

The Impact of Covid-19 on Regulatory Reform: Challenges Facing the Polish Regulatory Policy System

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Abstract:

The major aim of the article is to identify the framework of regulatory policy in which Regulatory Impact Assessment (RIA) is an effective tool supporting the process of making good law and used to reduce risks associated with drafting regulations, that, with relatively small benefits, cause a disproportionately large burden on public finances, often leading to a breach of budgetary constraint. Secondly, this article attempts to identify both strengths and weaknesses of the Polish regulatory system and includes recommendations toward the appropriate framework of regulatory policy. The methodology assumed in the article is based on the well-correlated reports of OECD and European Commission.

The Polish Regulatory Policy System fails to meet the main OECD recommendations. It requires stronger legal mandate for the RIA and stronger central oversight unit tasked with quality control, upstream support and guidance but first of all it has to change the status quo in which the units responsible for analysing the impact of regulations are often practically identical to those that draft these regulations. It is suggested by OECD that governments should improve how they assess, communicate, and manage risks – including by more systematically reviewing regulations to ensure they correspond to the latest evidence and science. These implications remain extremely justified in relation to the Polish system of regulatory policy.

Keywords: regulatory impact assessment; regulatory reform; fiscal policy.

JEL Classification: L51; K2; E62.

Introduction

The Covid-19 outbreak posed an unprecedented challenge to global health and has triggered the most severe economic shock since the Second World War. Furthermore, threats coming from the outbreak of war along with still high rates of inflation all over made the problem of indebtedness returned again. In the face of the explosion of public debt, but also gradually progressive ageing of the population (European Commission, 2021), the need to bring fiscal discipline becomes clear again¹.

However, restoring of fiscal balance will be a difficult task mainly due to poor economic outlook in many EU countries. These weak prospects for economic growth are associated with both high levels of private sector debt and still high inflation levels. In turn, the attempts to accelerate economic growth by means of an active fiscal policy will be limited by high level of public debt and efforts on fiscal consolidation in the most indebted countries. Moreover, the tightening of monetary policy conducted by European Central Bank is made the interest of

¹ European Commission in its *Fiscal policy guidance for 2024: Promoting debt sustainability and sustainable and inclusive growth* returns to the requirement on conducting fiscal policy based on fiscal rules since 2024.

government bonds higher than prior to and during the pandemic. This situation in case of countries with particular risk of insolvency will cause problems connected with public debt servicing. In the long term, the fiscal consolidation process will be hindered due to unfavourable demographic trends and the burden on public finances imposed by social security systems (European Commission, 2021).

Against this background, the Organization for Economic Co-operation and Development (OECD) and other international organizations recommend to focus additionally on the regulatory policy as it is an important lever besides monetary and fiscal policies. The Covid-19 crisis has made the need for well designed, evidence-based, and well-enforced regulation particularly acute (OECD, 2020). However, regulatory tools still do not attract the attention they deserve. In turn, regulatory policy offers a set of powerful tools that should help governments in their efforts to achieve goals but in parallel, focus on fiscal discipline as well (Assembly, 2020; Meuwese, 2020; Molloy, 2020; Murphy, 2020).

OECD is in view that while achieving desired state goals such as dealing with climate change or tackling the population ageing issue which have become the most important goals for many governments across the globe, regulatory policy is rarely mentioned during political declarations announcing government plans to achieve those objectives (OECD, 2021, 2023; Preston, 2021).

The major aim of the article is to identify the framework of regulatory policy in which Regulatory Impact Assessment is an effective tool supporting the process of making good law and used to reduce risks associated with drafting regulations, which, with relatively small benefits, cause a disproportionately large burden on public finances, often leading to a breach of budgetary constraint. Secondly, this article attempts to identify both strengths and weaknesses of the Polish regulatory system and includes recommendations toward the appropriate framework of regulatory policy in which it will meet the recommendations of OECD.

The methodology of the paper focuses on the author's meticulous analysis and assessment, drawing from both scholarly research and professional expertise. Primarily, the analysis is grounded in a comprehensive review of relevant literature, empirical research, and accessible analytical reports, bolstered by data-driven and statistical analyses. The methodology adopted in the article is underpinned by robust findings from reputable sources such as the OECD and European Commission, ensuring a solid foundation for the study. Additionally, the paper concludes with actionable suggestions that not only serve as practical insights but also offer valuable avenues for future research exploration.

The research includes recent recommendations given by OECD on how to build the most effective regulatory system after pandemic time as well as the latest recommendations dedicated to the Polish Regulatory Policy System in order to design the appropriate framework of regulatory policy in which it will meet the recommendations of OECD in this regard.

