

IX. Regulatory Impact Assessment on drafts of the Commission decisions

1. Objects of the Regulatory Impact Assessment, qualitative characteristics and stages of Regulatory Impact Assessment on drafts of the Commission decisions

141. The Commission decisions, which may have an impact on the business activity environment, are based on the results of the Regulatory Impact Assessment on drafts of those decisions (RIA) with the exception of the Commission decisions which are determined by point 142 of the present Regulations.

The methodological providing and consultation maintenance of the RIA holding are realized by the department of the Commission, which is determined on the Member of the Board (the issues relating to conditions of the business activity environment are attributed to his duties) by the Council decision (hereinafter referred to as Summary Department).

142. The statutes of this section do not apply on:

1) the drafts of the Commission decisions, that include the information of limited distribution;

2) the drafts of the Commission decisions, that have program-strategic character and don't have an impact on the business environment;

3) the drafts of the Commission decisions concerning internal and financial activity of the Commission;

4) the drafts of the Union bodies decisions concerning the budget of the Union and its execution;

5) the drafts of the Commission decisions about applying safeguard, anti-dumping and countervailing measures, about changing or abolishing safeguard, anti-dumping and countervailing measures or about non-applying

these measures and also the drafts of the Commission decisions about the beginning of investigation in accordance with the Protocol about applying safeguard, anti-dumping and countervailing measures in relation to third parties (Appendix # 8 to the Treaty of the Union);

6) the drafts of the Commission decisions concerning tariffs on foreign trade;

7) in accordance with item 8 of the Protocol about non-tariff regulation measures in relation to third parties (Appendix # 7 to the Treaty of the Union) consultations on the drafts of the Commission decisions concerning implementing, applying, prolonging or abolishing single measures of non-tariff regulation in relation to the third parties are not held with participants of foreign trade activities of the Member States, that economic interests could be infringed by the adoption of these decision;

8) the drafts of the Commission decisions concerning the cases about violation of common competition rules on a cross-border markets on the territory of 2 and more of the Member States that are adopted in accordance with Section XVIII of the Treaty of the Union and the Protocol about common principles and rules of competition (Appendix # 19 to the Treaty of the Union), the drafts of the Commission decisions about fining for non-provision or untimely provision of information to the Commission on its request or for the provision unreliable information to the Commission;

9) the drafts of the Commission decisions about questions of regulation, control and applying industrial subsidies except for the Commission decisions that are set by second paragraph sub-item 3 item 6 article 93 of the Treaty of the Union;

10) the drafts of the Commission decisions about questions of regulation, control and applying of state support measures of agriculture and the realization of concerted agricultural policy;

11) the drafts of the Commission decisions concerning conclusion of the Union treaties with a third party;

12) the drafts of the Commission decisions in Custom Regulation about:

the transportation of goods through the Union border by individual for personal use;

the transportation of goods through the Union border by diplomatic missions, consular posts and other official missions of foreign states, international organizations or their staff for the official use;

classification of certain goods;

13) the drafts of the Commission decisions that have been undertaken as a result of consideration of consumer applications about the protection of their rights and violated interests by actions of railway organizations in relation of changing a tariff level on a cargo transportation by railway;

14) the drafts of the Council decisions about abolishing the Commission decisions which are adopted by the Board or about changing of the Board decisions in accordance with item 30 of the Statute of the Commission in order that is established by the IV section herein;

15) the drafts of the Commission decisions about necessity of abolishing of the State Regulation of Prices;

16) the drafts of the Commission decisions about necessity of abolishment of the Member States acts that implement exemptions from national treatment in the State procurement sphere;

17) the drafts of the Commission decisions about approval of the drafts of the Supreme Council decisions concerning general directions and stages of realization of the concerted transport policy, vehicle transportation on the territory of one Member State by carrier that has been registered in the other Member State;

18) the drafts of the Commission decisions which deal with legal and technical issues and do not have an impact on the business activity environment. Issues about the character of these drafts of the Commission decisions (legal and (or) technical) and refusal of the impact of such drafts of the Commission decisions on the business environment are resolved by Department-Developer;

19) the drafts of the Commission decisions about regulation of the financial market;

20) the drafts of the Commission decisions about an extension of natural monopolies spheres in the Member States.

143. In case of availability of the Summary Department's position about necessity of the RIA of the draft of the Commission decision conduct the respective issue is subject to consideration at a meeting of Working Group of the Commission for the RIA of the draft of the Commission decision conduct, specified in the item 164 herein (hereinafter referred to as Working Group).

In case if the compliance concerning the issue about necessity of the RIA of the draft of the Commission decision conduct is not achieved as a result of conduct of the Working Group meeting between Department-Developer and Summary Department then that issue is adopted by the Board.

