serve the purpose of facilitating analysis and drafting of RIA report for policy makers, and facilitating participation to consultation and scrutiny or RIA by Central RIA Scrutiny Body, business community and other stakeholders. In definition of criteria the proportionality principles is applied, which allows for developing light RIA. The following RIA quality criteria are recommended for RIA Methodology in Georgia:

### **Problem Definition**

- Describe the nature of the problem/problems, those affected and justify the proposed intervention to change existing or future situation, based on clear evidence and explained assumptions, indicating their sources. Problem definition is also important in cases when intervention is prescribed by need to harmonize with EU or other international legislation and other normative acts or policy papers. In such cases, problem definition helps in understanding the benefits from implementation of intervention.
- Describe clearly the causes of problem/problems. Causes shall not be defined as lack of intervention/regulation or need to intervene/regulate.



- Describe the existing policy documents and regulations, including those that were recently adopted or will be soon adopted, related to the problem and proposed regulation, including any identified deficiencies related to existing regulations. Describe how they affected the problem.
- Describe how the problem evolved and will evolve without proposed intervention. This is going to be part of the “do nothing option” or “baseline scenario”.

When carrying out problem definition and completing the above sections, to the extent possible the magnitude and scale of the problem/problems shall be quantified. If quantification is not possible, the reason for that shall be properly explained. The principle of proportionality shall be applied, which means that issues with less significant impacts could require less quantification.

### **Setting Objectives**

- Set main objectives of proposed state intervention/regulation related to the problem/problems and its/their causes. Objectives shall not be set as need for intervention/regulation.

To the extent possible, objectives shall be quantified, measurable and time-bound. The principle of proportionality shall be applied, which means that issues of less significant impacts could require less measurable and time-bound objectives.

### **Identification of Options**

- Describe the “do nothing” option (“baseline scenario”), which is about the situation without proposed state intervention/regulation. If sufficiently described in Problem Definition section, provide reference to it. “Do nothing” option is also important in cases when intervention is prescribed by need to harmonize with EU or other international legislation and other normative acts or policy papers, as it helps to assess impacts of interventions/regulations against “baseline scenario”.
- Describe the main provisions of proposed intervention/regulation, clearly related to the objectives and causes of the problem, which could change the “baseline scenario” and therefore solve the problem to some extent. Explain how compliance with proposed intervention will be assured. Proposed regulation need to comply with principles of better regulation, which are described in this Methodology.
- Describe main realistic alternative options, clearly related to the objectives and causes of the problem, which could change the “baseline scenario” and therefore solve the problem to some extent, including non-regulatory alternatives (information and education measures, self- or co-regulation, market-based solutions, and their mix); option of improving implementation and enforcement of existing legislation; simplifying existing legislation; other less interventionist measures. More information on most often used alternatives to regulation are included into the Methodology presented in the Annex. Identification of alternative options is also important in cases when intervention is prescribed by the need to harmonize with EU or other international legislation and other normative acts or policy papers, as it could be identified that the provisions that prescribe it became inappropriate, impossible to implement or there could be different implementation options in case of EU legislation.

Based on principle of proportionality, in case of proposing interventions with potentially higher impacts, at least three options are assessed, including “do nothing option”, proposed regulation and one alternative option to proposed regulation. If non-regulatory alternatives are not included, the reason for that shall be clearly explained.

### **Analysis of Impacts**

- Main potential negative and positive impacts (costs and benefits) shall be described for each option separately, including economic, social and environmental ones, which shall be proved by evidence or based on explained assumptions, and shall represent changes from “baseline scenario” (“do nothing option”). Those who would be specifically affected by each impact shall be described (e.g. businesses, citizens, workers, consumers, public institutions, regions). The

guiding questions to help with identification of potential impacts are included into the Methodology presented in the Annex. To the extent possible impacts shall be quantified. If not quantified, impacts shall be described and assessed in other terms to the extent when they allow comparison of options.

- Analyze separately, if necessary, specific impacts and disproportionate impacts on vulnerable groups (impacts over the fundamental rights of people, impacts on SME, competition, regions etc.). Mention if the proposed intervention/regulation includes measures to reduce such impacts.
- Analyze separately if new administrative costs will be introduced for citizens and businesses by the proposed intervention/regulation or if existing administrative costs will be increased and if measures to reduce such costs will be included. Standard Cost Model analytical method can help with administrative costs assessment.

Impacts shall be quantified to the extent possible. The proportionality principle shall be applied, which means that less significant impacts could require less quantitative consideration. If impacts are not assessed in quantitative terms, the reason for that shall be clearly explained and they shall have some qualitative assessment.

### **Comparison of Options**

- Present the list of quantified and/or qualitatively assessed economic, social and environmental benefits and costs for analyzed options in a tabular form. An option is recommended based on comparison among options. The comparison is done in terms of effectiveness (the extent to which options would achieve policy objectives) and efficiency (comparison of benefits and costs). For recommended option explain how benefits justify the costs and whether costs would be at the lowest possible level. Analytical methods, such as Cost-Benefit Analysis, Cost-Effectiveness Analysis and Multi-criteria Analysis can help with comparison of options.

The proportionality principle shall be applied, which means that less important issues/impacts could be compared in less quantitative way. If impacts are compared in less quantitative terms, the reason for that shall be explained.

### **Monitoring and Evaluation**

- Describe how monitoring and evaluation of proposed intervention/regulation will be arranged. This should include indicators and data collection aspects.

The proportionality principle shall be applied, which means that less important issues could require less description of monitoring and evaluation.

### **Consultation and Data Gathering**

- Provide the list of relevant ministries, state agencies and institutions that were consulted. Describe how and when they were consulted.
- Provide the list of relevant business associations, think-tanks and other non-governmental organizations that were consulted. Describe how and when they were consulted.
- Describe other public consultation events and measures, including organization of workshops, round tables, conferences, placing documents on internet for public consultation etc.
- Provide the summary of consultation feedback and to what extent it was taken into account in improving RIA report and proposed regulation. If consultation feedback is not presented, explain why.
- Provide sources of evidence used in analysis.
- Provide information on when the RIA report was published for public consultation.

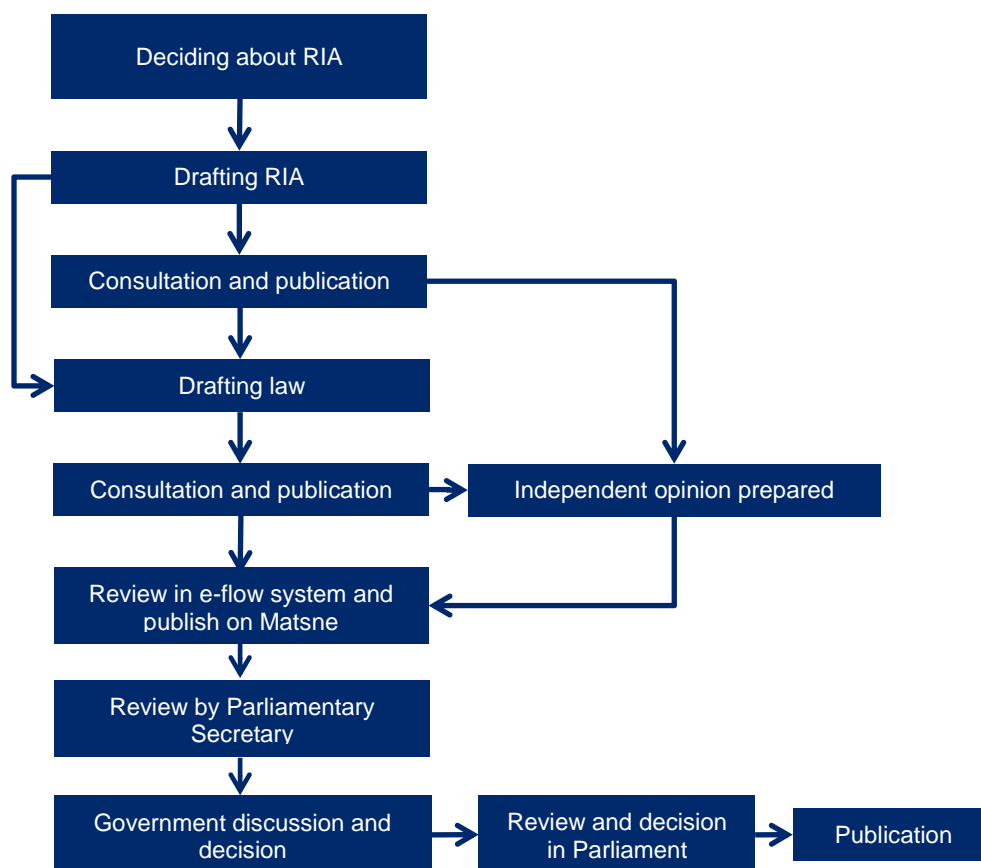
The proportionality principle shall be applied, which means that less important issues require less consultation and fewer sources of evidence.

