



NATIONAL RESEARCH UNIVERSITY  
HIGHER SCHOOL OF ECONOMICS

*Vladimir D. Churakov*

# **REGIONAL PRACTICE OF REGULATORY IMPACT ASSESSMENT**

BASIC RESEARCH PROGRAM

WORKING PAPERS

SERIES: LAW

WP BRP 68/LAW/2016

This Working Paper is an output of a research project implemented within NRU HSE's Annual Thematic Plan for Basic and Applied Research. Any opinions or claims contained in this Working Paper do not necessarily reflect the views of HSE

*Vladimir D. Churakov*<sup>1</sup>

## **REGIONAL PRACTICE OF REGULATORY IMPACT ASSESSMENT<sup>2</sup>**

The paper is dedicated to the formal investigation of regional legislation in the sphere of the regulatory impact assessment (RIA). RIA is a crucial instrument for the evaluation of the effectiveness of law. It provides a solid basis for the objective assessment of proposed regulations in the sphere of business activity. The federal form of the Russian government requires the analysis of regional experience for the further development of RIA procedure.

JEL Classification: K00.

Keywords: regulatory impact assessment, law effectiveness, regional legislation.

---

<sup>1</sup> National Research University Higher School of Economics. Institute of Legal Research. Research Assistant; Department of Theory and History of Law. Postgraduate student; E-mail: [vchurakov@hse.ru](mailto:vchurakov@hse.ru).

<sup>2</sup> This study has been carried out under the Basic Research Program of the National Research University Higher School of Economics in 2016.

## Introduction

Regulatory impact assessment (RIA) is one of the most significant tools for the assessment of legal efficiency. It provides a solid ground for the objective evaluation of proposed regulation in the sphere of business activity. International experience has proved its importance<sup>3</sup>.

A federal form of government requires the analysis of both federal and regional RIA. Regional experience is important because it focuses on local problems and allows prompt decision making in comparison with the federal level.

Some researchers take regional experience into account. Hahn (2001) studies the impact of regulatory reform in several US states and provides a comprehensive assessment of state efforts to eliminate or change burdensome regulations and to use economic analysis to produce more sensible results<sup>4</sup>. The paper demonstrates that regional practice can be considered to improve federal legislation.

RIA in Russia was introduced in 2010 by Government Regulation № 336 of May 24, 2010, “On changes in some Russian Federation Government acts”<sup>5</sup> and the Ministry for Economic Development Order № 398 of August 31, 2010, “On confirmation of the procedure for the preparation of the regulatory impact assessment conclusions”<sup>6</sup>. The Department of RIA in the Ministry for Economic Development was also founded at that time. But regional RIA appeared only in 2014 when Federal Law № 176-FZ of July 2, 2013, “On changes in the Federal Law ‘On general principles of legislative and executive bodies organization in territorial entities of the Russian Federation’ and in articles 7 and 46 of Federal Law ‘On general principles of local governance organization’ concerning regulatory impact assessment procedure of draft regulations and expertise of legal acts”<sup>7</sup> (Federal Law № 176) came into legal force.

Nowadays regional acts have major differences in regulation of RIA, such as the form of the acts, the rule-making body, requirements for RIA, cooperation with local authorities. Thus, a comparative analysis of legislation in Russian regions is crucial for the harmonization of regional legal acts.

---

<sup>3</sup> See Mendelson N.A., Wiener J.B. Responding to Agency Avoidance of OIRA. 37 Harvard Journal of Law and Public Policy. Pp. 447-521. 2014. Available at:

[http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5887&context=faculty\\_scholarship](http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5887&context=faculty_scholarship); Radaelli C.M., Allio, L., Renda, A., Schrefler, L. How to Learn from the International Experience: Impact Assessment in the Netherlands. Final Report. March 2, 2010. Available at: <http://docplayer.net/2161511-How-to-learn-from-the-international-experience-impact-assessment-in-the-netherlands-final-report-team-claudio-m-radaelli-project-leader.html>.

<sup>4</sup> Hahn R.W. “State and Federal Regulatory Reform: A Comparative Analysis”. Cost-benefit Analysis: Legal, Economic and Philosophical Perspectives. Ed. by Adler M., Posner E. The University of Chicago Press. Chicago. 2001. P. 37.

<sup>5</sup> Published in Sobraniye Zakonodatel'stva RF, No. 21, St. 2602, May 24, 2010.

<sup>6</sup> Published in Byulleten' Normativnyh Actov Federal'nyh Organov Ispolnitel'noy Vlasti, No. 43, October 25, 2010.

<sup>7</sup> Published in Rossiyskaya Gazeta, No. 148, July 10, 2013.

The selection includes 5 regions that were considered to have the “best practices” in RIA in 2015<sup>8</sup>:

- Ulyanovsk Region;
- Rostov Region;
- Krasnodar Region;
- Republic of Tatarstan;
- Leningrad Region.

The methodology of analysis is established by the “Principles of rating RIA quality and expertise in territorial entities of the Russian Federation”<sup>9</sup>. According to this document Ulyanovsk Region has the best RIA among territorial entities. Its rating is 98,2%. However, does existing government methodology represent the actual state of RIA? Recent investigation of federal RIA quality showed a lot of issues with the RIA procedure<sup>10</sup>. Is regional regulation and practice significantly better?

An attempt to resolve whether regional RIA is qualitatively regulated is made in the paper based on an empirical analysis of legislation.