144. The RIA is obligatory stage of the process of preparing the draft of the Commission decision, which may have an impact on the business

environment. The RIA is aimed at revelation and elimination of redundancy obligations, restrictions and (or) proscriptions for subjects of business activity, their unreasonable costs (hereinafter referred to as redundancy restrictions) that create the barriers for free movement of goods, services, capital and labour on the Union territory.

145. The RIA includes public consultations of proposed regulation with subjects of business activity and other interested persons and the preparing of structured assessment of draft of the Commission decision that is based on the consultations result.

146. For the purposes of this section the adoption of the Commission decision that has normative legal character, is obligatory for execution and included in the Union law is understood as Regulation. A positive or a negative effect of regulation that includes effects that have a monetary value and effects that do not have a monetary value is understood as Impact.

147. The RIA is carried out on the following basic qualitative regulation features:

1) a problem which is solved by the draft of the Commission decision, regulation target and group of persons which interests are protected by the draft of the Commission decision;

2) regulation addressees including the subjects of business activity and impact that is affected on them by regulation;

3) content of the restrictions (obligatory rule of behavior) that are enacted for regulation addressees;

4) instrument of problem's solution and achieving of regulatory objectives is specified by the draft of the Commission decision (the description of correlation between proposed regulation and solving problem);

5) the information about considered regulation alternatives to the proposed regulation.

148. The RIA holding includes the next stages:

1) the current RIA stage – elaboration of the draft of the Commission decision, drawing up of information sheet about consequences of the draft of the Commission decision impact on the business activity environment (hereinafter referred to as information sheet) and questionnaire for the public consultations of draft of the Commission decision (hereinafter referred to as questionnaire) and their public consultations (filling);

2) the final RIA stage – preparation of the RIA report.

149. The RIA conducts through realization of all measures of the final RIA stage and through realization of measures of the current RIA stage just in a part of drawing up of information list specified by second paragraph item 154 herein in respect of:

1) the drafts of the Commission decisions concerning applying of SPS measures;

2) in accordance with items 6 – 8 of the Protocol about non-tariff regulation measures in relation to third parties (Appendix # 7 to the Treaty of the Union) consultations on the drafts of the Commission decisions concerning implementing, applying, prolonging or abolishing measures of non-tariff regulation in relation to the third parties have been held with participants of foreign trade activities of the Member States, that economic interests could be infringed by the adoption of these decision.

150. The publishing of the drafts of the Commission decisions concerning applying of sanitary measures for purposes of the public consultations is realized in accordance with the procedure of single SPS measures of elaboration, adoption, confirmation, amendment and application.

The term of the public consultations concerning drafts of the Commission decisions in the field of applying of SPS measures accounts at least 60 calendar days since the draft of the Commission decision publishing on the Commission official site. The summary of comments and proposals submitted as result of public consultations on the drafts of the Commission decisions (with description of a Department-Developer position concerning submitted comments and proposals) is published on the Commission official site within 30 calendar days of ending term which is enacted for the public consultations.

In accordance with Procedure that should be adopted by the Commission consultations on the drafts of the Commission decisions concerning implementing, applying, prolonging and abolishing of single non-tariff regulatory measures in relation to third countries are held with participants of foreign trade activities, that economic interest could be infringed by these decisions.

151. The RIA of the drafts of the Commission decisions about adoption, amendment or abolishment of Technical Regulations of the Union, about enactment of Technical Regulations of the Union that was already adopted and their transitional provisions consists of stages (procedures) specified by the Procedure for elaboration, adoption, amendment and abolishment of Technical Regulations of the Union that is adopted by the Commission.

In respect to the draft of the Commission decisions on approval of the lists of international and regional (interstate) standards, while absent such – national (state) standards, application of which on a voluntary basis results in ensuring compliance with the requirements of Technical Regulations of the Union, as well as on approval of the lists of international and regional

(interstate) standards, while absent such – national (state) standards, providing rules and methods of researches (tests) and measurements, including rules for sampling, required for application and implementation of requirements of Technical Regulations of the Union and in execution of conformity assessment of the items subject to Technical Regulation, regulatory impact assessment consists of stages (procedures) established by the order of formulation and adoption of the lists of international and regional (interstate) standards, while absent such – national (state) standards, required for ensuring compliance with the requirements of Technical Regulations of the Union, as well as for execution of conformity assessment of the items subject to Technical Regulation as approved by the Commission.

The statutes of item 148 herein do not apply to the drafts of the Commission decisions that are explained in first and second point of this item.