## RIA STEPS AND PROCEDURES

This section is recommending RIA steps and procedures for legal initiatives prepared by the Government and Parliament.

Legal initiatives which are not subject to RIA, accompanied by explanatory notes, are recommended to be published on Matsne for public consultation for two weeks before being sent to decision makers for approval.

*Chart 8: RIA Steps and Procedures for laws initiated by the Government*



1. The ministry decides to carry out RIA based on the list of items from the legislative plan selected for RIA by the Parliamentary Secretary. However, in case when the ministry considers that certain items, which were not selected for RIA, could have potentially significant impact, it can decide to carry out RIA for those.

2. The ministry proceeds with carrying out RIA. The effort and resources dedicated to RIA need to be proportionate to the significance of the issue explored and the potential impacts. RIA is based on sufficient evidence, carried out in consultation with the major stakeholders and prepared before or in parallel with drafting the law. Good practice suggests setting up working groups and preparing a plan for carrying out RIA. The results of analysis are included into the RIA report. The ministry might decide to publicly consult the RIA report separately or together with the draft law. Usually, for issues with potentially significant impacts RIA reports are consulted separately from the draft laws. Consultation helps to cover the evidence gaps, better design the law and, therefore, avoid wasting time and resources with redrafting the law. However, the ministry could decide to draft the law and its

explanatory note to be consulted together with the RIA report. If the draft law is also drafted at this stage, the ministry shall proceed to step 5.

3. If RIA was drafted separately, it should be published for three weeks on Matsne. At the same time, the ministry has to conduct consultations with stakeholders to discuss the quality of RIA and its conclusions. The ministry could submit the RIA report to the Parliamentary Secretary for consultation to anticipate any negative opinion before drafting the normative act. When receiving opinions from important stakeholder organizations, such as the Investors Council, the ministry should attach it to the RIA report. Following the consultations, the ministry could decide that drafting the law is not necessary and stop the process at this stage. If it has been decided to proceed with drafting the law, the RIA report should be revised to respond to the consultation results or just to include them.

4. If RIA was consulted separately, then the ministry could draft the law and the respective explanatory note.

5. The draft law, explanatory note and RIA report shall be published for three weeks on Matsne. At the same time, the ministry has to conduct consultation with stakeholders to discuss the quality of RIA and its conclusions and the quality of the draft law. Upon receipt of opinion from important stakeholder organizations, such as the Investors Council, the ministry should attach it to the RIA report. Following the consultations, the ministry could decide not to proceed with promoting the draft law and stop the process at this stage. If it has been decided to proceed with the promotion of the draft law, it should be revised, together with the explanatory note and RIA report, if considered necessary based on the consultation results, or left unchanged. The opinions of the major stakeholders are included into the table of opinions, which is attached to the draft law.

6. The draft law is uploaded for review by ministers in the normative acts e-flow system, accompanied by the explanatory note, RIA report, table of opinions and independent opinion of the important stakeholder organizations, if any. Each ministry, according to their area of competence, shall review the draft law and RIA report and conclude, based on their best knowledge and available evidence, whether the RIA report is satisfactory and the proposed normative act is justified. Ministries shall provide their opinion with regard to that judgment. If the opinion stipulates that RIA is not satisfactory, then the ministries should give a negative vote for the proposed draft law. Once the law, explanatory note, RIA report, table of opinions and opinions of the important stakeholder organizations, if any, are uploaded into the e-flow system of normative documents, these should be published on the same day on Matsne. Making the version of documents public at this stage enables the stakeholders to learn about whether their views were taken into consideration.

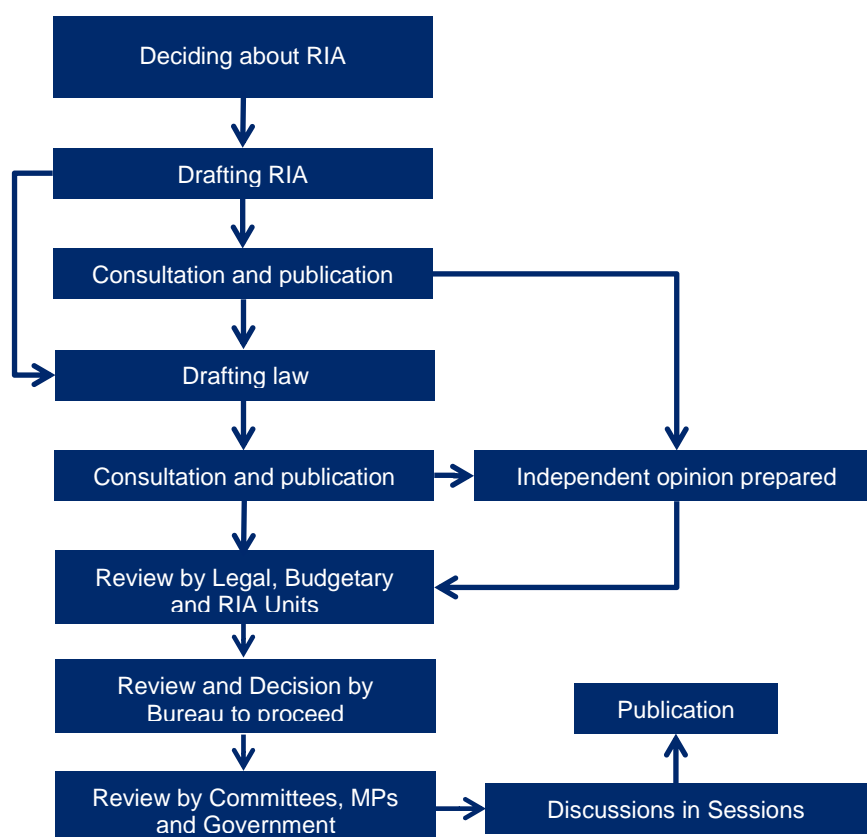
7. Once the opinion of ministries with regards to the RIA report and the draft law were provided, the Parliamentary Secretary shall review the documents for two weeks and issue an opinion about the quality of RIA. It could be prescribed in the legislation that in case of a negative opinion from the Parliamentary Secretary, the draft law and RIA are returned to the authors for improvement.

8. The draft law, accompanied by explanatory note, RIA report, table of opinions, opinions from the important stakeholder organizations, opinions of ministries and opinion from the Parliamentary Secretary shall be reviewed, discussed and voted by the Government.

9. If voted and approved by the Government, the draft law is submitted to the Parliament, accompanied by the explanatory note, RIA report, table of opinions, opinions from important stakeholder organizations. The documents are passed through review process established by the Parliament and, if accepted, the draft law is adopted.

