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The Role of Regulatory Impact Analysis in Public Administration: Assessments with a Governance Approach

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ABSTRACT

One of the most important conditions for increasing the efficiency of public administration, realizing the principles of governance and most importantly creating a modern state that can compete on a global scale depends on the inclusive and high quality of the legislation. The way the legislation is created in the country is the most important factor affecting this quality. In addition to the formation of legislation and public policies by the legislature in the country, the inclusion of technical and expert opinions in making decisions in this process ensures that the decisions taken are better. Regulatory impact analysis is a policy decision support system that is very effective and helps to achieve good results in the process of creating public policies. Regulatory impact analysis, in its most general terms, is the analysis of the possible effects of the public policies that are aimed to be formed in relation to a certain subject, by determining in advance. Within the scope of this analysis, it is suggested that the most beneficial and least costly policy should be applied by determining the costs and benefits of various policies, which are generally created in relation to a subject, separately. Therefore, before the implementation of a certain public policy, it should be analyzed in terms of its possible future effects. It collects comprehensive and systematic information about the proposed policies and acts as an advisor to the decision makers.

The practice of regulatory impact analysis can be traced back to the 1990s in OECD countries. However, it is seen that this analysis has not yet received sufficient value and has not found an application area in Turkey. On the other hand, regulatory impact analyzes improve policy-making processes, enabling both the spread of governance and the development of democratic values. Turkey has highlighted the implementation of regulatory impact analysis with a series of legislative harmonization programs within the scope of the EU harmonization process. However, it has been very limited in practice. Within the scope of this study, it is emphasized what regulatory impact analysis is, how its processes and methods work, and why it is necessary to apply this method. Therefore, regulatory impact analysis What?, How?, Why? evaluated on the basis of questions. It is also evaluated how this analysis has effects on public administration and what kind of relations it has with the governance approach. As a matter of fact, it is seen that the regulatory impact analysis is very useful in the process of creating public policies and contributes to the effective-efficient use of the country's resources. Moreover, in the background of this analysis, the emphasis on the phenomenon of governance in relation to state administration has emerged. It is recommended that this analysis be made in all kinds of policies that need to be put forward in the implementation of governance and the implementation of good governance principles.

Keywords: Regulatory Impact Analysis, Governance, Public Administration, Public Policy

1. INTRODUCTION

Decision-making processes in the field of public administration have been in constant change and transformation from past to present. At the point of making decisions, basic values such as increasing people's quality of life, meeting their security needs and minimizing problems dominate. In the globalizing world, it is necessary to move away from traditional methods in making public administration decisions. As a matter of fact, in order for more effective and efficient practices to be put into practice, the decisions taken should be prepared comprehensively in a way that will provide the correct and highest benefit.

The regulations made in the field of public administration can be defined as policy in general. These policies may appear in practice as legislation, plans, programs and vision documents. However, it is generally put forward in the form of laws and regulations as a legislation. Improving the processes for making such decisions or regulations provides more benefits from these regulations. Therefore, it is necessary to analyze the regulations regarding public administration in processes that include certain systematic analyses. These analyzes should not be considered as an evaluation of the processes after the creation of a decision, policy or legislation. These analyzes mean that the regulation planned to be made on a subject is analyzed by the experts while it is still in draft form. It means that when a regulation is issued on a subject, people who know the subject should collect and analyze the opinions of other stakeholders of the subject. These processes are generally referred to as Regulatory Impact Analysis today.

Within the scope of regulatory impact analysis, it contributes to making decisions that will provide the highest level of social benefit by using many different methods. The task of these analyzes is to contribute to the decision processes.

It is not the making of decisions or acting like a decision system. The implications of these analyzes have the task of making policy drafts more effective and efficient.

Although regulatory impact analysis has valuable contributions and analysis processes, it is not a widely used method. The reason why this method is not popular is the concern that it will replace political decision makers. That is, there is a concern that decisions will be made by professionals rather than by people elected by society. This situation can be seen as a reflection of the conflict between technocracy and democracy. However, regulatory impact analysis is not a technocracy practice. Moreover, it contributes to the enhancement of democratic values and principles. Because regulatory impact analysis is not a decision-making method, it is a decision support system. In this respect, it undertakes the task of consulting to the political decision makers who are already democratically formed. In these consultancy processes, taking the opinions of the experts who know the subject in detail and the people affected by the subject also ensures the development of the understanding of governance. The development of the understanding of governance also improves democracy (Karataş, 2021: 640). Therefore, this method contributes to the idea and practices of democracy both directly and indirectly through governance.

Within the scope of this study, how the regulatory impact analysis has effects on public administration and how it is related to the governance approach is determined by evaluating the characteristics of the administration. For this purpose, determining the scope of the regulatory impact analysis and its conceptual discussion were discussed at first. Afterwards, by analyzing the historical development processes of regulatory impact analysis, it was tried to determine how it contributed to public administration at these stages and how it was related to the governance approach. In addition, the purposes of regulatory impact analysis in public administration and its benefits to public administration were also evaluated. Afterwards, the principles and rules of regulatory impact analysis were examined and the relations of these rules and principles with governance were evaluated. In addition, the application processes of this analysis and the types of analysis were evaluated. The most frequently applied types of regulatory impact analysis were analyzed in detail and it was determined which ones contributed to the governance phenomenon and how they would affect the public administration. In addition, it is aimed to contribute to the development of the analysis by evaluating the criticisms brought about this method and the problems in the application process.

2. CONCEPT AND SCOPE OF REGULATORY IMPACT ANALYSIS

Two basic words in the concept of regulatory impact analysis give us various clues about this analysis. First of all, the concept of regulation describes that regulation will only be made by creating certain rules rather than an intervention in these analysis processes. Secondly, the concept of impact explains that the outputs of a transaction or a policy that has been implemented will be acted upon, that is, its effects will be evaluated.

Regulatory impact analysis; It refers to the cost-benefit analysis to roughly measure the effects of regulatory policies that are tried to be formed on the private sector, public administration and non-governmental organizations (Ekici, 2006). This analysis is a tool that enables the possible effects of the policy to be predicted and to be evaluated quantitatively. Therefore, the effects of the subjects covered in the analyzes are discussed in terms of their numerical results. The basis of this analysis is to determine the factors that are effective in making decisions by collecting comprehensive and systematic information about a certain subject (Ekici and Çelik, 2007). Based on this definition, regulatory impact analysis; It can be defined as a knowledge-based method used to systematically and consistently examine the possible positive and negative effects of regulations, in some selected areas, and the distribution of these effects among segments of society, and to convey information to decision makers (OECD, 1997c: 13-14).