1. What is Regulatory Impact Assessment (RIA)

The first formalized system of predicting the effects of regulation was born in 1981 in the United States. Since the mid-1980s, these mechanisms have spread in many countries to finally become a standard in highly developed countries. The most advanced systems of impact assessment (IA) currently operate in common law countries - Australia, the USA, New Zealand and Great Britain. The OECD gathered their experience to help other countries build effective systems for assessing the impact of regulations on economic and social life. Needless to say, that this is of high importance as laws and regulations are government levers that support well-being and economic growth affecting all areas of life, impacting citizens, business, and the environment (OECD, 2021).

Impact assessment, also known as regulatory impact assessment (RIA), does not have a single and commonly accepted definition. This is due to the fact that RIA itself and its assumptions were subject to changes in response to the demand and condition of the public sector. Regulatory Impact Assessment should be carried out in the early stages of intervention programming, enabling a decision to be made based on solid evidence and is to be made with the participation of stakeholders and be carried out until the adoption of a legal act.

Hence, regulatory impact assessment, is a useful and effective instrument that helps to establish good regulations governing the functioning of the state. RIA provides essential information to decision makers on whether and how to achieve public policy goals. By presenting the potential effects of the proposed law, RIA deepens the knowledge of decision-makers and thus helps to establish better legal standards. On the other hand, by examining the impacts and consequences of a range of policy options, RIA is both regarded as a tool and a process in order to help policy makers identify and select proposals that maximize social wellbeing.

As a tool, RIA supports policy makers in analysing the potential effects of government actions by estimating their benefits and costs, analysing the risks associated with these actions, and examining the extent to which selected regulations are better than alternative solutions. As a decision-making process, RIA is integrated with the system of public consultations, mechanisms of shaping policy objectives, as well as the legislative process, so as to inform those involved in these activities about the possible effects of regulation, and thus enable them to modify the initial regulatory proposals. On the other hand, at the stage of implementing regulations, RIA may be a tool for evaluating their effects (OECD, 2009).

Despite the different forms that RIA takes in individual countries, its common elements can be distinguished. OECD prepared a reference check list according to which regulatory decision-making should be made. Such a list consists of the following points (OECD, 1995):

- Is the problem correctly defined? The problem statement should be precise, supported by evidence illustrating its nature and significance, while also elucidating the underlying motivations of affected stakeholders.
- Is government action justified? Government intervention must be grounded in explicit evidence demonstrating its necessity in addressing the problem, considering both the potential benefits and costs of such action based on a realistic evaluation of government efficacy, alongside alternative mechanisms for problem resolution.
- Is regulation the optimal form of government action? Regulators should conduct a thorough comparison of various regulatory and non-regulatory policy instruments early in the regulatory process, weighing factors such as costs, benefits, distributional effects, and administrative requirements.
- Is there a legal basis for regulation? Regulatory processes should adhere strictly to the principles of the rule of law, ensuring that all regulatory decisions are authorized by higher-level regulations, consistent with treaty obligations, and compliant with legal principles such as certainty, proportionality, and applicable procedural requirements.
- What is the appropriate level (or levels) of government for this action? Regulators should identify the most suitable level of government for undertaking action, or if multiple levels are involved, establish effective coordination mechanisms between governmental tiers.
- Do the benefits of regulation justify the costs? Regulators should meticulously estimate the total anticipated costs and benefits of each regulatory proposal and feasible alternatives, providing decision-makers with accessible estimates. Government action costs should be commensurate with its anticipated benefits before implementation.
- Is the distribution of effects across society transparent? Regulators should ensure transparency in the distribution of regulatory costs and benefits across different societal groups, particularly concerning distributive and equity values impacted by government intervention.
- Is the regulation clear, consistent, comprehensible, and accessible to users? Regulators should assess the clarity and accessibility of regulations to likely users, taking measures to enhance the clarity and structure of regulatory texts for improved understanding.
- Have all interested parties had the opportunity to present their views? Regulatory development should be conducted in an open and transparent manner, incorporating effective and timely input from interested parties such as affected businesses, trade unions, interest groups, and other levels of government.
- How will compliance be achieved? Regulators should evaluate the incentives and institutions necessary for regulation enforcement, devising responsive implementation strategies that optimize their utilization for effective compliance.

In general, regulatory impact assessment has four main tasks. It is to contribute to increasing the awareness among the rulers as to the consequences - both benefits and costs - of their decisions and actions. It is designed to integrate different policy areas, pointing to the links between different areas and allowing them to be coordinated. Another task of RIA is to increase transparency and improve the consultation process. RIA is also intended to increase the responsibility of the rulers for the decisions made by informing the public about their consequences.