10. If the draft law is adopted by the Parliament, it should be published on Matsne, accompanied by the explanatory note, RIA report, table of opinions, opinions from the important stakeholder organizations.

*Chart 9: RIA Steps and Procedures for laws initiated by the Parliament*



1. The decision on the need for RIA is made by the leading Parliamentary Committee when consulted by MPs on the intention to initiate drafting a law or amendments to existing laws. However, in case when MPs consider their initiative of potentially significant impact, they can decide to carry out RIA regardless of the Committees opinion. The Committees have the right of legal initiative as well. In cases when the legal draft is initiated by them, they have the right to decide on whether RIA is necessary or not.

2. MPs or Committees (depending on who is the initiator and responsible for the legal draft) proceed with carrying out RIA. If necessary, they could ask for assistance from the Parliamentary staff, including the Committees' advisors, the Research Unit and Legal and Budgetary Units. The effort and resources dedicated to RIA need to be proportionate to the significance of the issue explored and potential impacts. RIA is based on sufficient evidence, carried out in consultation with the major stakeholders and prepared before or in parallel with drafting the law. The good practice suggests setting up working groups and preparing a plan for carrying out RIA. The results of analysis are included into the RIA report. The MPs or Committees might decide to publicly consult the RIA report separately or together with the draft law. Usually, for issues with potentially significant impacts RIA reports are consulted separately from draft laws. Consultation helps to cover the evidence gaps, better design the law and, therefore, avoid wasting time and resources with redrafting the law. However, the MPs or Committees could decide to draft the law and its explanatory note to be consulted together with the RIA report. If the draft law is also drafted at this stage, the MPs or Committees shall proceed to step 5.

3. If RIA was drafted separately, it should be published for three weeks on Matsne. At the same time, the MPs or Committees have to conduct consultation with stakeholders to discuss the quality of RIA and its conclusions. The MPs or Committees could submit the RIA report to the Parliamentary Committees and the Parliamentary RIA Unit (if established) for consultation to anticipate any negative opinion before drafting the normative act. When receiving opinions from the important stakeholder organizations, such as the Investors Council, the MPs or Committees should attach it to the RIA report. Following the consultations, the MPs or Committees could decide that drafting the law is not

necessary and stop the process at this stage. If it has been decided to proceed with drafting the law, the RIA report should be revised to respond to the consultation results or just to include them.

4. If RIA was consulted separately, then the MPs or Committees could draft the law and the explanatory note.
5. The draft law, explanatory note, and RIA report shall be published for three weeks on Matsne. At the same time, the MPs or Committees have to conduct consultation with stakeholders to discuss the quality of RIA and its conclusions and the quality of the draft law. Upon receipt of opinion from the important stakeholder organizations, such as the Investors Council, it should be attached to the RIA report. Following the consultations, the MPs or Committees could decide not to proceed with promoting the draft law and stop the process at this stage. If it has been decided to proceed with the promotion of the draft law, it should be revised, together with the explanatory note and RIA report, if considered necessary based on the consultation results, or left unchanged. The opinions of major stakeholders are included into the table of opinions, which is attached to the draft law.
6. The RIA report, draft law, explanatory note and table of opinions should be submitted to the Parliamentary Legal, Budgetary and RIA Units (if established) for review. Those Units would review the quality of the draft law, explanatory note and RIA and whether these were published for three weeks on Matsne and issue their opinion within two weeks. If the opinion is negative, the MPs or Committees cannot proceed with sending the draft law to the Parliamentary Bureau.
7. The Parliamentary Bureau shall review the draft law, explanatory note, RIA report, the opinions of Legal, Budgetary and RIA Units and decide on proposing the draft law in the Parliamentary sessions for discussion.
8. Once accepted for discussion in the Parliamentary sessions, the draft law, explanatory note, RIA report and table of opinions shall be submitted to the Parliamentary Committees, MPs and the Government for three weeks for consultation. The Parliamentary Secretary in the Government shall review RIA, draft regulation, explanatory note and table of opinions and issue its opinion within two weeks.
9. The draft law, explanatory note and RIA report are discussed and voted during the Parliamentary sessions.
10. Once adopted, the law, explanatory note, RIA report and table of opinions shall be published on Matsne.

## MANDATE OF RIA

The implementation of the recommendations provided in the previous sections requires some amendments to be operated to the current legislation. The list of amendments is provided below.

***Include the following definition of RIA into the Law on Normative Acts, Regulation of the Parliament and Regulation of the Government:***

“Regulatory Impact assessment is a set of logical steps to be followed before and during preparation of normative acts. It is a process that prepares evidence on the advantages and disadvantages of possible regulatory and non-regulatory options by assessing their potential impacts. RIA should be carried out at an early stage in the development of a regulatory proposal and revised as evidence is collected and considered. The results of this process are summarized and presented in the RIA report.”

***Include the following provisions into the Law on Normative Acts, Regulation of the Parliament and Regulation of the Government, as appropriate:***

- RIA report is prepared by the authors of the draft normative act.
- RIA should be carried out for initiatives which are likely to have significant economic, social and environmental impacts in general and/or on population or businesses in a particular sector, societal group or geographical region”.

- The legislative plan should be published on Matsne for two weeks and sent to major stakeholders and the leading Parliamentary Committee for consultation to receive their opinion on the need to conduct RIA.
- The additional initiatives to draft laws, which were not included initially into the legislative plan, should be published on Matsne for two weeks and sent to major stakeholders and the leading Parliamentary Committee for consultation to receive their opinion on the need to conduct RIA.
- The initiatives of MPs or Parliamentary Committees to draft laws should be published on Matsne and sent to major stakeholders and the GoG's Parliamentary Secretary for consultation to receive their opinion on the need to conduct RIA.
- The decision on the need for RIA for initiatives to draft laws prepared by MPs is made by the Parliamentary Committees.
- The decision on the need for RIA for initiatives of the Government to draft laws are made by the Government's Parliamentary Secretary, but must include the decision of the leading Parliamentary Committees.
- The list of initiatives to draft laws which should be preceded by RIA should be published on Matsne.
- The authors of draft legal acts could decide to carry out RIA for cases when such decision was not made by the leading Parliamentary Committees and the Government's Parliamentary Secretary.
- Public administration bodies have to develop tables of opinions to present the summary of consultations.
- RIA report taken separately or accompanied by the draft normative act, must be published on Matsne for three weeks for public consultation.
- If RIA report was published on Matsne as a separate document, when the draft regulation is prepared it has to be published for public consultation for three weeks in Matsne accompanied by RIA report.
- For draft laws uploaded into the normative document e-flow system, which are accompanied by RIA report, the ministers should review the RIA report and if considered unsatisfactory should give a negative vote for the proposed normative act.
- Before being discussed by the Government, the Parliamentary Secretary should issue an opinion within two weeks about the RIA report and draft normative act.
- Legal, Budgetary and RIA Units within the Parliament shall review RIA reports prepared for draft laws and issue their opinion within two weeks.
- Laws, once adopted, shall be published on Matsne accompanied by an explanatory note, RIA, table of opinions and independent opinion of important stakeholder organizations, if any.

***Introduce the content of RIA into the Law on Normative Acts. Alternatively, for draft laws initiated by the Government, mention in the Law on Normative Acts that RIA Methodology will be approved by a government decree. The content of RIA is proposed in the section on RIA elements and in the proposed government decree. The proposed content of the Decree is presented in the Appendix.***

## **CAPACITY BUILDING**

### **Planning RIA in cooperation with and assistance from donors and private sector**

It is recommended for the Parliamentary Secretary to develop annual plans of potentially significant government interventions which are supposed to be explored by central public administration bodies. This can be done during the preparation of the legislative plan or annual government action plan. Identification of such issues preferably would be done in a transparent manner, in consultation with stakeholders and donor community. This would enable raising resources both from donors and business associations for carrying out RIAs for the most important issues, which could potentially

result in normative acts with unintended or unjustified consequences for citizens and private sector. At the initial stage of RIA implementation it is recommended to selected issues from a broader range of regulatory sectors, thus producing examples of better RIAs tailored to policy areas and useful as examples for RIA trainings and RIA guidelines/manual.