Thanks to this analysis, it enables the evaluation of the possible positive or negative effects of the proposed policies and new regulations. In addition, it enables the systematic evaluation of the changes and distributions created by these changes between different groups and social actors in the society. By doing these, it tries to achieve the aim of increasing the quality of decision-making processes, thanks to the order it has created. Therefore, regulatory impact analysis is not a kind of decision-making interval, but should be considered as a tool used to increase the quality of decision-making processes and increase the efficiency of this process (TEPAV, 2006: 2). Regulatory impact analysis is an analytical tool used to decide whether to make a regulation, to determine the content of a regulation to be made, or to change/remove an existing regulation.

In other words, regulatory impact analysis is a preliminary assessment prepared to estimate how the regulation will affect the budget, legal situations, social life, economic processes, cultural value, environment and the internal and external stakeholders of the regulation (CBK, 2022).

Regulatory impact analysis refers to the systematic analysis of the effects of the actors in the public manager process on these management processes. Thus, decision-making authorities and people who will be affected by the decision to be taken have information about the possible consequences of the regulation. Therefore, this analysis is a very

important element in the design of policy proposals and seems to be an integral part of this process (Scharrenborg, 2006).

This method encourages regulators and policy makers to think more systematically and to make balanced decisions when choosing between alternative solutions to any problem. Thus, it increases accountability in regulatory actions and transactions. It also enables the rationale of regulation to be questioned, and to understand the real economic implications, particularly cost-benefit or cost-effectiveness. In addition, the Regulatory Impact Analysis reveals the consequences of not making a regulation in that area. In other words, what will happen if there is no regulation in that or that area is also the subject of investigation (European Policy Center, 2001).

In another definition, regulatory impact analysis allows for future benefit-cost analysis about the establishment of administrative processes, the making and implementation of decisions on the subject to be regulated, before the start of any public policy, public service or public program (Prime minister's office, 2003). Therefore, before the social decisions are taken, it is foreseen that changes or regulations should be made both about the decision-making processes and about the essence of the decision within the framework of the public interest phenomenon. Social benefits should be taken into account in the arrangements to be made.

This analysis is a method that enables in-depth examinations of the effects of regulatory plans such as legislation, programs, projects, which have not yet been implemented, on the market, society, environment, private sector, legislation, and economy. Regulatory impact analysis is a very important tool for shaping future strategies by predetermining the effects of the change brought by the negotiation process, the threats and opportunities that may arise, the cost of compliance, and the ideal adaptation calendar (Scharrenborg, 2006).

Regulatory Impact Analysis, which is a tool of regulatory reform, is a preliminary assessment that guides regulators in maximizing the net social benefit by systematically evaluating the effects of existing or planned regulations on the budget, legislation, social, economic and commercial life, the environment and relevant sectors. Office, 2001: 1).

Based on the evaluations given above regarding the regulatory impact analysis, the application of this method necessitates a cultural change in the state. The cultural change here is about bringing up some basic principles in the functioning of the actors and processes in relation to the state (Karaosmanoğlu, 2006: 16). As a matter of fact, the understanding of regulation and the analysis of the possible effects of the planned regulations bring about moving away from the traditional public administration approach. It includes the creation of political and administrative platforms where transparency, accountability, rationality and joint decisions are taken in decision-making processes.

Regulatory impact analysis should be an integral element of public policy making processes. It needs to be activated at the beginning of the policy making processes regarding the changes planned to be made on a particular issue. In this process, there are implications about the advantages and disadvantages of the planned changes and regulations. It is therefore recommended that this analysis be incorporated into policy-making processes as early as possible. Although feedbacks and very valuable information can be obtained through these analysis processes, it is not possible for this analysis alone to be sufficient in making public decisions. Thanks to this analysis, the process of making decisions becomes easier and the quality is increased. As a matter of fact, principles such as participation, effectiveness, openness and accountability are included in decision processes (Rodrigo, 2005: 3).

Regulatory impact analysis is not a singular method or process. In other words, not every event, situation and country have a structure that fits the situation. There is no single form or pattern of this analysis. Therefore, it has a flexible structure and can be tools with varying objectives, shapes and roles according to the situation of the countries (Kaymak, 2004: 113). As a matter of fact, this analysis is not a result, but a tool used to reach results. Therefore, in order to achieve success, it must be based on both flexible and long-term perspectives (Ekici, 2006: 30).

3. HISTORICAL DEVELOPMENT OF REGULATORY IMPACT ANALYSIS

Regulatory Impact Analysis is one of the main arguments used in the implementation of the regulatory reform programs developed by the OECD. This analysis method, which has very valuable contributions in increasing the quality of regulation, provides very effective results in increasing the economic performance and raising the quality of life in OECD member countries.

The Regulatory Impact Analysis program has not been named by this name yet, but it was implemented for the first time in the USA. In 1975, US President Gerald Rudolph Ford created the first transparency program in order to overcome the problems caused by stagflation in the USA at that time. On the basis of this program, it required public institutions to prepare an inflation impact statement before explaining their regulations and policies. Therefore, before the implementation of a policy, it was necessary to evaluate its possible effects. Thus, the Regulatory Impact Analysis was officially accepted and implemented for the first time. Economic pressures and crises in the country were

effective in the initiation and spread of such a practice (Morrall, 2001). However, time has expanded the content of this analysis, not only limited to economic policy processes, but also applied to all kinds of important issues. Thus, the foundations of the analysis have been laid out, even if it has not been officially named yet. However, this analysis has been officially implemented and spread through programs developed by the OECD.

The first official document on regulatory impact analysis was put forward by the OECD in 1995. In line with the demands of countries that have problems with regulatory reform, the first international standard on regulatory quality, the "Recommendation on the Improvement of Quality in Government Regulations", prepared by the representatives of the member countries participating in the working group of the "Regulatory Management and Reform Public Administration Committee" in order to increase the quality of these regulations OECD Council of Ministers It was adopted and published by the Regulatory Impact Analysis in March 1995 and the Regulatory Impact Analysis is referred to here for the first time (OECD, 1995: 3).