The work gives a firm basis for providing recommendations on amendments to federal acts concerning RIA, and recommendations on model requirements for the regional regulation of RIA.

## **A Comparative Analysis of the Legal Framework**

Regions have broad powers in regulating RIA procedure, therefore it is necessary to analyse the content of regional acts. Acts have been analysed using the following criteria:

- a formal description of the legal acts providing foundation for RIA;
- models of RIA organization;
- rates of the regulatory impact of legal acts;
- the regulatory impact assessment stages;
- persons notified about public deliberation;
- the content of consolidated reports;
- the terms of RIA stages;
- the requirement of annual accounting about RIA development in the region.

---

<sup>8</sup> <https://orv.gov.ru/Regions/Ratings>.

<sup>9</sup> <http://orv.gov.ru/Content/Item?n=11664>.

<sup>10</sup> See Reguliruyushee Vozdeystvie: Metodiki I Opyt. Ed by Tikhomirov Y. Moscow. Jurisprudenciya. 2016.

## A formal description of legal acts providing a foundation for RIA

Each region has specific law-making processes. This is reflected in a number of aspects, such as the name of the acts, their structure, the quality of legal writing. These differences can be observed in regional acts establishing the basic principles of RIA (Table 1).

**Tab. 1. Basic regional legal acts**

Ulyanovsk Region	<p>Law of Ulyanovsk Region № 201-ZO of November 5, 2013, “On the proceedings of regulatory impact assessment of draft regulations of Ulyanovsk Region and municipal draft regulations, the procedures of the expertise of legal acts of Ulyanovsk Region and municipal legal acts, concerning entrepreneurship and investment activity, and the procedures of the actual effect assessment of legal acts of Ulyanovsk Region concerning entrepreneurship and investment activity”<sup>11</sup>.</p> <p>Government Decree of Ulyanovsk Region № 607-P of December 16, 2013, “On the confirmation of Regulations for the procedures of the regulatory impact assessment of draft regulations of Ulyanovsk region concerning entrepreneurship and investment activity, and the repeal of particular Ulyanovsk Region Government Decrees (particular provision of Decree)” (Government Decree of Ulyanovsk Region № 607-P)<sup>12</sup>.</p> <p>There are many additional documents regulating RIA procedures. They include Decree of the Governor of Ulyanovsk Region № 219 of December 17, 2013, “On confirmation of the procedures for the resolution of disagreements arising from regulatory impact assessment procedure of draft regulations of Ulyanovsk region concerning entrepreneurship and investment activity”<sup>13</sup>, Order of the Ministry for Economic Development of Ulyanovsk Region № 05-287 of August 13, 2014, “On the confirmation of the form of the RIA consolidated report of draft regulations of Ulyanovsk region concerning entrepreneurship and investment activity, the form of RIA conclusion of draft regulations of Ulyanovsk region, concerning entrepreneurship and investment activity and a tentative list of questions</p>
------------------	--

<sup>11</sup> Published in Ulyanovskaya Pravda, No. 143, November 8, 2013.

<sup>12</sup> Published in Ulyanovskaya Pravda, No. 167, December 19, 2013.

<sup>13</sup> Published in Ulyanovskaya Pravda, No. 169, December 20, 2013.

	<p>about the draft regulation of Ulyanovsk region concerning entrepreneurship and investment activity”<sup>14</sup>. For the further improvement of RIA procedure two agreements have been concluded:</p> <ul style="list-style-type: none"> <li>• between the Ministry for Economic Development of Ulyanovsk Region and the Government of Ulyanovsk Region<sup>15</sup>;</li> <li>• between the Ministry for Economic Development of Ulyanovsk Region and business organizations<sup>16</sup>.</li> </ul>
Rostov Region	<p>Law of Rostov Region № 436-ZS of December 28, 2005, “On local government in Rostov Region”<sup>17</sup>.</p> <p>Government Decree of Rostov Region № 229 of April 2, 2014, “On the proceedings of regulatory impact assessment of draft regulations of Rostov Region, and expertise of legal acts of Rostov Region” (Government Decree of Rostov Region № 229)<sup>18</sup>.</p> <p>There is no special law about RIA in the Rostov Region. The basic norm regulating RIA procedure is stated by the common act concerning local government. In author’s opinion this is not best practice because a special law provides fundamental principles for RIA. Most regions from the selection have separate laws.</p>
Krasnodar Region	<p>Law of Krasnodar Region № 7-KZ of June 6, 1995, “On law-making and legal acts of Krasnodar Region”<sup>19</sup>.</p> <p>Decree of Head of administration of Krasnodar Region №1551 of December 14, 2012, “On the confirmation of the procedures of regulatory impact assessment of draft regulations of Krasnodar Region”<sup>20</sup> (Decree of Head of administration of Krasnodar Region № 1551).</p> <p>Krasnodar Region, like Rostov Region, does not have a particular law relating to RIA. As mentioned above, such situation is not perfect from a formal legal point of view. Despite this fact, there is an act which regulates RIA for local draft regulations: Law of Krasnodar Region № 3014-KZ of</p>

<sup>14</sup> Available at: <http://orv.gov.ru/Content/Item?n=14466>.

<sup>15</sup> Available at: <http://orv.gov.ru/Content/Item?n=14466>.

<sup>16</sup> Available at: <http://orv.gov.ru/Content/Item?n=14466>.