## **RIA Trainings**

RIA trainings need to be delivered to all civil servants involved in drafting normative acts and those supposed to provide assistance and scrutinize RIA reports. RIA training for technical RIA people would last for about one week. The training materials need to be based on RIA Methodology and RIA Guideline/Manual developed for Georgia. For a better understanding of the course materials and for building participants skills in applying RIA and teaching the course, the training materials need to consist of a combination of theoretical and practical sessions. Theoretical sessions would be structured according to the main elements of RIA: problem definition, setting objectives, identifying options, data gathering and consultation, analysis impacts (including assessment of impacts (benefits and costs): economic, social, environmental, SMEs, gender, budgetary and fiscal), and comparison of options. Each theoretical session would include relevant examples from Georgia and other countries/EU. The practical sessions would be based on case studies drawn from Georgia and other countries. Each theoretical session based on RIA elements would be followed by a practical session on how to develop each RIA element. In this way, the participants would have the chance to experience RIA development step-by-step. By the end of the course it would be helpful to provide participants with a RIA report to be scrutinized by them according to RIA quality check criteria. This would further enhance participants' understanding and skills in developing good quality RIAs.

It is recommended to involve stakeholders in RIA trainings, including representatives of business associations, think-tanks and other civil society organizations. This would enhance the quality of training by simulating real-life interaction between the public and private sector and enhance capacity of stakeholders to participate in consultation and scrutiny of RIAs and normative acts.

Short awareness RIA trainings/seminars, are also recommended for high officials, such as heads of ministry departments. Understanding the importance, substance and process of RIA should help with proper resource and time allocation by decision makers.

Good international practice suggests that general RIA trainings should be followed by more specialized trainings, such as by:

- Regulatory sectors. There could be peculiarities in applying RIA for healthcare, environment and technical regulation. Covering all sectors in a general training is not feasible. Therefore, customized RIA trainings could be developed for particular ministries with relevant examples and case studies from their sector.
- Certain RIA elements might need separate additional in-depth trainings, including analytical methods applied in those elements. This could include methods to define problem, identify options, cost-benefit analysis, cost-effectiveness analysis and standard cost model.

To deal with fluctuation of civil servants and ensure sustainability of RIA course, it is recommended to establish a regular course within an existing academic institution. Potentially, it could be established within the University of Public Administration of Georgia. For this purpose training of trainers RIA course need to be conducted.

## **RIA portal and library**

It is recommended to develop a dedicated portal for RIA, with the following functionalities:

1. Methodology and Training. This component would include general information about RIA and RIA Methodology, RIA Manual as well as useful materials and links from other countries (manuals, research papers etc.). Relevant training materials and information on RIA trainings that are being delivered would be also included. Finally, sub-section on FAQ would be added. A couple of links to useful best practice RIA guidelines is provided below:

- EU Guidelines for Impact Analysis: [http://ec.europa.eu/smart-regulation/impact/index\\_en.htm](http://ec.europa.eu/smart-regulation/impact/index_en.htm);
- Irish RIA Guidelines: [www.taoiseach.gov.ie/.../Revised\\_RIA\\_Guidelines\\_June\\_2009.pdf](http://www.taoiseach.gov.ie/.../Revised_RIA_Guidelines_June_2009.pdf);



- UK Green Book (particularly useful for impact assessment and quantification): [http://www.hm-treasury.gov.uk/data\\_greenbook\\_index.htm](http://www.hm-treasury.gov.uk/data_greenbook_index.htm).
2. RIA Library. This component will include a database of all RIAs developed in Georgia, grouped according to the regulatory areas. Additionally, this database would be enriched with examples of RIAs from other countries, including those translated into Georgian. The database could also enable scoring RIAs according to certain quality criteria. The scoring could be carried out both by general users and by RIA experts and would enable searching for better quality RIA examples for regulators. Links to EU and UK RIAs are provided below:
    - The list and texts of RIAs developed by the European Commission: [http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/cia\\_2015\\_en.htm](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2015_en.htm);
    - The list and texts of RIAs developed in the UK: <http://www.legislation.gov.uk/ukia?page=1>.
  3. Useful Database for RIA. This component would include a database of useful studies and researches carried out in Georgia and other countries, grouped by regulatory areas. Additionally, specific statistical data that is not publicly available at the moment would be included into the database. Besides general statistics, usually provided by Statistics Authority, RIA drafters need important detailed evidence on how policies are being applied in the field. This data is usually generated by the implementing agencies. Therefore, it is recommend establishing a section on this portal for primary public data generated by implementing institutions or, alternatively, to provide such functionality on the Statistics Authority web site.
  4. Forum. This component would be used by RIA stakeholders, primarily by authors of RIAs, in sharing best practices, learning from each other and seeking advice and assistance from the private sector, academic community and RIA experts.

### **RIA Manual/Guidelines**

It is necessary to develop a RIA Manual/Guidelines, which shall help with the implementation of RIA Methodology. The Manual would detail the components of RIA Methodology, recommend and demonstrate application of analytical tools and provide examples. Good sources for RIA manual are RIA guidelines of the EU Commission, UK, Ireland, OECD recommendations and manuals from other countries. Pilot RIAs developed in Georgia as well as RIAs from other countries can be used to provide examples of good and bad practices in developing each RIA element (problem definition, setting objectives, identification of options, analysis or impacts, comparison of options, monitoring and evaluation arrangements and data gathering and consultation).

### **Monitoring RIA Implementation**

In order to become effective, the implementation of RIA has to be monitored and evaluated. The following arrangements are recommended:

- Develop and monitor performance indicators, which could be used as incentives to improve compliance with RIA process and content requirements. Few suggested indicators are:
  - Number and share of regulations passed without having RIA;
  - Number and share of regulations passed without having opinion of RIA scrutiny body;
  - Number and share of regulations passed without having a table of opinions;
  - Number and share of regulations passed without being posted for public consultation;
  - Number and share of RIAs that received negative opinion from RIA scrutiny unit and stakeholders;
  - Number and share of normative acts passed with negative opinion of RIA scrutiny unit and stakeholders.
- Produce Annual Evaluation Reports on RIA system and on samples of RIA reports, identifying weaknesses and recommending capacity building activities, improvements to the methodology and RIA institutional framework and process, if necessary.

Good practice examples are evaluation reports of RIA system by the EU Commission ([http://ec.europa.eu/smart-regulation/impact/index\\_en.htm](http://ec.europa.eu/smart-regulation/impact/index_en.htm)) and UK National Audit Office (NAO) (<https://www.nao.org.uk>). NAO is hiring a group of independent RIA experts to carry out evaluation. They select a sample of RIAs and score their quality against key quality criteria.

### **Communication and awareness campaigns**

To be effective, RIA requires participation of all major stakeholders. Therefore, proper communication and awareness campaigns need to be conducted. Such campaigns would explain the importance of RIA, its advantages and urge the stakeholders to participate in consultations of RIA reports, attend RIA trainings and increase public pressure for better RIAs.