Regulatory quality formed the core of the OECD's 1997 Regulatory Reform Report (OECD, 1997d). The report stated that regulatory impact analysis should be used to evaluate the benefits and costs and distributive effects of regulations, alternative approaches, reform proposals, and disproportionate effects on small and medium-sized enterprises (OECD, 1997b).

Regulatory Impact Analysis has been used in a few countries in the 1980s for local or minor regulations. However, the use of the analysis in all areas of public administration, its application to the law-making process and its prevalence was in the second half of the 1990s, when governments generally based the legitimacy of the regulations enacted on the rules of international trade and competition. Developments in regulation in the 1990s have been described as a movement towards a "regulatory state", an "evaluative state", a "control society" and an "age of supervision". Regulation is one of the functions of government and one of the key elements of accountable regimes. With the concept of the regulatory state, the functions of the state to exercise authority and to set rules/standards are emphasized, especially the old emphasis on public ownership, public subsidies and directly provided services are removed.

Although regulatory impact analysis is known in developing countries, it has not yet been fully implemented. Some countries first performed the analysis in their simple regulations in the 1980s. Its widespread use began in the late 1990s. In the world, since the 2000s, with the regulatory reforms, its implementation has become mandatory in the public administration and legislative process (Bayramoğlu, 2004: 4-5). However, although the foundations of the analysis were laid in the USA and the OECD recommends the application to its member countries, there is not much information and documentation on the application of the analysis. Countries are trying to apply regulatory impact analysis to their country regulations through the guide published by the OECD.

There are differences between countries in the application of regulatory impact analysis. For example, while the regulation on regulatory impact analysis was made by law in some countries, by the decision of the president or prime minister in some countries, it was made by government decision in many other countries (Rodrigo, 2005: 13). Apart from this, there are also application differences in scope.

Regulatory Impact Analysis began to emerge more clearly with the OECD's "OECD Report on Regulatory Reform" dated 27 May 1997. The OECD has recommended member states to implement the Analysis in regulatory reforms and reviews. In the report, it was stated that Regulatory Impact Analysis should be used to evaluate the benefits and costs and distributive effects of regulations, alternative approaches, reform proposals and their disproportionate effects on small and medium-sized enterprises (OECD, 1997a: 29-30).

Today, at the stage of Regulatory Impact Analysis, two major analytical trends are observed. One is a move towards more integrated assessment methods, called soft benefit-cost analysis, and the other is a move towards more fragmented and partial forms of assessment that specifically assess management's burdens on the business world (Jacobs, 2006: 3-4).

4. REGULATORY IMPACT ANALYSIS IN PUBLIC ADMINISTRATION

4.1. Public Administration Purposes of Regulatory Impact Analysis

Based on the definitions made regarding the regulatory impact analysis and the explanations made in the historical development process, the main purpose of this method is to develop the policies or decisions that are planned to be implemented in a way that will provide the highest benefit and the least cost (OECD, 1997c: 211). It is accepted that the regulatory impact analysis, which is shaped within the framework of this general purpose, has four separate objectives (OECD, 1997c: 14-17):

First of all, the real effects of the policies planned to be implemented, including the cost-benefit analysis, can be revealed. It provides policy makers and practitioners to evaluate the effectiveness of policies regarding the policies planned to be implemented. Thus, it contributes to the more effective implementation of public policies. For this purpose, it is envisaged to conduct a wide range of cost-benefit analyzes.

As a result of these analyzes, an idea about the policy to be implemented is revealed and thus the way is opened for more effective use of resources (Rodrigo, 2005: 7). Therefore, by conducting empirical researches, quantitative and more concrete decisions can be made in estimating the possible effects of policies. Thanks to the evaluations made in this way, two main benefits are obtained. It is a kind of decision support system for decision makers about the content and priority of the policies that are made first. Secondly, the implementation of policies that are less beneficial than the cost, that is, inefficient, is abandoned and different policies are produced (OECD, 1997c: 14).

Techniques used to reveal the benefits and costs of regulation: Benefit-cost analysis, Cost-effectiveness analysis, Cost evaluation, Benefit evaluation Financial or budget analysis, Socio-economic impact analysis, Regulatory compliance analysis, Impact testing on the business world. Which technique to use may vary depending on the expected effects, available resources and time constraints. The most widely used technique in OECD countries is cost-benefit analysis (Baskıcı, 2007: 25-26).

Secondly, regulatory impact analysis is carried out in order to achieve multiple policy objectives together. Public policies can be of interest to the general public as well as to a narrow group. However, both types of policies can have a direct or indirect impact on more than one area. As a matter of fact, the effects of the regulations to be made on a certain area should not be investigated. Their economic, social, cultural, legal, etc. issues also need to be explored. Therefore, while creating a public policy; should not be limited to the narrowly defined objectives of the policy. In addition, the effects of policies on the environment, economic area and social area should also be calculated. From this point of view, it can be said that regulatory impact analyzes are a tool that will guide decision makers, create a link between policies and provide an opportunity to evaluate different policy effects as a whole (Ekici, 2006: 37). Thus, in the policies to be developed, many political objectives can be addressed and realized together. Regulatory influence is therefore a highly effective analytical tool that brings together different interests. It also allows for coordination between multiple political objectives. Within the scope of analyzes of regulatory effects, it determines the relationship between cost-benefit comparison and multiple political objectives and their priorities (Bıçkıcı, 2003: 289).

Third, there is the purpose of regulatory impact analysis, to improve transparency and consultation process in public administration. In today's public administration understanding, it is very important to take decisions in a participatory way and to prioritize transparency. Therefore, it is necessary to seek ways to ensure transparency and participation in political decisions. In this case, the benefits of regulatory impact analysis tools come to the fore. Thanks to this analysis, both participation and transparency can be ensured. At the same time, consultation processes for policy makers are improved by evaluating the effects of policies before the implementation process (Baskıcı, 2007: 27). Although there is no transparency in the traditional understanding of public administration, this principle is given a lot of value in these analysis processes. The possible effects and decision focus obtained by the regulatory impact analysis should be disclosed to the public (Radaelli, 2004: 735). In the process of evaluating these effects, people who are directly involved in the effects are interviewed. The results obtained in these interviews serve as a kind of consultancy for decision makers (Bıçkıcı, 2003: 289).

