

**EX-ANTE IMPACT ASSESSMENT  
ON THE  
GOVERNMENT POLICY AIMED AT IMPROVING  
THE REGULATORY DECISION MAKING  
AND THE QUALITY OF LEGISLATION IN  
BULGARIA  
SUMMARY**



**Sofia, 2015**

The impact assessment is carried out upon the initiative of the working group established in early February 2015 with the main objective to develop a Concept for practical adoption of regulatory impact assessment as part of the Bulgarian law-making process. After completion of this task the functions and competences of the working group were further expanded with the assignment of elaborating and offering various options of action that ensure the carrying out of mandatory impact assessments in the process of planning and drafting legislation by each of the subjects having legislative initiative in the country - the National Assembly and the Council of Ministers.

The Concept for practical adoption of RIA in the legislative process which envisages RIA as a binding mechanism embedded in Bulgarian legislation, including, if necessary e, by amending and supplementing the Law on Normative Acts, the Regulations on the Organization and Procedure of the National Assembly and the Statutes of the Council of Ministers and its Administration is in the centre of the impact assessment.

### **METHODOLOGY**

The methodology for conducting the full ex-ante impact assessment includes two separate tools:

- Methods and tools for data collection and information
- Methods and tools for analyzing data and information.

Qualitative and quantitative approaches for data collection have been applied in order to gather the most comprehensive base of information during the carrying out of the IA. From the many existing techniques the following basic methods and tools were used: documentary analysis and research.

### **ANALYSIS AND RESEARCH**

The EU primary law does not contain explicit provisions governing regulatory impact assessment and this is understandable given its specifics as a general constitutional regulatory structure with the highest legal power generated directly by the Member States through negotiations between their governments. At the same time all the main sources of EU law, which include its primary and secondary (also called derivative) legislation and general principles contain a significant number of rules and regulations that give the legal basis and the framework for impact assessment of policies and standards in the Union. These are the provisions relating to policy coherence and transparency of the Union, those requiring extensive consultations with stakeholders by the Commission in the formulation of policies and the adoption of rules, principles of primacy and direct applicability of EU law, etc.

### **SOCIOLOGICAL STUDY**

This IA based most of its conclusions on the results from an empirical study on the topic: “The quality of legislation in Bulgaria today” assigned by the Centre for Regulatory Impact Assessment in the spring of 2015. Asked to comment four key statements relating the objectives of the laws in Bulgaria, nearly one-fifth (22%) of the respondents in the study agreed that the majority of laws favour citizen’s interests. According to 63% of them the Bulgarian legislation is not adopted with the aim to protect the interests of citizens.

The quality of the products resulting from the legislative activity, the lack of feedback and evidence-based justification of proposed legislative changes create the feeling of that the current legislation regulating different relations in society does not concern and is not adopted to protect in the interest of common people, that hence generates the massive wish of non-compliance with laws and the missing rule of law in the country.

Asked to answer the question: “Is the law respected in Bulgaria”, 79% from the interviewed responded negatively.

## **DEFINED PROBLEMS**

Currently in Bulgaria there is a systemic gap in the regulatory decision-making process in Bulgaria, which is the result from the fact that regulations are proposed and adopted without a clear, evidence-based picture of their expected effects on the relationships they are designed to regulate and about the impact they would have in the social, economic, environmental and other areas, including businesses, NGOs and society in general. There is not a clear conceptual approach and long-term planning of policies for regulation and mechanism to ensure that the proposing and adoption of normative acts is guided solely by the public interest and that the adopted legislation meets established quality standards of regulation.

## **OBJECTIVES**

### **Specific objectives**

To identify the course of action that would eliminate the systemic gap in the decision-making in Bulgaria, ensuring that the proposing and adoption of normative acts is done only after a clear, evidence-based idea about the expected effects on the relationships they are intended to regulate and about the impact they would have in the social, economic, environmental and other areas, including the businesses, NGOs and the general public.

### **Operational objectives**

The chosen course of action should contribute to the introduction of clear conceptual approach and long-term planning of regulatory policies in Bulgaria, as well as provide a mechanism to ensure that the proposing and adoption of normative acts is guided solely by the public interest and policies are not conjunctively biased or populist and the adoption of regulations does not serve personal, corporate, politically-partisan and other interests and meet established quality standards.

## **IDENTIFICATION OF OPTIONS FOR SOLVING THE PROBLEMS**

Bulgarian legislation and the legislative process require the introduction of a mechanism which, as result from transparent and open analysis of the best available evidence and information collected including through public consultations with all stakeholders, appraised by the best experts through scientifically unchallenged methods allows for assessing whether planned or implemented changes in the legal regulation of certain social relations would produce a favorable effects on them and what are its social, economic, environmental and other impacts.

### **OPTION 0 - DO NOTHING**

### **OPTION 1 - LEGISLATIVE MEASURES**

### **OPTION 2 – NON-LEGISLATIVE MEASURES.**

## **ANALYSIS OF IMPACTS AND COMPARING THE OPTIONS**

The main conclusion that can be made is that the Bulgarian legislative system calls for the introduction of an imperative mechanism to remedy the identified by IA engines of the problems, which must lead to solving the problems.

The Draft-law for Amendment and Supplement of the Law on Normative Acts publically discussed during the preparation of IA proposes to introduce an operationalised legal definition for the impact assessment, to indicate the obligated subjects, gives the approach for governing the procedure for its carrying out by each of the entities and provides the legal ground for further detailed regulation of the methodology for doing RIAs.

The Draft-law on Normative Acts proposes changes in the regulation of public consultation separating them into such conducted before developing draft legislation and

consultations, conducted in an already accomplished normative act, accompanying the impact assessment about it. In this part the draft law lays out the foundation for a modern system of public consultations, conducted in a structured way involving all stakeholders giving them feedback and guaranteeing reporting on their contributions given in the consultation, which would significantly contribute to the transparency and accountability of the legislative.

The defined problems in the regulatory decision making decisions due to the fact that normative acts in Bulgaria are being proposed and adopted without a clear, evidence-based notion of the expected effects on the relationships they are designed to regulate and the impacts they would have in the social, economic, environmental and other areas, including on businesses, NGOs and society as a whole, the lack of clear conceptual approach and long-term planning of regulatory policies, and the lack of a mechanism to ensure that the proposing and adoption of the normative acts is guided solely by the public interest guaranteeing also better quality of legislation would find its best solution by selecting the **OPTION 1 - LEGISLATIVE MEASURES**, which is recommended by this IA.

### **CONCLUSION**

This ex-ante impact assessment of the policy of Bulgarian government aiming at improving the process of regulatory decision-making and improving the quality of legislation in Bulgaria, is one of the very few yet examples of application of the principles of better regulation, understood as legislating, preceded by selection and analysis of the best available evidence expertly appraised using indisputable from a scientific perspective methods, which as a process is ensured by the IA mechanism. It is assigned in the appropriate moment, from the perspective of good practice of conducting IA, at a sufficiently early stage from the policy cycle when public discussions and consultations on choosing the right option for action in relation to the studied public relations is still on-going. It is one of the first Impact Assessments developed in Bulgaria after the adoption of the Guidance on RIA approved by the government on the middle of 2014 and one of the first assessments carried out under the rules of the new Guidelines for Impact Assessment from 2015 - Chapter III from the 2015 Better Regulation Guidelines of the European Commission.