## 6. APPENDIX. RECOMMENDED GOVERNMENT DECREE ON APPROVAL OF THE METHODOLOGY FOR REGULATORY IMPACT ASSESSMENT

1. Based on the Law on Normative Acts, the attached “Methodology for Regulatory Impact Assessment” shall be approved.
2. The Methodology was developed based on EU Commission Better Regulation Guidelines and other international best practices, such as OECD recommendations on RIA.
3. Parliamentary Secretary of the Government will:
  - monitor and report annually on the implementation of RIA;
  - review RIA reports prepared by central public administration bodies subordinated to Government and RIA reports prepared by the Parliament and submitted for opinion to the Government, and issue opinion on their quality and compliance with provisions of RIA Methodology;
  - review draft normative acts and issue an opinion on the extent to which those were properly assessed and are consistent with the RIA report;
  - will provide necessary methodological assistance to the ministries and other central administrative authorities, during development of RIA.

### RIA Methodology

#### I. General Provisions

4. Regulatory Impact assessment is a set of logical steps to be followed before and during preparation of normative acts. It is a process that prepares evidence on the advantages and disadvantages of possible regulatory and non-regulatory options by assessing their potential impacts. RIA should be carried out at an early stage in the development of a regulatory proposal and revised as evidence is collected and considered. The results of this process are summarized and presented in the RIA report.
5. RIA is being carried out by the authors of normative acts. In carrying out RIA, the authors can outsource preparation of parts of RIA to other organizations, however, the ultimate responsibility for the quality of RIA remains with the authors.
6. RIA is done for draft laws with potentially significant economic, social and environmental impacts in general and/or on population or businesses in a particular sector, societal group or geographical region.
7. Parliamentary Secretary would select in advance the list of RIAs at the stage of planning potential interventions (legislative plan) in consultation with Parliamentary Commissions and stakeholders.
8. For unplanned draft laws, authors can decide to proceed with RIA based on evidence and/or in consultation with stakeholders.
9. For unplanned draft laws the Parliamentary Commissions and Parliamentary Secretary finally decides on whether RIA is necessary.
10. This Methodology is recommended to be used in case of secondary legislation as well.

#### II. Principles of Better Regulation

Normative acts drafted based on this Methodology need to comply with the following better regulation principles:

## **Consistency**

New normative acts or amendments to normative acts should take account of other existing or proposed normative acts, making sure that inconsistencies among normative acts will be avoided. Normative acts should build on experience of implementing previous and existing normative acts and apply best practices from that experience. They should be predictable, resulting from policy documents and expected intentions, in order to give reasonable stability and certainty to those being regulated.

## **Transparency**

Effective consultation must take place before and during development of proposals, to ensure that stakeholders' views and expertise are taken into account. Stakeholders should be given sufficient time and information to respond to consultations of draft normative act. Normative acts should be clear and simple. Those being regulated should be given the time and support to comply. The consequences of non-compliance should be made clear.

## **Accountability**

It should be clear in normative acts who is responsible to whom and for what in implementing it. Normative acts should be subject to clear and effective appeals process.

## **Proportionality**

Normative acts must be proportionate to the perceived problem or risk and justify the compliance costs imposed. Alternatives to prescriptive regulation should be considered in achieving policy objectives, as those could be more effective and cheaper to apply. Take into consideration that normative acts can have a disproportionate impact on small businesses. EU and international legislation should be transposed without exceeding their strength and, to the extent possible, least interventionist and costly solutions to transpose them should be considered. Enforcement regimes should be proportionate to the risk posed; and regulators should consider an empowering and educational, rather than a punitive approach where possible.

## **Targeting**

Regulations should focus on the problem and minimize side effects. Where appropriate, regulators should adopt an outcomes approach, with enforcers and those being regulated given flexibility in deciding how to meet clear, unambiguous targets. Regulators should focus primarily on those whose activities give rise to the most serious risks. Regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.

## **Resource allocation**

In drafting normative acts, sufficient time, human and financial resources should be provided to enable carrying out consultation and proper drafting of normative act.

## **III. Principles of RIA**

In carrying out RIA the following principles need to be taken into account:

### **Embedded in the planning and policy cycle**

RIA needs to be well-planned and timely. RIA and stakeholder consultations must be done in time to feed into the normative act development process. Lessons from implementation and retrospective evaluations must be taken into account.

### **Evidence-based**

RIA need to be based on the best available evidence including scientific advice, or explanation of why some evidence is not available and why it is still considered appropriate to act, based on clear assumptions.

### **Participatory**

Every effort should be made to ensure that a wide and balanced range of views was considered and that all relevant parties have had the opportunity to express their opinions. Stakeholders must be given sufficient time to respond.

### **Proportionate**

RIA should be detailed to the extent when it answers clearly major concerns of stakeholders and is sufficient to inform decision. Most of RIAs do not require full quantification of impacts. The more significant the impacts are likely to be, the deeper the analysis should be, involving greater efforts for data collection, stakeholder consultation and quantification of impacts.

### **Transparent**

Results of RIA and consultations should be included in RIA reports and widely disseminated. Stakeholder responses should be acknowledged. The reasons for disagreeing with dissenting views must be explained.

### **Unbiased**

RIA should be objective and based on a balanced range of stakeholders views and interests.

### **Appropriately resourced**

RIA should be underpinned by sufficient human and financial resources to enable proper and timely analysis and consultation.

## **IV. RIA elements and report**

RIA report has to be prepared according to the template presented in the Annex 1. If the RIA report is more than 10 pages long, it has to have a summary on maximum 3 pages to include short information on each of the RIA elements. Voluminous technical information could be presented in annexes. Consultation results have to be summarized and attached to the RIA report according to the template presented in Annex 2. RIA report has to include the following sections and information, which is presented in the sequence in which the analysis is usually performed, except for the last section on consultation and data gathering, which is a crosscutting element involved during the entire RIA process:

### **Problem Definition**

- Describe the nature of the problem/problems, those affected and justify the proposed intervention to change existing or future situation, based on clear evidence and explained assumptions, indicating their sources. Problem definition is also important in cases when intervention is prescribed by need to harmonize with EU or other international legislation and other normative acts or policy papers. In such cases, problem definition helps in understanding the benefits from implementation of intervention.
- Describe clearly the causes of problem/problems. Causes shall not be defined as lack of intervention/regulation or need to intervene/regulate.
- Describe the existing policy documents and regulations, including those that were recently adopted or will be soon adopted, related to the problem and proposed regulation, including any identified deficiencies related to existing regulations. Describe how they affected the problem.
- Describe how the problem evolved and will evolve without proposed intervention. This is going to be part of the “do nothing option” or “baseline scenario”.

When carrying out problem definition and completing the above sections, to the extent possible the magnitude and scale of the problem/problems shall be quantified. If quantification is not possible, the reason for that shall be properly explained. The principle of proportionality shall be applied, which means that issues with less significant impacts could require less quantification.

### **Setting Objectives**

- Set main objectives of proposed state intervention/regulation related to the problem/problems and its/their causes. Objectives shall not be set as need for intervention/regulation.

To the extent possible, objectives shall be quantified, measurable and time-bound. The principle of proportionality shall be applied, which means that issues of less significant impacts could require less measurable and time-bound objectives.

### Identification of Options

- Describe the “do nothing” option (“baseline scenario”), which is about the situation without proposed state intervention/regulation. If sufficiently described in Problem Definition section, provide reference to it. “Do nothing” option is also important in cases when intervention is prescribed by need to harmonize with EU or other international legislation and other normative acts or policy papers, as it helps to assess impacts of interventions/regulations against “baseline scenario”.
- Describe the main provisions of proposed intervention/regulation, clearly related to the objectives and causes of the problem, which could change the “baseline scenario” and therefore solve the problem to some extent. Explain how compliance with proposed intervention will be assured. Proposed regulation need to comply with principles of better regulation, which are described in this Methodology.
- Describe main realistic alternative options, clearly related to the objectives and causes of the problem, which could change the “baseline scenario” and therefore solve the problem to some extent, including non-regulatory alternatives (information and education measures, self- or co-regulation, market-based solutions, and their mix); option of improving implementation and enforcement of existing legislation; simplifying existing legislation; other less interventionist measures. More information on most often used alternatives to regulation are presented in Annex 4. Identification of alternative options is also important in cases when intervention is prescribed by the need to harmonize with EU or other international legislation and other normative acts or policy papers, as it could be identified that the provisions that prescribe it became inappropriate, impossible to implement or there could be different implementation options in case of EU legislation.