Fourth, the aim of regulatory impact analysis is to increase accountability in public administration. It increases the accountability of the administration by showing how the decisions to be made regarding the public administration affect the society with the evaluations made thanks to the regulatory impact analysis and the comprehensive information it contains (Ekici, 2006: 38). As a matter of fact, sharing the positive and negative effects of a certain policy before it is implemented provides an accountable public administration as well as providing a transparent administration. In this context, sharing all the possible effects of the policies planned to be implemented and the legal arrangements planned to be made and their acceptance by the policy-making administration provides an accountable understanding.

4.2. Public Administration Benefits of Regulatory Impact Analysis

Thanks to regulatory impact analysis, successful (effective and efficient) policies can be developed and better regulations can be made by public institutions and organizations. Thus, better developments and results can be achieved in the economic and social field. It also contributes to improvement in decision-making processes. Therefore, it can be ensured that the quality of policies and legislation regarding public administration can be increased. In addition, transparency and accountability can be achieved through the improvement of processes. On

the other hand, thanks to regulatory impact analysis, it also ensures that new policies are compatible with existing policies and legal situation.

The main purpose of making these analyzes is to make a choice in favor of the public interest among policy alternatives in order to increase social welfare (Kirkpatrick and Parker, 2003: 3). These analyzes contribute to both results and processes in ensuring social welfare. Its contribution to the result is provided by the choice of effective options in the context of economic, social and sustainable development, and its contribution to the process is provided by being an important tool in the implementation of good governance principles (Karaosmanoğlu, 2006: 16).

Regulatory impact analysis is not a uniform document in terms of form. Different analysis methods and techniques are used in different countries. Despite this, although the expected benefits and benefits from the analysis are different in all countries, there is a common ground in terms of making decisions that positively affect the society. Studies show that regulatory impact analysis has many benefits. These can be listed as follows (Ekici, 2006: 8)

1. Increasing economic performance and social welfare,
2. Determining alternative methods for the creation and implementation of policy changes,
3. A clear understanding of the social, environmental and economic costs and benefits of regulation, identification of unexpected results and risks,
4. Determining the best policy option and making the arrangement to realize this,
5. Detecting negative effects and thus minimizing the possibility of failure,
6. Determining the most appropriate regulation option for the policy that is thought to be implemented through the evaluation of different alternatives and shaping the regulation well,
7. Increasing transparency by ensuring the active participation of business world consumers and other stakeholders, strengthening governance,
8. As a result of the data obtained from the impact analysis of the regulators against the pressures of certain interest groups, and as a result of public participation, the power of resistance is increased and facilitated, and the accountability of the regulators is increased,
9. Instilling a new way of thinking by changing the mindset on whether the government's intervention is necessary, developing alternatives by enabling the discussion of traditional regulatory tools, providing more detailed consideration in shaping the regulations, consulting the relevant parties, predetermining the undesirable consequences that will occur as a result of the regulation,
10. Ensuring the effective and efficient delivery of public services,
11. Reducing the democratic gap by increasing transparency in regulations and improving the dialogue between citizens and institutions.

The benefits of regulatory impact analysis are too numerous to be limited to those stated above. However, in order to classify them and make them easier to understand, we can divide their benefits into two basic categories. These can be divided into two as benefits for decision makers and benefits for society.

We can list the benefits of regulatory impact analysis for decision makers or policy makers as follows (Bıçkıcı, 2003: 290-291; Çelik, 2005: 34):

1. It can be evaluated whether the planned regulation is really needed,
2. Decision makers can consider and compare various alternatives together,
3. Planned policy changes can be abandoned, a new policy can be developed or revised,
4. The economic, social and environmental benefits and costs of the planned arrangements can be understood,
5. It can be ensured that the most beneficial policies are preferred with the least cost,
6. Effective solution proposals can be presented and assist regulatory authorities in identifying more beneficial methods,
7. By determining the negative externalities of the regulations, the reasons for the implementation despite these externalities can be put forward and new policies or regulations can be suggested for these externalities,
8. A structure that increases participation and transparency in public policy-making processes can be adopted,

9. More flexible and public interest-based principles can be developed instead of traditional understandings and values in policy making processes,
10. Criticisms and social demands-pressures against public policy can be reduced,

The benefits of Regulatory Impact Analysis for society can be listed as follows:

1. The participation of the society in the decision-making mechanism can be ensured, and the society is provided to undertake a consultancy role regarding the regulations,
2. Decision-making and implementation processes can become more effective,
3. Thanks to the transparency in public administration, the society can have information about the regulations,
4. It is determined from whom the public can hold accountable for regulations that have negative consequences,
5. A change of understanding and culture can be achieved in the society thanks to phenomena such as participation in the decision-making process, transparency and accountability,
6. With the participation of the society in decision-making processes, it can be easier to switch to quality control and quality assurance systems.

Although regulatory impact analysis has many and multidimensional benefits as mentioned above, it is not an alternative method to decision-making processes. This method should be considered as a decision support system. Thanks to this feature, while it provides openness, participation and accountability, it also increases the quality of political and administrative decisions (Kızılcık, 2006: 81).