According to OECD experts, impact assessment must meet the following criteria (NIK, 2017):

- It must be systematic - that is, it must be part of a wider system that defines the requirements for the content of the assessment and ensures that it will translate into the political decision-making process;
- It should also be empirical, based on objective data collected in accordance with procedures, at the lowest possible cost;

- A good analysis is one that is carried out consistently but also flexibly (using innovative sources, depending on the issue under study); as widely applicable as possible, thus taking into account different political scenarios;
- Transparent and widely available - to facilitate the process of consulting its content with interested parties, and to provide a clear reference point for decisions taken;
- Timely - that is, already in the policy development phase, and making the results of the evaluation available early enough for key decisions to take into account its results;
- Realistic, i.e., possible to implement within a specific time frame, so as not to cause significant delays in the decision-making process.

2. Regulatory Impact Assessment from Global Perspective

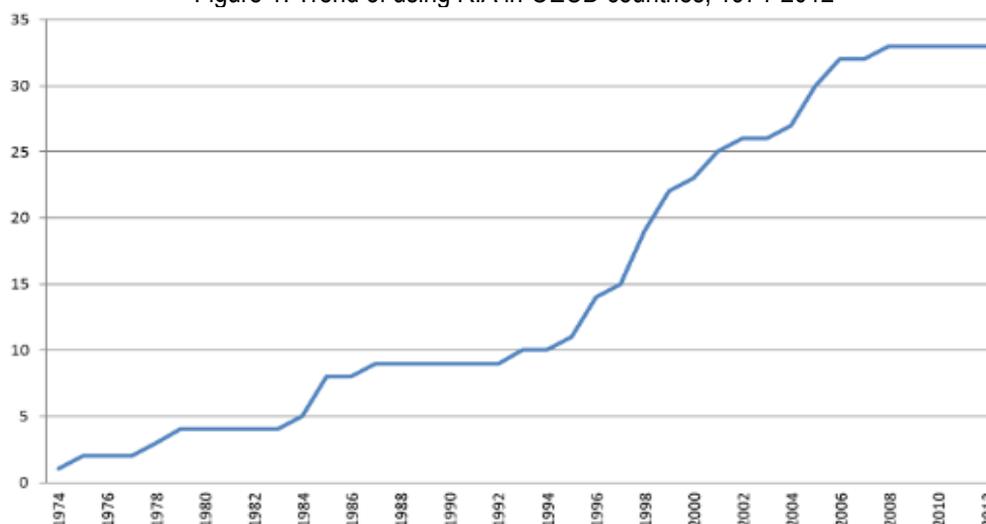
In recent decades, it has been seen a steady increase in the importance of law as one of the basic tools used by state authorities to regulate social and economic life. Legal regulations affect the activities of enterprises and the daily life of citizens. They are an indispensable instrument in achieving the goals of policies conducted by the state, such as, for example, economic growth, social welfare or environmental protection. However, poorly thought-out and designed legal norms may not only be ineffective in achieving these goals, but also cause unnecessary costs for society. Such a side effect of regulation has a negative impact on economic development, as the pace of economic growth may be faster if the law imposes on economic entities only obligations necessary for the implementation of the public interest.

The Organization for Economic Co-operation and Development (OECD), in order to help countries, conduct effective pro-development policies and enact legal provisions conducive to the achievement of the set goals, recommended already in 1995 (OECD, 1995, 1997 and 2005) the use of Impact Assessment in the law-making process. The application of this instrument makes it possible to obtain information on the potential costs and benefits that may result from the adoption of the draft act, including the scale of its impact on public finances. For state authorities, the knowledge of the impact of the proposed regulation on the public finance sector is particularly important because, as indicated by the mainstream economic theory, the optimal fiscal policy must be balanced and prudent taking into consideration the current difficult economic and budget conditions.

The analysis of the enactment procedures in OECD member states allows for the discovery of the actions of state authorities which, in order to ensure the effectiveness (understood as the achievement of regulatory objectives) and efficiency (understood as the least costly achievement of objectives) of regulations, improve the law-making procedures. This has happened under the Better Regulation Agenda.

One of the basic tools for modernizing regulatory policies is the Regulatory Impact Assessment (RIA), which, as a result of evolutionary development and adaptation to new institutional contexts, become an effective tool increasing the effectiveness, transparency, interactivity and accountability of public policies. This tool is commonly used in developed countries (World Bank, 2022). Figure 1 indicates the trend of using Regulatory Impact Assessment in OECD countries through in years 1974-2012.

Figure 1. Trend of using RIA in OECD countries, 1974-2012



Source: OECD, <http://www.oecd.org/gov/regulatory-policy/ria.htm>; OECD estimated the trend based on data coming from 36 countries and European Commission

However, along with the spread of RIA mechanisms, more and more attention were paid to their possible weaknesses. It turned out that there are fundamental differences between the ideal of the RIA system described in the literature and its practical implementations in many countries. One can indicate here, among others to the common practice of not applying RIA to the assessment of the most important Regulatory activities and focusing only on those with a lower political gravity (OECD, 2009). In a large number of countries, the analysis of alternatives to the solutions proposed by the legislator is not carried out as part of regulatory impact assessments. The practice of assessing the risk related to the introduction of specific regulations is also not common. Moreover, many reports on regulatory assessments focus only on their financially measurable effects, and completely ignore the analysis of their possible externalities (Jacobs, 2007).