<sup>17</sup> Published in *Nashe Vremya*, No.No. 340-343, December 29, 2005.

<sup>18</sup> Published in *Sobraniye Pravovykh Actov Rostovskoy Oblasti*, No. 4 (I), St. 588, May 16, 2014.

<sup>19</sup> Published in *Kubanskie Novosti*, No. 98, June 6, 1995.

<sup>20</sup> Published in *Kubanskie Novosti*, No 15, January 28, 2013.

	<p>July 23, 2014, “On the RIA of municipal draft regulations and the expertise of municipal legal acts”<sup>21</sup>.</p>
<p>Republic of Tatarstan</p>	<p>Law of the Republic of Tatarstan № 14-ZRT of March 7, 2014, “On the proceedings of regulatory impact assessment of draft regulations of the Republic of Tatarstan, and the expertise of legal acts of the Republic of Tatarstan”<sup>22</sup>.</p> <p>Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182 of December 31, 2012, “On the confirmation of the procedures of regulatory impact assessment of draft regulations of the Republic of Tatarstan and expertise of legal acts of the Republic of Tatarstan”<sup>23</sup> (Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182).</p> <p>Legislation concerning RIA in the Republic of Tatarstan is efficient and the legal writing is of a high standard. For instance, Decree of the Cabinet of the Ministers of the Republic of Tatarstan № 1182 states basic terms that allow interested persons easily understand the key provisions of RIA procedure in the Republic of Tatarstan.</p>
<p>Leningrad Region</p>	<p>Law of Leningrad Region № 5-OZ of February 16, 2015, “On regulatory impact assessment of draft regulations of Leningrad Region and expertise of legal acts of Leningrad Region”<sup>24</sup>.</p> <p>Government Decree of Leningrad Region № 124 of April 23, 2015, “On confirmation of the procedures of RIA of draft regulations of Leningrad Region and expertise of legal acts of Leningrad Region” (Government Decree of Leningrad Region № 124)<sup>25</sup>.</p> <p>A formal legal analysis has demonstrated that the methodology of the legal drafting in Leningrad Region is qualitative. Basic definitions are established, additionally the Methodology of regulatory impact assessment of draft regulations of Leningrad Region and the expertise of legal acts of Leningrad Region was confirmed by Order of the Committee for Economic Development and Investment Activity of Leningrad Region № 17 of December 13, 2015<sup>26</sup>. It provides detailed guidance for all stages of RIA.</p>

<sup>21</sup> Published in Informationniy Bulletin’ ZS Krasnodarskogo Kraya, No. 21, 4 August, 2014.

<sup>22</sup> Published in Respublika Tatarstan, No. 37, March 14, 2014.

<sup>23</sup> Published in Sbornik Postanovleniy i Rasporyazheniy Kabineta Ministrov Respubliki Tatarstan i Normativnyh Actov Respublikanskih Organov Ispolnitelnoy Vlasti, No. 14, St. 0497, February 19, 2013.

<sup>24</sup> Published at <http://pub-sed.lenreg.ru/publishing/Document/1631.html#document-images>.

<sup>25</sup> Published at <http://pub-sed.lenreg.ru/publishing/Document/1821.html#document-images>.

<sup>26</sup> Published at [http://econ.lenobl.ru/Files/dbelectron/1431530879pk\\_17\\_ot\\_13.05.2015\\_metodika\\_orv\\_.pdf](http://econ.lenobl.ru/Files/dbelectron/1431530879pk_17_ot_13.05.2015_metodika_orv_.pdf).

The analysis has showed that regions have various names for acts and rule-making bodies. The general structure of RIA regulation also varies. This reflects the difference in law-making processes in the territorial entities of the Russian Federation. Rostov Region and Krasnodar Region do not have particular laws stating basic RIA principles.

## Models of RIA organization

The next crucial point for analysis is a model of RIA organization. Point 2.3 of “Guidelines on the organization and implementation of the RIA procedure of draft regulations of constituent entities of the Russian Federation and on expertise of legal acts of constituent entities of the Russian Federation”, confirmed by Ministry for Economic Development Order № 159 of March 26, 2014<sup>27</sup>, states that the following models of RIA organizations are available:

- The author of an act conducts the RIA procedure, including public deliberation during both the conceptualization of an idea and the discussion of draft regulations and prepares a consolidated report by means of the official site, but the authorized body prepares the RIA conclusion and conducts public consultation during such preparation, if necessary (the decentralized model).
- The author of an act conducts the RIA procedure and passes the draft regulation and consolidated report to the authorized body without conducting public consultation; the authorized body prepares the RIA conclusion and conducts public consultation by means of the official site on its own (the centralized model).

Taking into account possible crucial differences in regional RIA, the paper looks into these issues (Table 2).