5. METHODOLOGY OF REGULATORY IMPACT ANALYSIS

5.1. Principles and Rules

Within the scope of regulatory impact analyzes, these analyzes should be carried out in accordance with a set of principles and rules in order to carry out the analyzes as they should be and to ensure that the results do not provide the benefits listed above. We can list these principles and rules as follows (Ballantine and Devonald, 2006: 90; Ekici, 2006: 34-35; Karaosmanoğlu, 2006: 17-18; Ekici and Çelik, 2007; Canpolat, 2010: 78-83):

1. *Necessity*: Before the implementation of a public policy, public administrators must decide whether a new legal regulation is needed in order to implement this policy. Making such a decision involves a comparison of options between the means of public intervention, such as effectiveness and legitimacy.
2. *Justification*: Regulatory impact analyzes require explicit identification of specific social, economic or environmental issues. This analysis needs to be done by justifying the existence of a particular problem or the need for improvement. Otherwise, unnecessary use of public resources may occur. In addition, the possible consequences that may occur in the case of the implementation of policies with regulatory impact analysis should also be justified.
3. *Consultation*: Regulatory impact analyzes require a transparent and participatory consultation process with all stakeholders who feel the impact of the regulation in order to determine the benefits and costs of the planned policies or legislative proposal. Activities that need to be carried out based on this principle can also be started before the regulatory impact analysis processes. In this way, detailed information about the subjects can be obtained.
4. *Data Collection*: Appropriate and accurate information must be collected in order to conduct the regulatory impact analysis in a way to obtain effective and accurate results. In order to achieve this, it is necessary to establish a reliable and valid system for data collection. It is not possible to obtain successful results from the analysis in case of incomplete or inaccurate information regarding the analysis of the current situation and the prediction of the future regarding the analysis processes.
5. *Analysis*: Regulatory impact analysis should be obtained with systematic analyzes based on empirical studies in order to accurately predict the possible effects of the planned change and present it to stakeholders with correct inferences. Therefore, the possible effects to be obtained from the analyzes should be evaluated as quantitative data.
6. *Maximizing Total Net Benefits*: The main reason for conducting regulatory impact analyzes should be kept in mind throughout the entire process. The reason for the existence of this analysis is to determine the application that provides the most benefit to the society as a result of cost-benefit analysis and to focus on it. Of course, these analyzes also have costs. However, thanks to these costs, it is aimed to obtain much more benefits in the final stage.
7. *Consistency*: In order for regulatory impact analyzes to be reliable, there must be consistency in the transactions. Refereed and valid analysis process, the process processes must be determined accurately and clearly. These

processes should be easy and practical, have a certain standard, and the same processes should be valid for similar issues.

8. Accountability: There should be channels through which the results of regulatory impact analysis can be communicated to policy decision makers. Thus, the public administration system that makes the regulation can make this decision by knowing in advance the possible effects of the planned regulation. If such a process is provided, we can talk about the existence of accountability.

9. Benefiting from Experts: Before and during regulatory impact analysis, opinions and recommendations from experts on the subject should be collected. Professional associations, trade offices, tradesmen's bureaus, academicians and expert groups in a certain field are among the main sources for obtaining scientific opinions.

10. Political and Bureaucratic Support: Strong political and bureaucratic support is needed to ensure that regulatory impact analyses are a part of the regulatory process and are used systematically. For this purpose, independent units have been established in many OECD countries to monitor and improve the implementation of regulatory impact analysis.

11. Quality Control: Self-evaluation of regulatory impact analyses is not sufficient and objective, and for this purpose, the quality of the analysis should be controlled by an official and independent central quality control unit, based on objective criteria, outside the regulatory body.

12. Proportionality: It is necessary to determine what kind of method or with which legal argument the planned regulations will be implemented through regulatory impact analysis. At this stage, it should be determined what kind of legislation will be created for the policy that is planned to be implemented. It should be determined in advance whether the policy to be implemented will be made by regulation or law, and this should be proportionate. While a regulation is required for the implementation of a policy with a narrow framework and a narrow sphere of influence, enacting or amending a law on a subject that concerns the whole society is a requirement of the principle of proportionality.

13. Subsidiarity: In the implementation of the planned regulation, it is recommended that the unit closest to the citizen should do this. According to this principle, which is sometimes expressed as locality in service, it is more appropriate to implement the fastest and closest units in policy implementation. However, in cases involving the whole country, it is considered appropriate to coordinate this work by the central administration. Therefore, it is necessary to determine which institution, unit or person will carry out the regulation planned to be made in the regulatory impact analysis.

5.2. Implementation Processes of Regulatory Impact Analysis

Flexibility and simplicity are essential in conducting regulatory impact analyses. However, in order to provide these two elements, it is useful to follow some basic application processes in order not to compromise on quality. Six basic steps and their sub-stages have been established in the literature regarding regulatory impact analysis (European Commission, 2021). These are described below:

1. Defining the regulatory problem (What is the purpose of regulation?): In order to achieve the intended objectives of the regulation impact analysis, policy instruments appropriate to this goal need to be defined clearly and avoiding general statements. For this; 1- It is necessary to define the scope and size of the problem. 2- It is necessary to identify the persons affected by the regulation. 3- It is necessary to determine the causes of the identified problem.

2. Defining the objectives: The objectives of the analyzed policy proposal should be developed in accordance with the problem focused on and the root causes of this problem. The targets to be determined must have certain basic features. These are: 1- Goals should be clearly and precisely expressed, vague and undefined goals should not be created. 2- Targets should be able to compare before and after the policy change and should be measurable. 3-The objectives must be adopted by the public administrators and public officials who will implement policy change. 4-The goals set must be realistic and achievable. 5-Determined targets should be determined within a certain time period and should be achievable during these processes.

3. Defining policy options: The roadmap to be followed in order to achieve the goals set to have the above-mentioned features should not be shaped by a single policy. There should be different policy alternatives. The identified problem should be approached from as broad a perspective as possible.

4. Determination of possible economic, social and environmental impacts: In order to compare policy alternatives, possible economic, social and environmental impacts and interactions of alternatives should be revealed.

5. *Comparison of options*: Policy options should be compared with the methods mentioned above. However, no decision is taken at this stage, the decision-making stage is left to policy makers.

6. *Monitoring and Evaluation*: Monitoring and evaluation of the extent to which the regulation reached the determined targets and what kind of problems were encountered during the implementation phase are complementary elements of a good regulation process. In this process, it is necessary to define the main indicators in order to prepare a monitoring/evaluation plan and to determine whether the main objectives aimed with the regulation have been achieved.

The list of ten items that should be made by the OECD in order to obtain maximum benefit from regulatory impact analyzes is listed below (OECD, 1997c: 7-8):

1. Providing maximum political support for regulatory impact analyses,
2. Careful selection of responsibilities assigned to regulatory impact analysis elements,
3. Training of regulators,
4. Use of consistent but flexible analysis methods,
5. Development and implementation of data collection strategies,
6. Determination of regulatory impact analysis targets,
7. Integrating regulatory impact analyzes into the decision-making process as early as possible,
8. Announcement of the results,
9. Ensuring the wide participation of the public in the process,
10. Applying regulatory impact analyzes to existing regulations as well as new regulations.