3. Regulatory Impact Assessment – What Should be Improved

The reports of OECD indicate that the Regulatory Impact Assessment is a tool that is increasingly used in the world. Moreover, due to the relatively short period of use of this tool and the complexity of socio-economic situations that are subject to regulations, the methodology and techniques used have still been in process of development and needs permanent improvement. Although, RIA is a key policy tool for setting out detailed information about the potential effects of regulatory measures in terms of costs and benefits, experiences of many countries show that conducting their regulatory policies based on Better Regulation Agenda have been challenging even in 'normal times' not to mention times like pandemic and war. Despite governments' efforts, rule-making activities are still suffering from significant gaps which is exacerbated by the fact that regulating itself has become increasingly difficult. Many citizens around the world are experiencing regulations that either fall short of their intended effects or outright fail to offer the protections they promise. A key concern is that inappropriate rules may lead to a loss of trust in institutions and even in government itself. Good regulation is instrumental to build confidence that decision makers are actually concerned with the betterment of society. There are variety of reasons for occurring that (OECD, 2021).

Firstly, as OECD indicates that number of regulatory management tools are under-developed, insufficiently implemented or their implementation did not lead to the desired results. For instance, one of the most important gaps arises from the very limited focus on ex post evaluation of laws and regulations partly because of the limited resources and investments. As OECD argues, while the ex-ante assessment became more common, it happens very rarely that governments systematically review regulations after a certain period of time, besides randomly chosen ones mostly focusing on administrative/regulatory burden reduction (OECD, 2021).

Secondly, OECD directs attention to the fact that regulatory policy still remains underutilised by governments in sharp contrast to the efforts associated with tax and spending measures. Fiscal policies tend to be often developed in consultation with stakeholders. Moreover, impacts and trade-offs are identified and they are usually subject to significant scrutiny. While it is understandable that fiscal policy measures attract a lot of interest, it does not follow that other things governments regulate are somehow of lesser importance especially that regulatory policy refer to extremely important aspects of human life such as climate change, judicial system etc. According to OECD, given the importance of these other laws to everyday life, it is not advisable to allow to eschew the value that regulatory policy offers. Therefore, the organization underlines that regulatory policy offers a robust yet flexible framework, combined with powerful tools, which help policy makers create better laws. As OECD simply put it "If it is worth regulating, it is worth regulating well" (OECD, 2021).

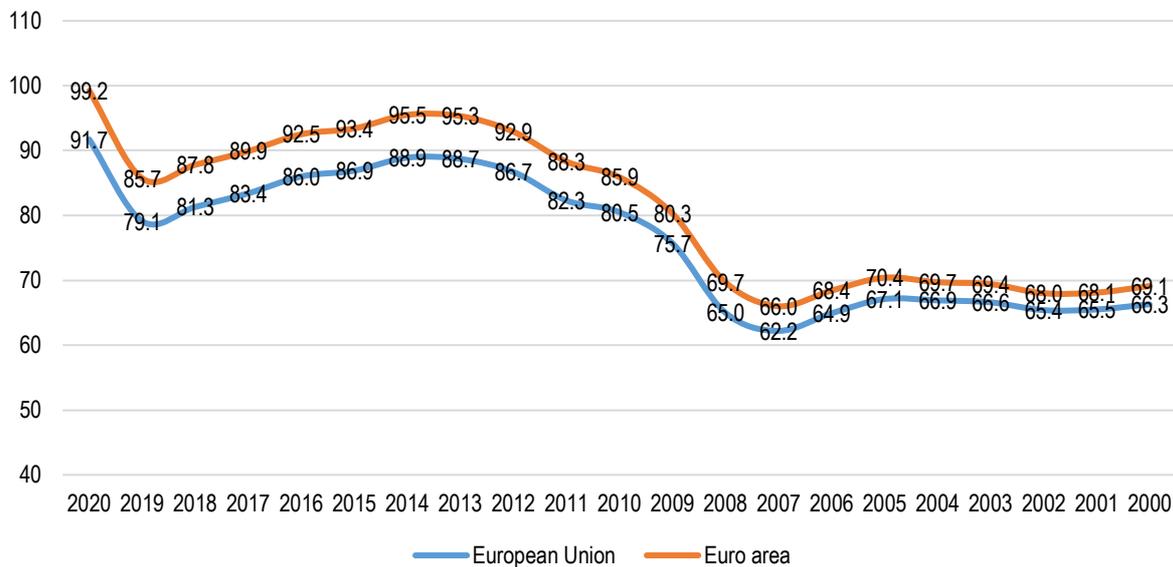
Finally, OECD argues that failing to consider the behavioural drivers of human actions is another factor that limits the effectiveness of regulatory policy. One of the basic goals of regulation is to change behaviour in some way. It is of high importance to possess the knowledge how social context and behavioural biases affect decision making and can definitely help policy makers understand the drivers of actions, ultimately helping to improve the effectiveness of a regulation. For this reason, policy makers around the world are turning to the field of behavioural insights to support better regulatory policy making (OECD, 2021).