**Tab. 2. RIA models**

Ulyanovsk Region	A decentralized model is set by Section III of Government Decree of Ulyanovsk Region № 607-P.
Rostov Region	A decentralized model is set by point 3.3 of Government Decree of Rostov Region № 229. An uncommon provision is provided by point 4.1 which sets

<sup>27</sup> Available at

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=202597&dst=0&mb=LAW&div=LAW&BASENODE=2018038487%2d4081201017&SORTTYPE=0&rnd=214990.3033118154&SEM=%2d&opt=1&5=%7c365&7=%7c2067788&84=%7c1525%2c1526>.



	forth that the preparation of the RIA conclusion is done by the author of the act. This is not an effective rule because the drafting of regulation and the final assessment of the act are carried out by the same agency.
Krasnodar Region	A centralized model is set by point 4.2 of Decree of Head of administration of Krasnodar Region № 1551.
Republic of Tatarstan	A decentralized model is set by point 3.2.5 of Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182. A non-typical provision is established by point 3.3.2 of the Decree and by the whole of Section 3 of the Decree. These norms regulate the activity of the Expert Council which is a special agency analysing the results of RIA made by a regulatory body. The Expert Council serves as a “filter”, deciding whether a detailed RIA procedure should be conducted in respect of a particular draft regulation.
Leningrad Region	A decentralized model is set by Section 4 of Government Decree of Leningrad Region № 124.

Most regions use decentralized models in which public consultation is conducted by the regulatory body (the act’s author), but Krasnodar Region has a centralized model. The most complicated RIA procedure is in the Republic of Tatarstan, where the Expert Council determines the necessity of a detailed RIA or reasonably refuses the suggested draft regulation or submits an act for approval.

### **Rates of legal acts’ regulatory impact**

Federal RIA procedure differentiates draft regulations in accordance with the rate of regulatory impact, which depends on the appearance of new duties, prohibitions and restrictions because of the new law. Therefore, it is not unreasonable to assume that regional legislation should also differentiate draft regulations (Table 3).

**Tab. 3. Regulatory impact rates**

Ulyanovsk Region	No differentiation.
Rostov Region	Differentiation is established by point 1.6 of Government Decree of Rostov Region № 229.
Krasnodar	Differentiation is established by point 1.5 of Decree of Head of

Region	administration of Krasnodar Region № 1551.
Republic of Tatarstan	Differentiation is not explicitly provided by the legal acts, but the requirement for the RIA rate's indication is set by point 3.2.4 of Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182.
Leningrad Region	No differentiation.

As seen from the Table 3, not all regions enshrine a rate differentiation in their legal acts. This can be a significant drawback, because RIA procedures can be the same in respect of all draft regulations without regard for their content and their effect on business activity. Thus, it would be appropriate to establish an obligatory requirement for the differentiation of draft regulations in Federal Law № 176.

### RIA stages

Regional RIA procedures are similar in the territorial entities analysed, although some differences remain in the stages (Table 4).

**Tab. 4. Stages of RIA**

Ulyanovsk Region	Ulyanovsk Region does not have an explicit enumeration of stages, but they can be concluded from the names of the sections of Government Decree of Ulyanovsk Region № 607-P: <ul style="list-style-type: none"> <li>• notice publication;</li> <li>• draft regulation formation, consolidated report preparation and public discussion;</li> <li>• the preparation of the RIA conclusion.</li> </ul>
Rostov Region	Point 1.5 of Government Decree of Rostov Region № 229 determines the following stages: <ul style="list-style-type: none"> <li>• notice publication on the official site's section "Rulemaking" and <a href="http://www.donland.ru">www.donland.ru</a>;</li> <li>• draft regulation formation, consolidated report preparation and public discussion;</li> <li>• the preparation of the RIA conclusion.</li> </ul>
Krasnodar	Point 1.6 of Decree of Head of administration of Krasnodar Region № 1551

Region	<p>determines the following stages:</p> <ul style="list-style-type: none"> <li>• the publication of notice about public deliberation, including the discussion of the concept of the suggested regulation (if necessary) by the regulatory body, consolidated report preparation and discussion;</li> <li>• the formation and submission to the authorized body of draft regulation and the consolidated report in tandem with evidence of pursuing the objective stated by the regulatory body after the legal act is enacted;</li> <li>• conducting RIA by the authorized agency.</li> </ul>
Republic of Tatarstan	<p>The Republic of Tatarstan does not have legal norm indicated RIA stages, but the third section of Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182 enumerates stages:</p> <ul style="list-style-type: none"> <li>• notice publication by the regulatory body;</li> <li>• the formulation of draft regulation by the regulatory body, its public discussion, consolidated report preparation;</li> <li>• the Expert Council's approval or disapproval of draft regulation.</li> </ul>
Leningrad Region	<p>Point 4.1 of Government Decree of Leningrad Region № 124 determines the following stages:</p> <ul style="list-style-type: none"> <li>• the publication of notice about the draft regulation's public deliberation and explanatory note;</li> <li>• holding public discussion of the draft regulation with interested persons;</li> <li>• the compilation of comments and propositions;</li> <li>• the heading to the authorized body of draft regulation, explanatory note and a compilation of comments and propositions;</li> <li>• the preparation of RIA conclusion and its publication.</li> </ul>

In common, RIA stages in the regions are almost the same. It is possible to identify three essential RIA stages:

1. notice publication;
2. the discussion of draft regulation and the consolidated report;
3. preparing RIA conclusion by the authorized agency.

All regions provide these stages in their legal acts, although there are some differences. The Republic of Tatarstan has the Expert Council, which decides whether further RIA is necessary. Leningrad Region distinguishes five stages. This is because there is a more detailed description of all activities of the RIA procedure. The content of the stages is similar to the three steps mentioned above. The objects of public discussion also differ. For instance, RIA procedure in the Republic of Tatarstan only allows for discussion of the draft regulation, whereas in Ulyanovsk Region RIA includes public discussion of both the draft regulation and the consolidated report<sup>28</sup>.