5.3. Methods and Tools of Regulatory Impact Analysis

There is no single model or method that can be applied in the processes of conducting regulatory impact analyses. There are different application methods with different implications according to the content of the regulation. Although each of them has certain advantages and disadvantages, very effective analysis processes can be made specific to the subject to be selected. The intensity and degree of detail of the Regulatory Impact Analysis should be commensurate with the effects of the regulation being evaluated. The decision as to which regulation will be subject to a formal Regulatory Impact Analysis should be taken independently of the regulatory authority.

According to the subject of the regulation and the expected benefit, they choose the most appropriate method or ones among the cost-benefit analysis, cost-effectiveness analysis, cost assessment, benefit assessment analysis and risk assessment analysis methods.

5.3.1. Cost-Benefit Analysis

The most widely used regulatory impact analysis method is "benefit-cost analysis". In the field of public administration, spring-cost analysis has been used for the first time with the Federal Maritime Law enacted by the US Government in 1936 (Baskıcı, 2007: 41). The purpose of benefiting from cost-benefit analysis in the planning of public services is to distribute public resources effectively among various services.

In this method, the total benefits related to the regulatory decision are calculated procedurally, and these benefits are compared with the total cost. As a result of the comparison, if the weight is in the direction of benefit, the decision to be taken is potentially supported. If there is weight in the cost direction, it is recommended to focus on different alternative decisions (Bıçkıcı, 2003: 291). Cost-benefit analysis recognizes that regulations will have positive and negative effects on different segments of society and is the most common and comprehensive method of analyzing these effects (Vibert, 2006). The analysis mainly aims at allocating limited resources in a way that maximizes the net welfare of society. The analysis needs to consider all the effects of regulation. Thus, it is prevented that the analysts only examine the benefits and partial costs that they want and choose (Mandelkern Report, 2001: 20).

The following points should be considered in cost-benefit analyzes (Arrow et al., 1996: 221-222).

- ✓ Cost-benefit analyzes should enable a comparison of the desired and undesirable aspects of the policies considered to be implemented.
- ✓ Decision makers should be given the opportunity to evaluate the economic benefits and costs of different policies in developing regulations.

- ✓ Cost-benefit analyzes should be essential for important and comprehensive regulatory decisions.
- ✓ The benefits and costs of the envisaged policies should be expressed in numerical terms as much as possible. Uncertainties should be well defined and best estimated. Thus, a constructive way for decision making should be provided.
- ✓ Economic assumptions should be used in calculating benefits and costs. • Although the relationship between benefit and cost is discussed first, the distribution of benefits and costs should also be considered.

5.3.2. Cost-Effectiveness Analysis

Cost-Effectiveness analysis is more limited than Benefit-Cost analysis. But it is less problematic and more practical. Cost-effectiveness analysis provides an index of the proportional cost to society of various options to achieve a goal and generally calculates the cost per unit benefit (Department of the Taoiseach, 2005: 78).

The cost-per-benefit approach not only reflects the benefits and costs of regulatory policy, but also gives an idea of the relative performance of different policies. This approach reduces the costs of policies to be implemented by reducing risks. It is especially useful when cost-benefit analysis cannot be used because it requires less data and time.

Cost-effectiveness analysis is a simpler technique than cost-benefit analysis, as it does not question whether the regulation to be made is correct. As a result, the analysis eliminates policy options that require less benefit and more cost in achieving the desired results, but fails to reveal the optimal policy option (Kopp, Krupnick, & Toman, 1997: 187).

This method is used when the potential benefits of the planned regulation cannot be measured or it is not appropriate to measure the benefits. In the analyzes made with this method, the estimated costs of alternative policies or regulations to reach a certain level of benefit are evaluated. It refers to the method in which the one with the lowest cost is tried to be found among the alternatives (Çelik, 2005: 36).

5.3.3. Cost Evaluation Analysis

In this analysis method, the costs of the regulations to the society, the business world and the government are evaluated by ignoring the benefits of alternative policies regarding the planned regulation. Alternatively, the costs of the proposed arrangements are compared. The total cost to society of this method of regulation is also revealed. This analysis method has the advantage of providing detailed information on the costs of alternative policies or regulations. In addition, it offers the opportunity to eliminate those that are more costly than other alternatives. However, it is not a widely used method because it does not ignore the benefits of the regulations and the reasons for the costs (Ekici, 2006: 61).

In this method, analyzes are made by considering both fixed and variable costs together. It has various benefits in terms of being able to analyze all costs in the past and future cost estimates (Canpolat, 2010: 75).

5.3.4. Benefit Assessment Analysis

Benefit evaluation analysis, which is another of the regulatory impact analysis methods, focuses on the evaluation of the possible benefits of the regulations. In the analyzes made within the scope of this evaluation, the benefits of the analyzed regulations are evaluated regardless of their costs. However, this situation is valid for certain subjects and is not an analysis that can be done for every subject.

This type of analysis is applied in some subjects where cost-benefit analysis is insufficient. This analysis is used when the cost of a regulation is insignificant relative to its social benefit.

5.3.5. Risk Assessment Analysis

Risk Analysis, which is one of the regulatory impact analysis methods, covers the processes of evaluating the possible risks of the policy that is planned to be implemented. By identifying the risks that may be caused by the envisaged regulation, it provides the opportunity to choose between alternatives and provides concrete data for decision makers in order to reduce the risks. It provides resources to decision makers and practitioners about regulations by determining the number and size of risks to the individual, society or the environment (Ekici, 2006: 60).

This regulatory impact analysis method is frequently used in policies that are planned to be made, especially on health, safety and environmental issues. This method focuses only on the risk reduction aspect of policy analysis processes. Therefore, it focuses only on the risks, not the benefits or costs of the policies to be implemented. However, since focusing on the risks requires focusing on the benefits and disadvantages of the policy outputs, some limited information on costs and benefits can be obtained. However, this method is more limited in scope than the others.

The superior aspect of this method is that it completes the missing points of other methods (Karaosmanoğlu, 2006: 28).

The main tools used within the scope of Regulatory Impact Analysis are explained above. The advantages and disadvantages of these have been evaluated. Based on these evaluations, a brief summary of the comparative evaluation of these methods is shown in Table 1.