4. Regulatory Impact Assessment and Public Finance

Generally economic theory indicates that sound fiscal policy must meet at least two basic conditions: it must be sustainable, and it must be counter-cyclical. The former is met when the public debt to GDP ratio converges toward a constant value in the long run which is the equivalent of stating that the government is bound by an intertemporal budget constraint. In other words, the government cannot finance its spending by increasing the debt to GDP ratio indefinitely. The latter is due when fiscal policy reduces the amplitude of the business cycle fluctuations, meaning it is expansionary during economic slowdowns and contractionary during economic expansions (Janikowski, 2018).

One of the important goals of RIA application is to reduce the risk of adopting regulations, which, with relatively small benefits, bring disproportionately large financial and socio-economic burdens. From this standpoint, a very important, though certainly not the only measure of these benefits and costs is the scale of the impact of a given regulation on public finances. This is of high importance especially nowadays when many governments have to tackle their high indebtedness as a result of fiscal loosening during pandemic and earlier of the outbreak of financial crisis. Figure 2 demonstrates the public debt in relation to GDP in European countries.

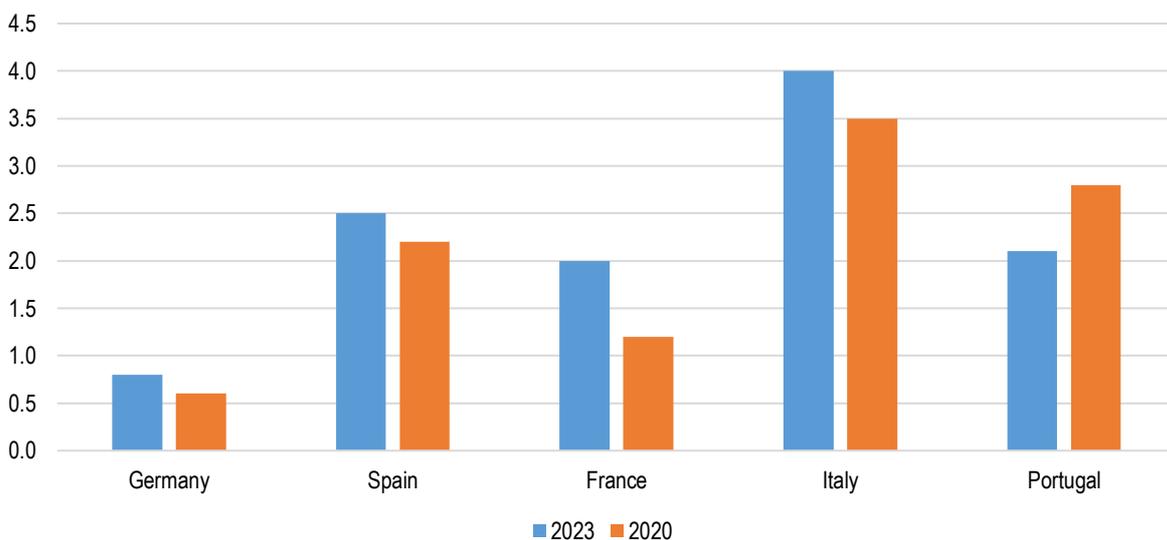
Figure 2. Public debt in Europe (as percentage of GDP)



Source: [AMECO database, European Commission](#).

Along with rising the level of indebtedness the debt servicing costs have started to rise as well. Figure 3 indicates the debt servicing cost in % of GDP between 2020 and 2023 in selected countries.

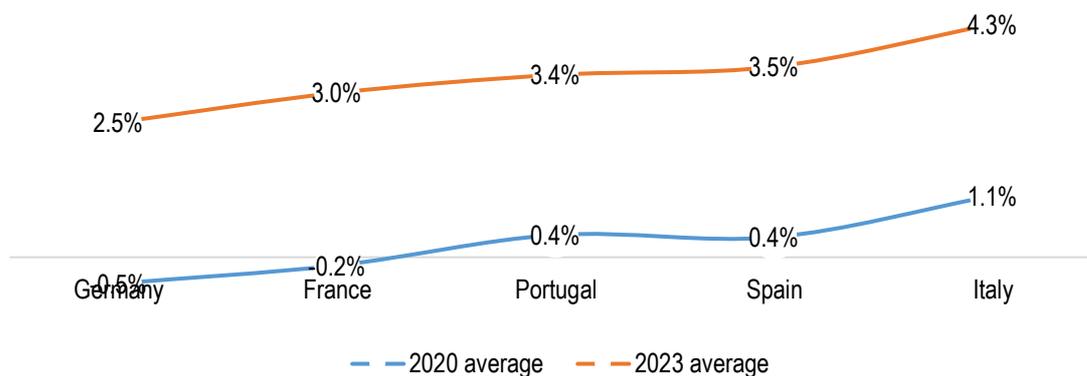
Figure 3. The cost of debt servicing in Europe (measured by interests of 10-year bond): current and in 2020 in selected countries in % of GDP