The stages stated by regional acts have few significant differences. The general direction of RIA procedure is common, but it is necessary to take into account whether RIA is centralized or decentralized.

## **Persons notified about public deliberation**

Regional acts determine the list of persons notified about public deliberation of draft regulations. They are similar in all selected regions. The following persons and organizations can be distinguished:

- interested bodies and officials;
- the regional business ombudsman;
- organizations which protect the interests of entrepreneurs.

This list of such persons and organizations is not exhaustive. It allows regulatory bodies to inform other entities or persons about the discussion of the draft regulation. This provision is efficient because regulatory bodies have an obligatory list of persons to be notified about public deliberation, but they are not limited to that list. Expert involvement in public discussion is crucial for RIA, as it gives a firm basis for the amendments in draft regulations and alternative points of view concerning the suggested rules.

## **The content of consolidated reports**

The consolidated report is the central document for the assessment of draft regulations' efficiency. It contains essential information concerning the potential effects of legal acts. Therefore, the content of consolidated reports should be detailed and be based on a wide range of sources. The normative description of the content of consolidated reports is substantial (Table 5).

---

<sup>28</sup> These conclusions have been made on the foundation of formal legal analysis of acts, concerning RIA procedure in the regions.

**Tab. 5. The content of consolidated reports**

Ulyanovsk Region	<p>Point 3.2 of Government Decree of Ulyanovsk Region № 607-P requires the following:</p> <ul style="list-style-type: none"><li>• a description of the problem to be solved by the suggested draft regulation and an assessment of the negative effects of the existing problem;</li><li>• an analysis of international experience and the experience of Russian territorial entities in the appropriate spheres;</li><li>• the aims of the suggested draft regulation and a substantiation of these in accordance with documents concerning the fundamental priorities of Ulyanovsk Region policy;</li><li>• a description of the suggested regulation and alternative solutions, including those that would give a result without enacting new legislation (methods, relevant activities, quantitative indicators, the result of consequence assessment);</li><li>• the subjects whose interests are going to be affected by the regulation; a quantitative assessment of the subjects;</li><li>• new or changed functions, powers, duties and rights of Ulyanovsk Region state bodies and Ulyanovsk Region local authorities, as well as the implementation procedure;</li><li>• an assessment of expenses (revenues) of Ulyanovsk Region consolidated budget;</li><li>• new or changed duties or restrictions for entrepreneurs as well as the implementation procedure;</li><li>• an assessment of expenses for entrepreneurs for adhering to the new or changed duties or restrictions;</li><li>• the risks of the suggested regulation and the risks of negative effects;</li><li>• the suggested act's effective date, or whether to establish a transitional period, a suspension of act's entering into force or a retroactive effect;</li><li>• a description of the control methods regarding to the pursuing aims;</li><li>• the required organizational, technical, methodological, informational and other arrangements;</li></ul>
---------------------	---

	<ul style="list-style-type: none"> <li>• indicative criteria, monitoring programmes and other methods of aims assessment;</li> <li>• information about notice publication, terms for offering suggestions, persons offered such suggestions;</li> <li>• other information useful for the assessment of the draft regulation's effectiveness.</li> </ul>
Rostov Region	<p>Point 3.2 of Government Decree of Rostov Region № 229 requires the following consolidated report content:</p> <ul style="list-style-type: none"> <li>• the rate of the draft regulation's regulatory impact;</li> <li>• a description of the problem to be solved by the suggested draft regulation and a negative effect assessment of the existing problem;</li> <li>• the draft regulation's aims;</li> <li>• a description of the suggested regulation and alternative solutions;</li> <li>• the subjects whose interests are going to be affected by the regulation; a quantitative assessment of the subjects;</li> <li>• new or changed functions, powers, duties and rights of Rostov Region state bodies and Rostov Region local authorities, as well as the implementation procedure;</li> <li>• an assessment of expenses (revenues) of the regional budget;</li> <li>• new or changed duties for entrepreneurs as well as the implementation procedure;</li> <li>• an assessment of the expenses for entrepreneurs for following their new or changed duties;</li> <li>• the risks of the suggested regulation and the risks of negative effects;</li> <li>• the suggested act's effective date, or whether to establish a transitional period, a suspension of act's entering into force or a retroactive effect;</li> <li>• a description of the control methods regarding to the pursuing aims;</li> <li>• the required organizational, technical, methodological, and informational arrangements;</li> <li>• indicative criteria, monitoring programmes and other methods of aims assessment;</li> </ul>

	<ul style="list-style-type: none"> <li>• information about notice publication, terms for offering suggestions, persons offered such suggestions and the generalized results of its analysis by the author;</li> <li>• other information useful for the assessment of the draft regulation’s effectiveness.</li> </ul>
Krasnodar Region	<p>There is no particular norm establishing the requirements for the content of RIA consolidated report in Krasnodar Region. Furthermore, the name of the document is “the consolidated report of the results of public deliberation”. This is not the best form of legal writing because the purpose of the consolidated report is not only the generalization of public deliberation results, but the provision of crucial information about the draft regulation’s potential effect (either positive or negative). It is, however, possible to indicate the essential information from the consolidated report standard form:</p> <ul style="list-style-type: none"> <li>• general information;</li> <li>• a description of the problem to be solved by the suggested regulation;</li> <li>• the regulation’s aims, and indicators for its assessment;</li> <li>• a qualitative characteristic and the quantitative assessment of the regulation’s potential addressees;</li> <li>• any alterations to the functions of Krasnodar Region state bodies (local authorities) and their implementation procedure;</li> <li>• an assessment of additional expenses (revenues) of Krasnodar Region budget (local budgets) as a result of the implementation of the regulation;</li> <li>• alterations of addressees’ duties (restrictions) and appropriate additional expenses (profits);</li> <li>• an assessment of the risk of adverse consequences of implementing the regulation;</li> <li>• a comparison of other possible solutions;</li> <li>• whether to establish a transitional period, a suspension of the act’s entering into force, or a retroactive effect;</li> <li>• information about terms for public consultation and the</li> </ul>