Table 1: Methods Used in Regulatory Impact Analysis

METHOD	EXPLANATION	ADVANTAGES	DISADVANTAGES
1) Cost-Benefit Analysis	Adjustment may be desirable if the anticipated benefits outweigh the costs	Reflects both the positive and negative effects of a regulation and the need for policies to best serve the interests of society	Sometimes important benefit components cannot be quantified. Therefore, there is a risk of giving them less importance.
2) Cost-Effectiveness Analysis	Calculates the cost per utility unit.	Eliminates clearly ineffective policies and provides an index of the relative benefits of policies.	Cannot decide on the choice of optimal level of benefits
3) Cost Evaluation Analysis	Evaluates the costs of regulations. It may also include attempts to show that the costs are not too high.	It determines the total price society will pay for regulation and looks at the economic feasibility of regulation.	It does not consider the benefits of regulation.
4) Benefit Assessment Analysis	It seeks to reveal the true value of the expected benefits.	It can enable individuals to appraise certain market situations.	There are drawbacks to the use of questionnaires to provide valuation.
5) Risk Analysis	It provides a quantitative assessment of the severity and health consequences of policy-affected risks.	It gives decision makers an idea of whether the policy is effective in reducing risks.	There can be a wide variety of risk effects. It does not consider costs or effects other than risks to mitigate risks.

Source: Baskıcı, G. F. (2007). Uluslararası uygulamalar ışığında düzenleyici etki analizi ve Türk mali yönetimi ve kontrol sistemi açısından uygulanabilirliği. Ankara: Maliye Bakanlığı Bütçe ve Mali Kontrol Genel Müdürlüğü.

6. CRITICISM OF REGULATORY IMPACT ANALYSIS

Although regulatory impact analysis is accepted as a very useful model in the literature, it is subject to some criticism. As a matter of fact, as can be seen in the explanations above regarding the tools of this method, these methods have some weaknesses. Before giving information about the criticisms of regulatory impact analysis and the problems encountered in its implementation, it is useful to look at the threats and opportunities of this analysis. Table 2 presents these opportunities and threats.

Table 2: Regulatory Impact Analysis Threats and Opportunities

DEA as an Opportunity	DEA as a Threat
Better regulation is essential for competitiveness	Workload increase
More informed policy making is necessary to avoid the potential negative social and environmental impacts of sudden change.	Responsibility changes
It is ensured that laws are passed more easily through the council of ministers and the parliament.	Need for new skills
It is a catalyst for reforming and strengthening the entire administrative structure.	Transparency of the decision-making process
It enables individuals to be developed to be more effective policy makers.	

Source: Kirkpatrick, C. H., Parker, D. (2003). Regulatory Impact Assessment: Its Potential Use in Developing Countries. Manchester: Centre on Regulation and Competition

The first of the criticisms relates to the bindingness of the regulatory impact analysis. In the absence of a regulatory impact analysis, it is unclear whether sanctions will be applied and what kind of sanctions will be applied. Such an ambiguity, especially in the reports prepared by the OECD, is among the most important criticisms (Rodrigo, 2005: 28-30; Ballantine and Devonald, 2006: 62-63).

The second important criticism is that analytical methods have not been developed clearly in the implementation of regulatory impact analysis, the existing tools are complex, their implementation is costly and takes a long time. Although different tools have activities on different subjects, the lack of an inclusive tool is criticized (Rodrigo, 2005: 28-30; Ballantine and Devonald, 2006: 62-63).

The third major criticism concerns the effectiveness of the regulatory impact analysis. Although it has been published especially in recent years and has been made in many countries and on many subjects, it is seen that the quality of these analyzes remains at a low level. This situation has led to the impression that the analyzes are made only for legal necessity or to create a good opinion (Karaosmanoğlu, 2006: 19).

Fourthly, the criticism is directed towards the cost-benefit analysis. It is subject to criticism that this analysis will materialize everything about social issues and human life. In particular, it is opposed that subjects such as the protection of human life and the environment seem unimportant in terms of cost elements (Şahinkaya and Aksel, 2008: 13).

Fifth, the long process of regulatory impact analysis is criticized. It is thought that especially the creation of policy alternatives and an impact analysis for each alternative policy prolong the processes (Bayramoğlu, 2004). However, it is not right to be a subject of criticism. As a matter of fact, having such detailed evaluations in decision processes both minimizes risks and maximizes benefits by preventing negative externalities of policies.

Sixth, regulatory impact analysis has been criticized for taking the power of the elected parliament, which is authorized to make policy. Regulatory Impact Analysis is thought to reduce or prevent the role/intervention of parliamentarians by making the regulatory units more effective actors in the law-making process (Bayramoğlu, 2004: 11-12). However, this method is not a decision-making method, but can only be considered as a decision support system. Therefore, it facilitates the task of policy makers. Providing support to policy makers and easing their workload does not mean that the decision maker takes the mission.

Seventh, it is another criticism that the Analysis tends to depend more on theoretical provisions, since empirical data on Regulatory Impact Analysis around the world are still limited.

7. PROBLEMS FACED IN THE APPLICATION OF REGULATORY IMPACT ANALYSIS IN THE FIELD OF PUBLIC ADMINISTRATION

Although regulatory impact analysis has many benefits and more than one method has been developed for this analysis, some problems may occur in practice. It is possible to classify them as technical, legal and political (OECD, 1997c: 20-21; Çelik, 2005: 34; Karaosmanoğlu, 2006: 19-20).

First of all, some technical problems may occur in the application of this method. One of these problems is the inability to fully develop analytical methods regarding analysis processes. There are problems as to how to find a middle ground on the qualitative and quantitative insights that regulators should focus on. Another technical problem is related to the data collection process. In the analysis process, since the collection of data is very costly and takes a long time, it is possible to collect historical data instead of current data. One of the technical problems encountered is that this analysis is a method that requires expertise, has a complex structure and needs technical knowledge. Therefore, the absence of theoretical competencies or personnel competencies to make the analysis poses a problem.

Secondly, problems may arise in the issues of value conflict and power struggle. In these analysis processes, public institution managers or employees can create a certain resistance. These people may oppose the regulatory impact analysis, thinking that it will be against their own interests. Employees who are worried that they will lose their current position or advantages in the face of change may not want such a change and may manipulate these analysis processes according to their own interests.