Source: [AMECO database, European Commission and Economic Forecast, Spring, Institutional Paper 200, European Commission, 2023](#).

Furthermore, the tightening of monetary policy conducted by European Central Bank due to higher inflation than expected increased the interest of government bonds even higher making more difficult for countries with particular risk of insolvency to serve their public debt. Figure 4 demonstrates the current and the average 2020 interests of 10 years governments bonds in selected countries.

Figure 4. The level of interests of 10-year government bonds: current and in 2020, selected countries, % of GDP



Source: Reuters.

Furthermore, the substantial economic costs of the war, elevated uncertainty, and the forthcoming embargo on coal and seaborne oil imports from Russia in Europe add to the challenges already facing policymakers from high inflationary pressures and the imbalanced recovery from the pandemic (OECD, 2022).

It is therefore not surprising that many governments, with limited fiscal space, use various tools to improve the condition of their economies, including regulatory reforms of which OECD is a strong advocate. The COVID-19 pandemic has underscored the role of regulation and shed light on the urgent need for a transformation of the way rules are made and implemented. COVID-19 has exposed gaps in domestic and international rule-making that have costed lives and livelihoods (OECD, 2021). As OECD notes, while regulating in times of crisis requires major adjustments to processes, in some settings shortcomings – in evidence, in impact and risk analysis, in stakeholder consultation, or in co-operation with other governments – have carried a heavy price for societies. To a certain extent, the crisis has also shown growing mistrust between parts of societies and their governments. Correcting the course now is critical for addressing current and future challenges where regulations have a significant bearing on the success of the responses, including climate change and other environmental threats (OECD, 2021). In general OECD reports: “Governments spend far too little time checking whether rules work in practice, not just on paper” (OECD, 2021). According to this organization, less than one-quarter of OECD members systematically assess whether regulations achieve their objectives (lack of ex-post analysis). Incentives for improvement are currently weak: less than one-third of OECD member countries have a body in charge of checking the quality of reviews of existing regulation (OECD, 2022).

5. Regulatory policy system in Poland and challenges ahead

Improving the institutional setting and designing a complex regulatory reform it is of high importance to combine the economic policy with the regulatory one. Interesting conclusions can be found in the Polish Regulatory Impact Assessment in terms of the impact on public finances. When assessing the RIA system in Poland, a report of strategic project entitled “Development of the system for assessing the impact of regulations and social participation in the law-making process” of 2019 (Report, 2019) provides an important insight in this regard. The authors of the report emphasize that that in terms of impact of the regulation on public finance (point 6 of the RIA) compared to other parts of RIA, all analysed RIAs contained information on the impact of the recommended solution on public finance which was filled with the most reliable data. In order to indicate a strong point of the Polish RIA, this premise can be a good example in many cases (Domański, Zakrzewski, Palinka, 2008). However, it is to know why in this part of RIA it is possible to provide reliable information on the impact of regulations, while in other parts the information is not at such a good level.

It does seem that a significant difference in terms of the quality of the regulatory impact analysis results from the fact that the Minister of Finance in Poland is really interested in obtaining high-quality information on the impact of proposed regulation on public finances. The need to maintain public finance discipline imposed by the restrictions contained in the provisions of national and EU law, including, among others: the maximum limit of state budget expenditure, which is established on the basis of the stabilizing expenditure rule (SER) enshrined in the Public Finance Act and by respecting reference values for the nominal deficit (3% of GDP) and debt (60% of GDP) of the general government sector itself implies obtaining high-quality information and its scope, presented in point 6 of RIA (Impact on Public Finance). Therefore, the Minister of Finance became involved in the process of improving

the regulatory impact assessment system, monitors it and, above all, systematically uses the information included in the RIA to determine the impact of regulations on public finances. In practice, this meant that:

- the Minister of Finance proposed, in the Regulatory Impact Assessment form, the required scope of information showing the impact of the regulations for public finance, including the state budget, budgets of local government units and other units of the sector over a 10-year horizon.
- while developing the impact assessment for the public finance sector, the current Guidelines of the Minister of Finance on the use of uniform macroeconomic indicators being the basis for estimating the financial effects of the proposed acts should be taken into account. The Minister of Finance presents guidelines ensuring the use of uniform macroeconomic indicators, which constitute the basis for estimating the financial effects of the proposed acts. The guidelines are used to estimate the maximum expenditure limit of public finance sector units for a given task. The adopted values of the indicators should be consistent with the assumptions presented in the guidelines. Adoption of other assumptions and macroeconomic indicators than those presented in these guidelines or inconsistent with these assumptions for the preparation of the maximum expenditure limit estimate requires a detailed justification of such a procedure. As a result, the financial effects are not distorted by the adoption of various parameters, and also increases the credibility of the estimates, making it less susceptible to criticism from politicians.
- the effects of regulations should be determined in accordance with the requirements set out in the Public Finance Act. The quantified effects in point 6 of the RIA (Impact on public finance) are used in the budget process, and their precise estimation is related to the needs resulting from the stabilizing expenditure rule (SER) in the scope of the maximum expenditure limit sanctioned in the Public Finance Act.
- It should be emphasized that the Minister of Finance plays a significant role in the process of developing the RIA system in Poland, which by adjusting the form in point 6 of the RIA and by systematically updating the guidelines ensuring the use of uniform macroeconomic indicators not only improved it, but above all achieved a positive effect in the form of reliably quantified effects of draft normative acts.

However, most other points in case of Polish RIA fall short behind the standards set by OECD. In general, as authors of the report conclude during the stakeholder meetings several Ministries and the NIK auditor suggested that work on RIA is not given a sufficiently high priority. Failure to attribute significant political importance to RIA requirements and work may result in officials treating RIA as a troublesome administrative obstacle rather than a useful tool to facilitate strategy development (Report, 2019).

First of all, as OECD studies and reports underscore one of the single most important requirements for RIA systems to effectively enhance regulatory quality is considerable support and commitment at the highest political levels: "Commit at the highest political level to an explicit whole-of-government policy for regulatory quality" (OECD, 2012).

The authors of the report emphasise that given the importance of continued political support for the RIA some additional measures be considered to underscore the Polish political commitment to RIAs. These new measures to signal and institutionally embed the RIA system can include among the others the following (Report, 2021):

- strengthening central oversight for RIA: through a clear mandate for the quality control, through guarantees to shield the quality control from political interference (ensuring a significant degree of independence for the quality control), by providing a role for the central quality control in advancing regulatory quality (e.g., reporting on quality results, indicating needs for additional guidance, coordinating improvement actions, etc.)
- measures to enhance political ownership of the RIAs: through the use of Ministerial acceptance letter or signed statements confirming the Minister's satisfaction with information provided in the RIA (e.g., New Zealand and UK).

Secondly, as one of the main problems of the Polish RIA system, several officials and stakeholders pointed to the issue of pre-determination of the recommended solution, even before starting work on RIA. The main purpose of RIA is to facilitate choice. If the selection has already been made, the RIA becomes an inconvenient administrative requirement whose primary purpose is only to justify the previous choice, and no longer constitute a source of reliable analysis.

It is to mention that OECD considers making RIA part of the political process the most difficult issue to implement and a factor that determines the quality of RIA. RIAs should be carried out as soon as possible at a stage when individual policy options can still be considered (OECD, 2012). Referring the rules to Polish system of RIA, it is suggested that drafting the intervention or draft act before the RIA work is well advanced should be

avoided. The report recommends that line ministries should ensure that the proper order of work on RIA is followed before drawing up an intervention/legal act. The obligation to follow the sequence should also be clearly stated in manuals and templates (Report, 2019).

Thirdly, the method of creating RIA used in Poland and the models binding in the Polish system provide for the presentation of only one strategic option (recommended), without the possibility of comparing it with alternative options. Focusing on one preferred option contradicts the essence of RIA and constitutes a structural problem. The purpose of RIA is to facilitate choice by policy makers. If the document does not present other policy options and their implications, the choice is of course very limited. Moreover, the analytical and educational benefits of RIA are largely gained from the systematic comparison and confrontation of individual strategic options and their effects. Being able to compare several options often leads to a change of mind about previous assumptions, making the interventions even more accurate. Therefore, in the short term, the authors recommend that the RIA should present a fair comparison of the baseline option (the current state of affairs and its projected development, without additional intervention) with the preferred option (recommended solution), supplemented with a concise justification of the reasons for rejecting other options. In the long term, efforts should be made to introduce the requirement to include in the Polish RIA an analysis of at least three justified strategic options, so that political decision-makers have plenty of them to choose from. In order to strengthen this recommendation, changes to the guidelines and the existing template should be considered (Report, 2019).