	consolidated report.
Republic of Tatarstan	<p>Point 3.2.4 of Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182 determines the following consolidated report content:</p> <ul style="list-style-type: none"> <li>• the rate of the draft regulation’s regulatory impact;</li> <li>• a description of the problem to be solved by the regulation and a negative effect assessment of the existing problem;</li> <li>• the aims of the suggested regulation;</li> <li>• a description of the regulation and alternative solutions;</li> <li>• the subjects whose interests are going to be affected by the regulation;</li> <li>• a quantitative assessment of entrepreneurs whose interests are going to be affected by the regulation;</li> <li>• new or changed functions, powers, duties and rights of the Republic of Tatarstan state bodies and local authorities, as well as the implementation procedure;</li> <li>• a preliminary assessment of expenses (revenues) of the Republic of Tatarstan budget;</li> <li>• new or changed duties for entrepreneurs as well as the implementation procedure;</li> <li>• an assessment of expenses for entrepreneurs to adhere to their new or changed duties;</li> <li>• the risks of the solution by means of the suggested regulation and risks of negative effects;</li> <li>• the suggested act’s effective date, or whether to establish a transitional period, a suspension of act’s entering into force or a retroactive effect;</li> <li>• a description of the control methods regarding to the pursuing aims;</li> <li>• the required organizational, technical, methodological, and informational arrangements;</li> <li>• indicative criteria, monitoring programmes and other methods of aims assessment;</li> <li>• information about notice publication, terms for offering suggestions, persons offered such suggestions and the generalized results of its analysis by the author;</li> </ul>



	<ul style="list-style-type: none"> <li>• other information useful for the assessment of the draft regulation's effectiveness.</li> </ul>
Leningrad Region	<p>The RIA consolidated report in Leningrad Region is called an explanatory note. Government Decree of Leningrad Region № 124 does not provide requirements for the explanatory note content. Although they are established by Leningrad Region Methodology of RIA:</p> <ul style="list-style-type: none"> <li>• a description of the problem to be solved by the regulation;</li> <li>• the regulation's aims;</li> <li>• current legal acts, assignments, or other decisions which determine the necessity to enact the regulation;</li> <li>• the planned period of the draft regulation entering into force;</li> <li>• information about the transitional period;</li> <li>• a comparison of other possible solutions;</li> <li>• other information regarding to the preparation of the draft regulation.</li> </ul>

The regions have some significant differences in the content of their RIA consolidated reports. Rostov Region and the Republic of Tatarstan require an indication of only the duties of entrepreneurs while Ulyanovsk Region requires duties and restrictions. There is a requirement to substantiate the regulation's aims in accordance with another legal acts and official decisions in Ulyanovsk Region, but not in Rostov Region, for instance. The RIA consolidated report should contain an analysis of international experience only in Ulyanovsk Region. Other regions don't have such requirement. Krasnodar region and the Republic of Tatarstan use different terminology for consolidated reports, although the purpose of the document is the same. The most similar requirements are in Rostov Region and the Republic of Tatarstan. Thus, consolidated reports can be significantly various in the regions. In author's opinion, the RIA consolidated report is one of the most important documents prepared during RIA. It allows the assessment of the draft regulation's effectiveness and the making of grounded conclusion of the enacting necessity. Therefore, regions should have some similar basic requirements for the consolidated reports' content. These requirements should be established by federal acts.

## Terms of RIA stages

Each procedure, including the RIA, has normative terms. Deadline management is important for efficiently carrying out RIA, because all interested persons should know the terms for making suggestions, its evaluation by the regulatory body, the preparation of RIA conclusion etc. Hence, regional legal acts determine terms for various aspects of RIA procedure (Table 6).

**Tab. 6. Terms**

<p>Ulyanovsk Region</p>	<p>Terms are prescribed by Government Decree of Ulyanovsk Region № 607-P:</p> <ul style="list-style-type: none"> <li>• the acceptance of the proposals after notice publication concerning the concept of regulation must be at least 15 calendar days from the date of notice publication;</li> <li>• proposals consideration and compilation of the summary, must be not later than 30 calendar days from the date of the end of proposals acceptance;</li> <li>• public discussion of draft regulation and the consolidated report (from the date of documents publication) must be 15 calendar days for administrative provisions and 20 calendar days for other projects. It is possible to prolong public discussion no more than 60 calendar days;</li> <li>• the revision of the draft regulation and the consolidated report after public discussion must be not later than 10 working days from the date of the end of public discussion;</li> <li>• preparation of RIA conclusion must be not more than 20 working days from the date of the reception of the draft regulation.</li> </ul>
<p>Rostov Region</p>	<p>Terms are prescribed by Government Decree of Rostov Region № 229:</p> <ul style="list-style-type: none"> <li>• the acceptance of the proposals after notice publication must be at least 15 working days from the date of notice publication;</li> <li>• proposal consideration and the compilation of summary must be not later than 30 calendar days from the date of finishing proposals' acceptance;</li> <li>• the term for public discussion of the draft regulation and consolidated report depends on the RIA rate: 45 working days for a high rate, 30 working days for a medium rate, and 15 working days</li> </ul>