Thirdly, institutional and resource-related problems may occur. It is unclear whether there is an obligation to conduct a regulatory impact analysis or whether it will be enforced if the principles recommended by the OECD are not followed, and what kind of sanction there will be. It may be undesirable to carry out these analysis processes on the pretext of insufficient resources.

Fourth, some legal problems may occur. Some regulations may need to be implemented without a cost-benefit analysis due to a constitutional or legal obligation. In other words, the application of the method is in a voluntary position and may cause the results to be meaningless.

Fifth, there may be procedural problems. It may not be possible to control how the regulatory impact analysis processes work. Practitioners can do these processes in a sloppy way. If the necessary care is not taken, the results of the analysis may not reflect the reality. Another procedural issue concerns the timing of the regulatory impact analysis. Performing this analysis at the last stage of adoption of public policies can transform a kind of justification or justification practice. Therefore, these analyzes should begin in the period when public policies are being formed.

8. REGULATORY IMPACT ANALYSIS AND GOVERNANCE

Regulatory Impact Analysis increases social welfare as it enables the choice of effective options in terms of economic, social and sustainable development and is an important tool in the implementation of good governance principles (Rodrigo, 2005). Contribution to good governance; It covers issues such as avoidance of uncertainty, consistency between policies, accountability for regulatory actions and results, avoidance of arbitrariness and transparency. Regulatory Impact Analysis causes a change in the culture of making regulations, regulators avoid making arbitrary

regulations, and seek solutions to reduce them by taking into account the costs of their transactions (Karaosmanoğlu, 2006).

In addition, the consultative phenomenon within the scope of regulatory impact analysis provides communication and interaction between regulators and those who are likely to be affected by the regulation, thus it is a tool of governance. Despite the general acceptance that consulting is essential for good governance, public institutions and organizations and politicians may perceive consulting with relevant parties as "transferring their power"; Counseling is often thought to be an obstacle to optimal decision making and slowing down the process. Undoubtedly, a poorly managed consultation process can have negative consequences such as delaying the adoption of regulations, wasting resources and time.

On the other hand, accountability, another important principle of regulatory impact analysis, is one of the six basic indicators of governance. In this respect, it is considered that the governance quality of the countries may increase if the regulatory impact analyzes are carried out correctly and in the desired manner. Increases in the quality of governance, on the other hand, have an impact on direct democracy.

As much as the contribution of regulatory impact analysis to the phenomenon of governance, it is not possible to have a public administration approach in which this analysis can be applied alone. Therefore, it should be accepted that the most appropriate public administration approach to which this analysis method can be applied is governance.

9. EVALUATION AND CONCLUSION

The serious public policies faced by the public administrations of the countries today; environmental problems, consumer rights, improvement of living standards, property rights, control of new technologies, sustainable growth. These policies generally consist of regulatory issues. The reason for its regulatory nature is that the public administration and the state are now removed from their traditional duties and only deal with senior management activities. Today, it is accepted that the duty of the state and the public administration as a whole is not to row but to steer. It is accepted that the governance approach has important effects on this task for public administration. As a matter of fact, nowadays, it is seen that the concept of governance comes to the fore rather than the concept of management related to any issue. The quality of regulatory quality plays an important role in the success of governance. In order for the governance to make a successful progress in line with its principles and for the regulatory policies to be put forward, there is a need for a system that can analyze the policies before they are implemented. This system, which we can think of as a kind of quality control system, is carried out by the method of regulatory impact analysis today. While this method acts as a quality control system, it also works as a decision support system.

Regulatory impact analysis improves the processes and outputs associated with the formulation of public policies and legislation. In this context, regulatory impact analysis has various stages and processes. The process of designing policies is a method of public administration that incorporates a wide variety of structures and includes individuals and groups with very different wishes and goals. In addition to these wishes and goals, the knowledge and technology that today's world has reached requires nation states to redefine their field of action together with globalization. In this redefinition process, regulatory impact analysis will of course take its place as it improves public administration.

The OECD recommends this method in policy-making processes in countries, and this method (within the governance approach) is considered important in the European Union. In the membership processes of these unions, innovations in policy making and legislative design are suggested. These proposed regulations pave the way for policy-making processes to be made in a participatory and more socially beneficial way.

There is no single method or tool for regulatory impact analysis. It is aimed to make these analyzes using many different techniques and tools. Among these methods, cost-benefit analysis is the most accepted method, but it is criticized because it is only input-output oriented. As a matter of fact, on the basis of the phenomenon of public administration, there is the concept of public interest before performance and profit-making motives like the private sector. No matter how high the costs of protecting a person's life and the environment are, it must be done. Therefore, it may not be correct to make a cost-benefit analysis for every subject. However, despite this shortcoming, the application of the method has contributions both in terms of processes and results.

It is seen that the processes implemented in terms of regulatory impact analysis processes are fed by the governance approach and provide support from the implementation of this approach. The fact that participation is at the forefront within the scope of regulatory impact analysis and the opinions of all stakeholders are taken on the proposed policies show that a participatory understanding is being acted upon. On the other hand, deficiencies in policies or more useful suggestions can be created through these interviews. In this way, both the costs are reduced and the benefits are maximized, and the participatory method approach is adopted. One of the most important contributions of the participatory management approach and governance is that it makes very important contributions to the phenomenon

of democracy. It is accepted that if there is an increase in acting with the governance approach, it will have positive contributions to democracy (Karataş, 2021: 625). In order for governance to have such a contribution to democracy, it is necessary to conduct regulatory impact analyzes in the policy making processes.

In order for regulatory impact analyzes to be successful and produce effective results, it must be included in the public policy making processes from the very beginning. Since the actions to be taken for these policies after the formulation of public policies can only be focused on the results, we cannot think that they will be effective. As a matter of fact, the purpose of regulatory impact analysis is not to analyze a policy afterwards. Analyzing a policy proposal before it is implemented. In this respect, it has very valuable and important contributions. In this respect, he also acts as a consultant. It is a helpful tool in making political decisions. It is not an application in which he himself takes the decision by replacing the political decision processes. It is just a support system.

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