Fourthly, one of the areas that has unnoticed become a victim of the pandemic is the legislative process, which is why the OECD proposes a reform consisting in improving the quality of the legislative process, with particular emphasis on strengthening the system of post-legislative research - ex post regulatory impact assessments. It assumes an assessment of the functioning of a given regulation after a specified period of time, and thus an assessment of the effectiveness of the implementation of the adopted objectives, as well as their adequacy. The focus on this section of the process results from the fact that it is currently a gap in the legislative process cycle. While the process of creating law, including ex ante RIA, is regulated, post-legislative analyses monitoring the effects of a given regulation (and, above all, whether the intended goals have been achieved) are irregular and have a minimal impact on the decision-making processes (OECD, 2022).

Finally, the basic problem in the operation of the RIA system in Poland is not the quality of the impact assessments themselves (although there is a need for more work in this area), but the fact that the units responsible for analysing the impact of regulations are often practically identical to those that draft these regulations. Thus, legislative proposals coming from sectoral ministries are issued by employees of these ministries. Inevitably, it is difficult to find such assessments objective. Therefore, there is a need for an organizational separation between designers and evaluators of regulations.

It is worth taking advantage of foreign experiences here. In the Netherlands, the most important regulation is assessed by ACTAL (Advisor Board on Regulatory Burden), an institution largely independent of the government that operates under a strong statutory mandate and is chaired by a board of three persons. Its opinions are of great importance for the course of the evaluation process of the most important regulations proposed by the Dutch government. Similar regulatory evaluation councils, based on the Dutch experience, were also established in Sweden (Swedish Better Regulation Council) and Germany (National Regulatory Control Council). They are also active in the UK (Regulatory Policy Committee) and in the Czech Republic (Board of Deputy Ministers for Regulatory Reform and Effective Public Administration), although in these countries they are not as independent on the government as in the Netherlands (Hardt, 2016).

To sum up, the possible effects of a given solution should be assessed in relation to the initial situation, i.e., the lack of this regulation. The consequences of the proposed legal act should, if possible, be estimated and presented in the form of numerical values. However, it is not necessary to abandon the qualitative indicators where they are considered indispensable, but they should be described and explained as fully as possible. The analysis must be subject to external peer review, the extent of which depends on the importance of the regulated issue. All assessments should refer to uniform indicators (such as the social discount rate), and a common template should be used to summarize each analysis.

Given the above, one can conclude that Polish regulatory policy system fails to meet many of the criteria and should be subject to deep reform to be in line with OECD recommendations.

Conclusions

Economic theory indicates that sound fiscal policy must meet at least two basic conditions: it must be sustainable, and it must be counter-cyclical. However, there are different ways to achieve those goals. As a result of pandemic including threats coming from the outbreak of war and still high rate of inflation the problem of indebtedness returned again in a drastic form manifested by jumping growth of public debt in relation to GDP.

Against this background, OECD and other international organizations recommend to focus additionally on the regulatory policy as it is an important lever besides monetary and fiscal policies and which still not attracts the attention it deserves from governments. Central part of any regulatory policy is Regulatory Impact Assessment (RIA) which is an essential policy tool for regulatory quality. The overall aim of RIA is to assist governments to make their policies more efficient. Overall, RIA is an effective tool supporting the process of making good law used to reduce risks associated with drafting regulations, which, with relatively small benefits, cause a disproportionately large burden on public finances, often leading to a breach of budgetary constraint.

Therefore, improving the institutional setting and designing a complex regulatory reform it is of high importance to combine the economic policy with the regulatory one.

Interesting conclusions have been found in the Polish Regulatory Impact Assessment in terms of the impact on public finances. The Minister of Finance plays a significant role in the process of developing the RIA system in Poland, which by adjusting the form in point related to public finance of the RIA and by systematically updating the guidelines ensuring the use of uniform macroeconomic indicators not only improved it, but above all achieved a positive effect in the form of reliably quantified effects of draft normative acts. The Minister of Finance became involved in the process of improving the regulatory impact assessment system, monitors it and, above all, systematically uses the information included in the RIA to determine the impact of regulations on public finances. However, in many other points the Polish Regulatory Policy System fails to meet the OECD recommendations. It requires stronger legal mandate for the RIA and stronger central oversight unit tasked with quality control, upstream support and guidance. Moreover, drafting the intervention or an act before the RIA work is very often well advanced which should be avoided and it leads to the presentation of one single policy option (the recommended solution) without discernible elements of comparison. Finally, units responsible for analysing the impact of regulations are often practically identical to those that draft these regulations. Thus, legislative proposals coming from sectoral ministries are issued by employees of these ministries so it is difficult to find it objective.

In general, however, OECD spot that the quality of regulation in most countries leaves much to be desired and strongly recommends that governments should improve how they assess, communicate, and manage risks – including by more systematically reviewing regulations to ensure they correspond to the latest evidence and science. These implications remain extremely justified in relation to the Polish system of regulatory policy.

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