	<p>for a low rate. Government Decree of Rostov Region № 229 does not mention the opportunity to prolong public discussion;</p> <ul style="list-style-type: none"> <li>• the revision of the draft regulation and the consolidated report after public discussion must be not later than 15 calendar days from the date of the end of public discussion;</li> <li>• the term for the preparation of RIA conclusion depends on RIA rate: 15 working days for high and medium rates, 10 working days for a low rate.</li> </ul>
Krasnodar Region	<p>Terms are prescribed by Decree of Head of administration of Krasnodar Region № 1551:</p> <ul style="list-style-type: none"> <li>• the acceptance of proposals after notice publication concerning the concept of the regulation (public deliberation regarding the concept of the regulation) must be at least 15 calendar days from the date of notice publication;</li> <li>• the consideration of proposals and compilation of the summary must be not later than 30 calendar days from the date of the end of public deliberation regarding to the regulation concept;</li> <li>• the term for public discussion of the draft regulation and consolidated report depends on the RIA rate: 10 calendar days for high and medium rates, 5 calendar days for a low rate. Decree of Head of administration of Krasnodar Region № 1551 does not mention the opportunity to prolong public discussion;</li> <li>• no term for the revision of the draft regulation and the consolidated report after public discussion;</li> <li>• the term for preparation of the RIA conclusion depends on the RIA rate: 15 calendar days for high and medium rates, 10 calendar days for a low rate.</li> </ul>
Republic of Tatarstan	<p>Terms are prescribed by Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182:</p> <ul style="list-style-type: none"> <li>• the acceptance of proposals after notice publication concerning the concept of regulation must be at least 15 calendar days from the date of notice publication;</li> <li>• the consideration of proposals and compilation of summary must be not later than 30 calendar days from the date of the end of the</li> </ul>

	<p>acceptance of proposals;</p> <ul style="list-style-type: none"> <li>• public discussion of the draft regulation and the consolidated report must be 15 calendar days from the date of documents' publication. Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182 does not mention the opportunity to prolong public discussion;</li> <li>• no term for the revision of the draft regulation and the consolidated report after public discussion;</li> <li>• there is no explicit term for preparation of the RIA conclusion in the Republic of Tatarstan, because RIA procedure has some specific features concerning the Expert Council's activity. Therefore, if the Expert Council establishes the demand for detailed RIA, it conducts public discussion that should last not less than 15 calendar days and not more than 60 calendar days. Participants then have 2 working days for the preparation of written comments and proposals in order to include them in the public discussion report made by the authorized body. The report should be formed in 5 working days and signed by public discussion participants in 2 working days. Then the RIA conclusion is prepared in not less than 3 working days and the Expert Council should decide whether approve, disapprove or pass to revision in the regulatory body draft regulation. Term for the decision is 3 working days.</li> </ul>
Leningrad Region	<p>Terms are prescribed by Government Decree of Leningrad Region № 124:</p> <ul style="list-style-type: none"> <li>• the acceptance of proposals after notice publication concerning the concept of the regulation must be at least 15 calendar days from the date of notice publication;</li> <li>• the consideration of proposals and the compilation of the summary must be not later than 5 calendar days from the date of the end of the acceptance of the proposals;</li> <li>• public discussion of the draft regulation and the consolidated report must be 15 calendar days from the date of documents' publication. Decree of the Cabinet of Ministers of the Republic of Tatarstan № 1182 does mention the opportunity to prolong public discussion, but does not specify the term for such prolongation;</li> </ul>

	<ul style="list-style-type: none"> <li>• no term for the revision of the draft regulation and the consolidated report after public discussion;</li> <li>• preparation of the RIA conclusion must be not more than 10 calendar days from the date of draft regulation's reception.</li> </ul>
--	--

It has been shown that terms in regional RIA procedures varies, such as in the use of calendar and working days. It predetermines the great difference in the terms on the practice, because “working days” mean that the procedure lasts longer and it does not take into account non-working days, while “calendar days” mean that non-working days are included in the term. For example, the real term for the acceptance of proposals in Rostov Region could be 21 calendar days. This allows interested participants to prepare solid comments and proposals and automatically improves RIA efficiency.

Some regions have unjustifiably narrow terms which make the RIA procedure hasty and inefficient. Krasnodar Region has short terms for public discussion: only 5 or 10 calendar days depending on the RIA rate. These terms hypothetically block a number of proposals from the interested persons, because it is difficult to prepare proposals in 5 or 10 days. The same situation concerning the consideration of proposals and the compilation of the summary after the concept regulation discussion holds in Leningrad Region. The term for the procedure is 5 calendar days. Therefore, the regulatory body cannot conduct an analysis of all proposals in detail. This can cause the ungrounded rejection of proposals.

A number of terms are determined only in some regions. For instance, the term for the revision of the draft regulation and consolidated report after public discussion is established only in Ulyanovsk and Rostov Regions. The term for prolonging public discussion is specified only in Ulyanovsk Region.