Based on principle of proportionality, in case of proposing interventions with potentially higher impacts, at least three options are assessed, including “do nothing option”, proposed regulation and one alternative option to proposed regulation. If non-regulatory alternatives are not included, the reason for that shall be clearly explained.

### Analysis of Impacts

- Main potential negative and positive impacts (costs and benefits) shall be described for each option separately, including economic, social and environmental ones, which shall be proved by evidence or based on explained assumptions, and shall represent changes from “baseline scenario” (“do nothing option”). Those who would be specifically affected by each impact shall be described (e.g. businesses, citizens, workers, consumers, public institutions, regions). The guiding questions to help with identification of potential impacts are presented in Annex 3. To the extent possible impacts shall be quantified. If not quantified, impacts shall be described and assessed in other terms to the extent when they allow comparison of options.
- Analyze separately, if necessary, specific impacts and disproportionate impacts on vulnerable groups (impacts over the fundamental rights of people, impacts on SME, competition, regions etc.). Mention if the proposed intervention/regulation includes measures to reduce such impacts.
- Analyze separately if new administrative costs will be introduced for citizens and businesses by the proposed intervention/regulation or if existing administrative costs will be increased and if measures to reduce such costs will be included. Standard Cost Model analytical method can help with administrative costs assessment.

Impacts shall be quantified to the extent possible. The proportionality principle shall be applied, which means that less significant impacts could require less quantitative consideration. If impacts are not assessed in quantitative terms, the reason for that shall be clearly explained and they shall have some qualitative assessment.

## Comparison of Options

- Present the list of quantified and/or qualitatively assessed economic, social and environmental benefits and costs for analyzed options in a tabular form. An option is recommended based on comparison among options. The comparison is done in terms of effectiveness (the extent to which options would achieve policy objectives) and efficiency (comparison of benefits and costs). For recommended option explain how benefits justify the costs and whether costs would be at the lowest possible level. Analytical methods, such as Cost-Benefit Analysis, Cost-Effectiveness Analysis and Multi-criteria Analysis can help with comparison of options.

The proportionality principle shall be applied, which means that less important issues/impacts could be compared in less quantitative way. If impacts are compared in less quantitative terms, the reason for that shall be explained.

## Monitoring and Evaluation

- Describe how monitoring and evaluation of proposed intervention/regulation will be arranged. This should include indicators and data collection aspects.

The proportionality principle shall be applied, which means that less important issues could require less description of monitoring and evaluation.

## Consultation and Data Gathering

- Provide the list of relevant ministries, state agencies and institutions that were consulted. Describe how and when they were consulted.
- Provide the list of relevant business associations, think-tanks and other non-governmental organizations that were consulted. Describe how and when they were consulted.
- Describe other public consultation events and measures, including organization of workshops, round tables, conferences, placing documents on internet for public consultation etc.
- Provide the summary of consultation feedback and to what extent it was taken into account in improving RIA report and proposed regulation. If consultation feedback is not presented, explain why.
- Provide sources of evidence used in analysis.
- Provide information on when the RIA report was published for public consultation.

The proportionality principle shall be applied, which means that less important issues require less consultation and fewer sources of evidence.

## III. RIA Steps

### RIA Steps and Procedures for laws initiated by the Government

1. The ministry decides to carry out RIA based on the list of items from the legislative plan selected for RIA by the Parliamentary Secretary. However, in case when the ministry considers that certain items, which were not selected for RIA, could have potentially significant impact, it can decide to carry out RIA for those.

2. The ministry proceeds with carrying out RIA. The effort and resources dedicated to RIA need to be proportionate to the significance of the issue explored and the potential impacts. RIA is based on sufficient evidence, carried out in consultation with the major stakeholders and prepared before or in parallel with drafting the law. Good practice suggests setting up working groups and preparing a plan for carrying out RIA. The results of analysis are included into the RIA report. The ministry might decide to publicly consult the RIA report separately or together with the draft law. Usually, for issues with potentially significant impacts RIA reports are consulted separately from the draft laws. Consultation helps to cover the evidence gaps, better design the law and therefore avoid wasting time

and resources with redrafting the law. However, the ministry could decide to draft the law and its explanatory note to be consulted together with the RIA report. If the draft law is also drafted at this stage, the ministry shall proceed to step 5.

3. If RIA was drafted separately, it should be published for three weeks on Matsne. At the same time, the ministry has to conduct consultations with stakeholders to discuss the quality of RIA and its conclusions. The ministry could submit the RIA report to the Parliamentary Secretary for consultation to anticipate any negative opinion before drafting the normative act. When receiving opinions from important stakeholder organizations, such as the Investors Council, the ministry should attach it to the RIA report. Following the consultations, the ministry could decide that drafting the law is not necessary and stop the process at this stage. If it has been decided to proceed with drafting the law, the RIA report should be revised to respond to the consultation results or just to include them.

4. If RIA was consulted separately, then the ministry could draft the law and the respective explanatory note.

5. The draft law, explanatory note and RIA report shall be published for three weeks on Matsne. At the same time, the ministry has to conduct consultation with stakeholders to discuss the quality of RIA and its conclusions and the quality of the draft law. Upon receipt of opinion from important stakeholder organizations, such as the Investors Council, the ministry should attach it to the RIA report. Following the consultations, the ministry could decide not to proceed with promoting the draft law and stop the process at this stage. If it has been decided to proceed with the promotion of the draft law, it should be revised, together with the explanatory note and RIA report, if considered necessary based on the consultation results, or left unchanged. The opinions of the major stakeholders are included into the table of opinions, which is attached to the draft law.

6. The draft law is uploaded for review by ministers in the normative acts e-flow system, accompanied by the explanatory note, RIA report, table of opinions and independent opinion of the important stakeholder organizations, if any. Each ministry, according to their area of competence, shall review the draft law and RIA report and conclude, based on their best knowledge and available evidence, whether the RIA report is satisfactory and the proposed normative act is justified. Ministries shall provide their opinion with regard to that judgment. If the opinion stipulates that RIA is not satisfactory, then the ministries should give a negative vote for the proposed draft law. Once the law, explanatory note, RIA report, table of opinions and opinions of the important stakeholder organizations, if any, are uploaded into the e-flow system of normative documents, these should be published on the same day on Matsne. Making the version of documents public at this stage enables stakeholders to learn about whether their views were taken into consideration.

7. Once the opinion of ministries with regards to the RIA report and the draft law were provided, the Parliamentary Secretary shall review the documents for two weeks and issue an opinion about the quality of RIA. It could be prescribed in the legislation that in case of a negative opinion from the Parliamentary Secretary, the draft law and RIA are returned to the authors for improvement.

8. The draft law, accompanied by explanatory note, RIA report, table of opinions, opinions from the important stakeholder organizations, opinions of ministries and opinion from the Parliamentary Secretary shall be reviewed, discussed and voted by the Government.

9. If voted and approved by the Government, the draft law is submitted to the Parliament, accompanied by the explanatory note, RIA report, table of opinions, opinions from important stakeholder organizations. The documents are passed through review process established by the Parliament and, if accepted, the draft law is adopted.

10. If the draft law is adopted by the Parliament, it should be published on Matsne, accompanied by the explanatory note, RIA report, table of opinions, opinions from the important stakeholder organizations.



