

Summary of the report

Better Regulation through Impact Assessments

On the obligations of EU member states to consider the consequences of new regulations –Sweden’s observance and resistance

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One ingredient – the most important, some would say – of the European Commission’s efforts to improve the quality of European regulation and legislation (under the concept of ‘better regulation’ and part of the Lisbon strategy for growth and jobs) is the method of regulatory impact assessment, RIA. Many different actors, such as the European Commission, the OECD, organisations of business and environmental protection, as well as management consultants, have for some years now tried to convince EU member states to adopt RIA strategies and make them an integrated part of their regulatory process. Through RIA different alternatives are meant to be analysed and evaluated. Hence, RIA is a method of getting a picture that is as clear as possible of the different consequences of proposed regulations on the environment, society and – above all – on enterprise and competition.

Sweden one of the lagging countries

Sweden is often thought to be a top performer when it comes to better regulation through impact assessments, but it is actually only recently that the Swedish government has taken a firm grip on the issue. The Swedish government has recently formed an advisory Regulatory Board with the remit to assist the government and its agencies in regulatory simplifications in order to cut the administrative burdens of enterprises. As late as early 2009, several disparate agency ordinances were replaced by a new Ordinance on Regulatory Impact Assessment. Still, there should be no doubts regarding the main focus of the better regulation strategy of the Swedish government: cutting administrative burdens and improving the conditions for enterprises.

Many different RIA systems at work

The Swedish law making process is characterised by its explicit demands for the analysis of consequences in ordinances guiding the regulatory work of committees and agencies; often long-term inquiries; a high level of

participation of different actors and interests; elements of openness and easy access; proposed measures being referred for consideration to agencies, enterprises and citizens; and collective decisions within the government where every ministry has a say on every proposal. On this basis, one might think that Sweden should be ranked highly when it comes to RIA: almost every aspect and impact of new legislation should be considered with such a ‘proper democratic order’ in place. Many of the criteria in the standard models are indeed met, but the Swedish processes, at the government level, in fact seldom result in separate and discernible documents where the impact assessment is presented, and that is an absolute requirement. Neither is there yet in the Swedish process any abundance of the more econometric-inspired tools for analysis that are endorsed in the standard models.

The Swedish difficulties in fulfilling the expectations, albeit somewhat deliberate, are shared with many other EU member states. RIA still seems more of a strategy to advertise than to follow. This is illustrated by the fact that almost every EU member state has ambitious policy programmes under the headlines of ‘better regulation’ and ‘regulatory impact assessment’ (certainly so in Sweden as well), but only a few of them have actually ‘correct’ and ‘complete’ impact assessments to put on display.

Institutional contexts matter

Why this effort now, and why is a particular design chosen? As there have been interesting attempts to explain why (new) public management reforms are often implemented in a country-specific ‘manner’, and how similar reform recipes give different results in different countries with different institutional contexts, this report draws on these insights. The report examines, if only briefly, the diffusion and translation of reform ideas and discuss the key factors that may influence the speed, scope and depth of these reforms; in this case focusing on Swedish regu-

latory reform and the Swedish use of impact assessments. The report also briefly examines the factors explaining the (possible) differences in Sweden between rhetoric and practice. The main purpose, though, is to illustrate the evolution and development of regulatory impact assessments, both in the EU and in Sweden, and to present concrete proposals on how Sweden could act at the level of the government offices to benefit even more from the use of impact assessments in drafting laws – without losing the advantages of the already existing system.

Conclusions

In spite of better regulations priorities, the Swedish attitude to RIA could be described as lukewarm. Although politicians every now and then speak of the importance of addressing consequences when drafting laws, there is little or no interest when the results of these assessments are presented, if they ever are. Thus, probably one principal explanation behind the scant results is that the key players for successful implementation of reforms or new standards – the politicians – hardly ever participate after the initial programme presentation and press conference. If political power is to be used effectively and successfully in reforms promoting better regulation, there must not be any doubts about politicians' commitment to these aims. Also, in order to reach the ambitious goal of reducing administrative burdens by 25 per cent, the Swedish government must – through the EU as well as on the national level – also reassess parts of the original policies behind the regulations. The report suggests that Sweden should make regulatory simplification a permanent theme in Swedish negotiations on new and revised EC regulation. More important, the resources and routines for the use of impact assessments at the ministerial level should be further developed and strengthened.

The full report is available at www.sieps.se