### **Annual accounting of RIA development**

For further RIA development regions have to give reports relating to the results of RIA. Some regions from the selection have such requirement in the legal acts (Table 7).

**Tab. 7. Requirement of annual accounting**

Ulyanovsk Region	No requirement.
Rostov Region	Requirement is contained in point 5.1 of Government Decree of Rostov

	Region № 229.
Krasnodar Region	Requirement is contained in point 4.20 of Decree of Head of administration of Krasnodar Region № 1551.
Republic of Tatarstan	No requirement.
Leningrad Region	Requirement is contained in point 8.1 of Government Decree of Leningrad Region № 124.

Annual accounting of RIA development means that each year the region should pass the Ministry for Economic Development a report about RIA results and development for the previous year. The federal body can generalize information and make arrangements for improvements to RIA, however not all regions studied here have such a requirement.

## Conclusion

The baseline results of the present investigation illustrate that regions have various normative regulations for RIA procedures. It follows that serious attention should be paid to the harmonization of regional legal acts in a number of areas. Efficient RIA procedure is able to provide a comprehensive improvement of the existing rules<sup>29</sup>.

Qualitative RIA requires unified basic terminology. Some crucial terms are not the same in all regions. Clear examples are the RIA consolidated reports in Ulyanovsk Region, Rostov Region, Krasnodar Region, the Republic of Tatarstan and the explanatory note in Leningrad Region. The essence of these documents is similar, but the terminology is not. This is a significant drawback of the legal writing methodology. Thus, the federal act should establish unified terms concerning the essential points of RIA.

The other obvious disadvantage of the current regional RIA procedures is the absence of RIA rates. Ulyanovsk Region and Leningrad Region do not make a distinction between draft regulations in accordance with their impact rate. This leads to a situation when all acts are analysed in the same way despite differences in their impact on business. This means that federal legal acts should set forth the necessity for regions to differentiate draft regulations depending on the RIA rate.

In the author's opinion there should be minimal terms for stages of the RIA procedure, because terms provided by the current regional legislation can be too narrow. It leads to a drop in

---

<sup>29</sup> See 3. Hahn R. W., Tetlock P. C. Has Economic Analysis Improved Regulatory Decisions? AEI-Brookings Joint Center Working Paper No. 07-08. 2007. Available at SSRN: <http://ssrn.com/abstract=982233>. P. 20-21.

RIA quality. Moreover, it is necessary to establish whether “calendar” or “working” days should be used in the texts of legal acts. The requirement for annual accounting of RIA development must be obligatory for all regions.

The consolidated report, as one of the most significant documents, should have a minimum of essential information for the act’s efficiency assessment. Hence, federal acts should prescribe the information necessary for regional RIA consolidated reports.

To conclude, it is possible to mention that law often means a balance between somebody’s interests. In the case studied here a balance should be found between a number of essential issues, settled at the federal level, and the opportunity to take into account regional specifics and to be reflected in the regional legal acts. A good instance is the RIA procedure in the Republic of Tatarstan, where the Expert Council conducts a detailed RIA. Thus, federal acts should set up an efficient legal framework for regional RIA, but the freedom for regions to regulate some RIA aspects also should be allowed for.

The analysis demonstrates that “Guidelines on the organization and implementation of RIA procedure of draft regulations of constituent entities of the Russian Federation and on expertise of legal acts of constituent entities of the Russian Federation”, confirmed by Ministry for Economic Development Order № 159 of March 26, 2014, which is a recommendatory act, could significantly improve regional RIA regulation if it assumes an obligatory character.

The results obtained provide a guideline for studying other aspects of RIA procedure, including law-enforcement practice and retrospective analysis for RIA development.

## Bibliography:

1. *Hahn R. W., Tetlock P. C.* Has Economic Analysis Improved Regulatory Decisions? AEI-Brookings Joint Center Working Paper No. 07-08. 2007. Available at SSRN: <http://ssrn.com/abstract=982233>.
2. *Hahn R.W.* “State and Federal Regulatory Reform: A Comparative Analysis”. Cost-benefit Analysis: Legal, Economic and Philosophical Perspectives. Ed. by Adler M., Posner E. The University of Chicago Press. Chicago. 2001.
3. *Mendelson N.A., Wiener J.B.* Responding to Agency Avoidance of OIRA. 37 Harvard Journal of Law and Public Policy. Pp. 447-521. 2014. Available at: [http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5887&context=faculty\\_scholarship](http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5887&context=faculty_scholarship).
4. *Radaelli C.M., Allio, L., Renda, A., Schrefler, L.* How to Learn from the International Experience: Impact Assessment in the Netherlands. Final Report. March 2, 2010. Available at: <http://docplayer.net/2161511-How-to-learn-from-the-international-experience-impact-assessment-in-the-netherlands-final-report-team-claudio-m-radaelli-project-leader.html>.
5. *Reguliruyushee Vozdeystvie: Metodiki I Opyt.* Ed by Tikhomirov Y. Moscow. Jurisprudenciya. 2016.



**Vladimir D. Churakov**

National Research University Higher School of Economics. Institute of Legal Research.  
Research Assistant; Department of Theory and History of Law. Postgraduate student.

E-mail: [vchurakov@hse.ru](mailto:vchurakov@hse.ru)

**Any opinions or claims contained in this Working Paper do not necessarily reflect the views of HSE.**

© Churakov, 2016