## Annex 1. RIA Template

Title of RIA and Normative Act or Title of RIA if consulted before normative act	
Date:	
Public Administration Body:	
Responsible person and contact information	
1. Problem Definition	
2. Setting Objectives	
3. Identification of Options	
4. Analysis of Impacts	
5. Comparison of Options	
6. Monitoring and Evaluation	
7. Consultation and Data Gathering	
Annexes	

## Annex 2: Table of Opinions Template

Institution/Stakeholder delivering opinion	Proposal to RIA or draft normative act	Assessment
1.		
2.		
3.		
4.		

## Annex 3: Guiding questions for identification of impacts

The table below presents questions which could help in exploring potential impacts by category of impacts:

Economic impacts	Questions
Operating costs and conduct of business	<ul style="list-style-type: none"> <li>• Will it impose additional adjustment, compliance or transaction costs on businesses?</li> <li>• How does the option affect the cost or availability of essential inputs (raw materials, machinery, labor, energy, etc.)?</li> <li>• Does it affect access to finance?</li> <li>• Does it impact on the investment cycle?</li> <li>• Will it entail the withdrawal of certain products from the market? Is the marketing of products limited or prohibited?</li> <li>• Will it entail stricter regulation of the conduct of a particular business?</li> <li>• Will it lead to new or the closing down of businesses?</li> <li>• Are some products or businesses treated differently from others in a comparable situation?</li> </ul>
Administrative burdens on businesses	<ul style="list-style-type: none"> <li>• Does it affect the nature of information obligations placed on businesses (for example, the type of data required, reporting frequency, the complexity of submission process)?</li> </ul>
Trade and investment flows	<ul style="list-style-type: none"> <li>• How will the option affect exports and imports out of and into the Georgia? Will imported products be treated differently to domestic goods?</li> <li>• How will investment flows be affected and the trade in services?</li> <li>• Will the option give rise to trade, customs or other non-trade barriers?</li> <li>• Will the option affect regulatory convergence with third countries? Have international standards and common regulatory approaches been considered?</li> </ul>
Competitiveness of business	<ul style="list-style-type: none"> <li>• What impact does the option have on the cost of doing business which includes the costs of intermediate inputs (e.g. energy) and production related factors such as labour and capital?</li> <li>• What impact does the option have on business' capacity to innovate i.e. its ability to produce more/higher quality products and services that meet customers' expectations?</li> <li>• What impact does the policy option have on business' market share and comparative advantages in an international context (e.g. imports, exports, investment flows, trade barriers, regulatory convergence, etc.)?</li> </ul>
Position of SMEs	<ul style="list-style-type: none"> <li>• What is the impact of identified additional costs and burdens on the</li> </ul>

	operation and competitiveness of SMEs and micro SMEs in particular?
Functioning of the internal market and competition	<ul style="list-style-type: none"> <li>• What impact (positive or negative) does the option have on the free movement of goods, services, capital and workers?</li> <li>• Will it lead to a reduction in consumer choice, higher prices due to less competition, the creation of barriers for new suppliers and service providers, the facilitation of anti-competitive behavior or emergence of monopolies, market segmentation, etc.?</li> </ul>
Innovation and research	<ul style="list-style-type: none"> <li>• Does the option stimulate or hinder research and development?</li> <li>• Does it facilitate the introduction and dissemination of new production methods, technologies and products?</li> <li>• Does it affect the protection and enforcement of intellectual property rights (patents, trademarks, copyright, other know-how rights)?</li> <li>• Does it promote or limit academic or industrial research?</li> <li>• Does it promote greater productivity/resource efficiency?</li> </ul>
Public authorities	<ul style="list-style-type: none"> <li>• Does the option have budgetary consequences for public authorities at different levels of government (national, regional, local) in terms of revenue and expenses, both immediately and in the long run?</li> <li>• Does it bring additional governmental administrative burden?</li> <li>• Does the option require the creation of new or restructuring of existing public authorities?</li> </ul>
Consumers and households	<ul style="list-style-type: none"> <li>• Does the option affect the prices consumers pay for goods and services?</li> <li>• Does it have an impact on the quality or safety of the goods/services consumers receive?</li> <li>• Does it affect consumer choice, trust or protection?</li> <li>• Does it affect the level of consumer information?</li> <li>• Does it have an impact on the availability or sustainability of consumer goods and services?</li> </ul>
Specific regions or sectors	<ul style="list-style-type: none"> <li>• Does the option have significant effects on certain sectors?</li> <li>• Will it have a specific impact on certain regions, for instance in terms of jobs created or lost?</li> <li>• Is there a region or sector which is disproportionately affected compared to other regions or sectors?</li> </ul>
Third countries and international relations	<ul style="list-style-type: none"> <li>• Is the option compliant with the international legal commitments such as WTO Agreements, EU Association Agreement, DCFTA, economic partnership agreements, investment protection agreements and other similar arrangements?</li> </ul>
Macroeconomic environment	<ul style="list-style-type: none"> <li>• Does it have overall consequences on economic growth and employment?</li> <li>• How does the option contribute to improving the conditions for investment and the proper functioning of markets?</li> <li>• Does the option have direct impacts on macro-economic stabilization?</li> </ul>

<b>Social impacts</b>	<b>Questions</b>
Employment and labor markets	<ul style="list-style-type: none"> <li>• To what extent are new jobs created or lost?</li> <li>• Are jobs created or lost in specific sectors, professions, regions or specific social and or age groups?</li> <li>• Are there significant indirect effects which might affect employment levels?</li> <li>• Are there factors that would further prevent or enhance the potential to create jobs or prevent job losses?</li> </ul>
Working Conditions	<ul style="list-style-type: none"> <li>• Does the option affect wages or wage setting mechanisms or labor costs?</li> <li>• Does the option affect employment protection, particularly the quality of work contracts, risk of undeclared work or false self-employment?</li> <li>• Does the option affect work organization?</li> <li>• Does the option affect occupational health and safety, working conditions or the effective exercise of labor standards?</li> <li>• Does the option affect social dialogue?</li> <li>• Does the option affect access to vocational training and career</li> </ul>

	development advice?
Effects on income distribution and social inclusion	<ul style="list-style-type: none"> <li>• Will the option have an impact on inequalities and the distribution of incomes and wealth in Georgia as a whole or in specific regions?</li> <li>• Will the option change the number of workers with insufficient income?</li> <li>• Does the option impact on poverty rates, severe material deprivation and access/quality of social protection schemes?</li> <li>• Will the affordability of basic goods and services be affected, particularly for those subject to social exclusion?</li> </ul>
Governance, participation and good administration	<ul style="list-style-type: none"> <li>• Does the option affect the involvement of stakeholders in issues of governance?</li> <li>• Are all actors and stakeholders treated on an equal footing, with due respect for their diversity? Does the option impact on cultural and linguistic diversity?</li> <li>• Does it affect the autonomy of the social partners in the areas for which they are competent? Does it, for example, affect the right of collective bargaining at any level or the right to take collective action?</li> <li>• Does the implementation of the proposed measures affect public institutions and administrations, for example in regard to their responsibilities?</li> <li>• Does the option make the public better informed about a particular issue? Does it affect the public's access to information?</li> <li>• Does the option affect political parties or civic organizations?</li> </ul>
Public health and safety	<ul style="list-style-type: none"> <li>• Does the option affect the health and safety of individuals/populations, including life expectancy, mortality and morbidity, through impacts on the socio-economic environment (working environment, income, education, occupation, nutrition)?</li> <li>• Does the option increase or decrease the likelihood of health risks due to substances harmful to the natural environment?</li> <li>• Does it affect health due to changes in the amount of noise, air, water or soil quality?</li> <li>• Will it affect health due to changes in energy use and/or waste disposal?</li> <li>• Does the option affect lifestyle-related determinants of health such as diet, physical activity or use of tobacco, alcohol, or drugs?</li> <li>• Are there specific effects on particular risk groups (determined by age, gender, disability, social group, mobility, region, etc.)?</li> </ul>
Crime, Terrorism and Security	<ul style="list-style-type: none"> <li>• Does the option improve or hinder security, or impact on crime or terrorism risks?</li> <li>• Does the option affect the criminal's chances of detection or his/her potential gain from the crime?</li> <li>• Is the option likely to increase the number of criminal acts? Does it have an impact on a specific type of crime (money laundering, corruption, illicit production and trafficking, cybercrime, etc.)? Will it divert people away from/ or prevent crime?</li> <li>• Does it affect law enforcement capacity to address criminal activity?</li> <li>• Will it have an impact on security interests?</li> <li>• Does it affect the victims of crime and witnesses or their rights?</li> </ul>
Access to and effects on social protection, health and educational systems	<ul style="list-style-type: none"> <li>• Does the option have an impact on social protection, health and educational services in terms of quality/access for all?</li> <li>• Does the option affect the access of individuals to public/private education or vocational and continuing training?</li> <li>• Does the option affect the level of education and training outcomes?</li> <li>• Does the option affect the financing and organization of social protection, health and educational services?</li> <li>• Does it affect universities and academic freedom / self-governance?</li> </ul>
Culture	<ul style="list-style-type: none"> <li>• Does the proposal have an impact on the preservation of cultural heritage?</li> <li>• Does the proposal have an impact on cultural diversity?</li> <li>• Does the proposal have an impact on citizens' participation in cultural manifestations, or their access to cultural resources?</li> </ul>

<b>Environmental Impacts</b>	<b>Questions</b>
Climate	<ul style="list-style-type: none"> <li>• Does the option affect the emission of greenhouse gases (e.g. carbon dioxide, methane, nitrous oxide, etc.) into the atmosphere?</li> <li>• Does the option affect the emission of ozone-depleting substances?</li> </ul>
Air quality	<ul style="list-style-type: none"> <li>• Does the option have an effect on emissions of acidifying, eutrophying, photochemical or harmful air pollutants that might affect human health, damage crops or buildings or lead to deterioration in the environment (soil or rivers etc.)?</li> </ul>
Water quality and resources	<ul style="list-style-type: none"> <li>• Does the option decrease or increase the quality or quantity of freshwater and groundwater?</li> <li>• Does it raise or lower the quality of waters in coastal and marine areas (e.g. through discharges of sewage, nutrients, oil, heavy metals, and other pollutants)?</li> <li>• Does it affect drinking water resources?</li> </ul>
Biodiversity, flora, fauna and landscapes	<ul style="list-style-type: none"> <li>• Does the option reduce the number of species/varieties/races in any area (i.e. reduce biological diversity) or increase the range of species (e.g. by promoting conservation)?</li> <li>• Does it affect protected or endangered species or their habitats or ecologically sensitive areas?</li> <li>• Does it split the landscape into smaller areas or in other ways affect migration routes, ecological corridors or buffer zones?</li> <li>• Does the option affect the scenic value of protected landscape?</li> </ul>
Soil quality or resources	<ul style="list-style-type: none"> <li>• Does the option affect the acidification, contamination or salinity of soil, and soil erosion rates?</li> <li>• Does it lead to loss of available soil (e.g. through building or construction works) or increase the amount of usable soil (e.g. through land decontamination)?</li> </ul>
Waste production / generation / recycling	<ul style="list-style-type: none"> <li>• Does the option affect waste production (solid, urban, agricultural, industrial, mining, radioactive or toxic waste) or how waste is treated, disposed of or recycled?</li> </ul>
Efficient use of resources (renewable & non-renewable)	<ul style="list-style-type: none"> <li>• Does the option affect the use of renewable resources (fish etc.) and lead to their use being faster than they can regenerate?</li> <li>• Does it reduce or increase use of non-renewable resources (groundwater, minerals etc.)?</li> </ul>
Sustainable consumption and production	<ul style="list-style-type: none"> <li>• Does the option lead to more sustainable production and consumption?</li> <li>• Does the option change the relative prices of environmental friendly and unfriendly products?</li> <li>• Does the option promote or restrict environmentally un/friendly goods and services through changes in the rules on capital investments, loans, insurance services etc.?</li> <li>• Will it lead to businesses becoming more or less polluting through changes in the way in which they operate?</li> </ul>
Transport and the use of energy	<ul style="list-style-type: none"> <li>• Does the option affect the energy intensity of the economy?</li> <li>• Does the option affect the fuel mix (between coal, gas, nuclear, renewables etc.) used in energy production?</li> <li>• Will it increase or decrease the demand for transport (passenger or freight), or influence its modal split?</li> <li>• Does it increase or decrease vehicle emissions?</li> <li>• Will the option increase/decrease energy and fuel needs/consumption?</li> </ul>
Animal welfare	<ul style="list-style-type: none"> <li>• Does the option have an impact on health of animals?</li> <li>• Does the option affect animal welfare (i.e. humane treatment of animals)?</li> <li>• Does the option affect the safety of food and feed?</li> </ul>
The likelihood or scale of environmental risks	<ul style="list-style-type: none"> <li>• Does the option affect the likelihood or prevention of fire, explosions, breakdowns, accidents and accidental emissions?</li> </ul>
Land use	<ul style="list-style-type: none"> <li>• Does the option have the effect of bringing new areas of land ('Greenfields') into use for the first time?</li> </ul>

	<ul style="list-style-type: none"> <li>• Does it affect land designated as sensitive for ecological reasons? Does it lead to a change in land use (for example, the divide between rural and urban, or change in type of agriculture)?</li> </ul>
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**Annex 4. Examples of alternatives to regulation**

There is wide range of possible interventions or alternative options that can lead to accomplishing the objectives and settling the problem. The government need to explore the options starting with least interventionist ones, which are usually less costly and may be more effective. Below are the examples of most often used alternatives.

**Lack of additional intervention (“do nothing option”)**

You should always consider first whether you do need to take any action. This option relies on considering the market or wider society in conjunction with existing legislation. In some cases action may not improve the problem or, alternatively, in time the problem may solve itself. Government action may only shift the problem elsewhere or the costs of government intervention may be greater than the costs of the problem it is designed to correct.

**Information and Education**

Information and education campaigns can improve market functioning by enabling people to make better-informed decisions. This allows individuals to choose what is best for them, taking account of the information that is available, rather than regulation imposing one solution for all.

Information can be provided through government action in two ways: through making information available, e.g. the effects of eating too much salt or smoking, or by requiring companies to disclose information to consumers about certain features or attributes of products, e.g. food labelling requirements.

**Self-regulating**

An industry or sector can self-regulate by producing its own rules and codes of conduct, which it then enforces. In some cases the regulator may also be involved in a limited way, for example by providing advisory information.

An advantage of this approach is that those being regulated know a lot about their particular area and the impacts of changing conditions. A disadvantage could be that a group gives priority to its own economic interests rather than the wider society or other groups, which could complicate or prevent the market entry of potential competitors and restrict economic competition.

A key role for the regulator may be to ensure a genuine overview is taken of the impacts on all those affected.

**Co-regulation**

This is where the legal structure is formed by the public administration but the private sector enforces regulation itself and ensures its application. In this case, the law sets the principles that have to be complied with but leaves a certain amount of flexibility to the industry or sector, to ensure that these standards keep up with changes over time. The state delegates its power for the implementation of regulations directly to the industry or sector.

**Market instruments**

Market instruments, such as taxes, charges, fees, fines, penalties and subsidies, are introduced to encourage or discourage certain behavior of citizens or businesses, thus reaching public policy objectives. Market instruments are less interventionist than command-and-control regulations and fewer unintended consequences on citizens and businesses.

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