152. The Commission ensures through the RIA:

- 1) publication of drafts of the Commission decisions, information sheets, questionnaires and the RIA conclusions on the official Union site;
- 2) access of any interested person to drafts of the Commission decisions, information sheets, questionnaires and the RIA conclusions that are published on the official Union site;
- 3) possibility to fill questionnaires and to direct comments and suggestions to drafts of the Commission decisions and information sheets and by any interested person using the official Union site;
- 4) publication of summary information about directed comments and suggestions by interested persons on the official Union site;
- 5) informing of interested persons about accounting of comments and suggestions and (or) reasons of their rejection on the official Union site.

153. The demands to technological, program and linguistic instruments that are necessary for realization of item 152 herein and allow the exchange of information concerning the RIA holding (that are published on the official Union site) between the official Union site and other Internet sources including official portals of the Member States about regulation, thematic forums and Internet communities, are specified by the Procedure of formation and administration of the official Union site.

The consultations concerning issues that appear during the RIA holding could be held between the Summary Department and Department-Developer.

These consultations are obligatory in case of written Department-Developer request to Summary Department (or vice versa) concerning necessity of consultations holding about issues that appear during the RIA holding.

2. Current RIA stage

154. To the draft of the Commission decision a Department-Developer draws up following documents:

the information sheet which is an interim analytical report with the opinion of the Department-Developer including main quality features of the regulation specified in paragraph 147 herein.

the questionnaire with standardized list of questions to interested persons intended to receive an expert commentary on the draft of the Commission decision, including main quality features of the regulation specified in paragraph 147 herein.

The information sheet and the questionnaire has to be drafted by forms that established by the Internal Documentation Procedures of the Commission.

155. In purposes of public consultation of the draft of the Commission decision, a Department-Developer publishes the draft of the Commission decision, the information sheet and the questionnaire on the official Union site before or simultaneously to a negotiation procedure of the draft of the Commission decision with involved departments.

The public consultation begins from the date of the publication on the official Union site the draft of the Commission decision, the information sheet and the questionnaire.

156. Within 5 days from the date of the placement on the official Union site the draft of the Commission decision, the information sheet and the questionnaire, a Department-Developer informs in writing and by e-mail that holding a public consultation to following groups:

- a Summary Department and Working Group members;
- coordinators on behalf of business community each of the Member State, appointed by the Business Dialogue;
- representatives of business community, scientific and non-governmental organizations, others independent experts integrated by a advisory body;
- others people by a Department-Developer opinion if it is necessary for preparation a draft of the Commission decision.

To listed above directs following:

- information about placement on the official Union site the draft of the Commission decision, the information sheet and the questionnaire (full hyperlinks);
- information about the term of the public consultation. During the period, Department-Developer considers proposals and representation

technics (use of appropriate application from the official Union site, hard copy and (or) by e-mail).

157. The term of the public consultation cannot be less than the period of 30 days from the date of the publication on the official Union site the draft of the Commission decision, the information sheet and the questionnaire.

158. The Department-Developer is obliged to provide consideration of all of the offers which in due time arrived during public consultation, including a filled information sheets interested persons.

159. In purpose to inform interested persons Department-Developer within 10 days from the date of the public consultation ends publishes on the official Union site a summary of proposals with data about it is acceptance and/or reasons for refusal. The summary has to be drafted according to the specified Internal Documentation Procedures of the Commission.

The summary is signed by head (deputy head) of the Department-Developer.

160. According to the results of public consultation the Department-Developer refines the information sheet and if necessary the draft of the Commission decision.

161. If the draft of the Commission decision is fundamentally changed (if changes arrange restrictions for subjects of business activity) in consequence of the draft of the Commission decision modification by the Department-Developer (inter alia inclusive of results of a public consultations) and public consultation of these changes have not been held earlier then the draft of the Commission decision should be published repeatedly on the official Union site by the Department-Developer toward conducting of the public consultations.

The fundamentality of changes and the fact of restrictions implementation are determined by the Department-Developer itself.

162. Department-Developer can conclude a reasoned decision of abandonment further preparation of draft of the Commission decision as a result of the examination of the proposals received during public consultation.

In case of concluding a reasoned decision of abandonment further preparation of draft of the Commission decision, Department-Developer, within 5 days publishes on the official Union site information about it.

3. Final RIA stage

163. The draft of the Commission decision, the information sheet and the summary (see item 159 herein) refined according to the results of the public consultations direct from the Department-Developer to the Summary Department and Working Group team members. Simultaneously, the documents are published on the official Union site.

When the draft of the Commission decision directs to the Summary Department and Working Group team members (see p.149 herein) following attaches:

- the information sheet (drafted according to the established Internal Documentation Procedures of the Commission.)

- summary of responses (overall of comments and suggestions) according to the results of the public discussion or consultations (see item 150 herein).

164. Working Group team composition and Statute about it are approved by the Board.

The head of the Working Group team is a member of the Board (the head of the Summary Department). The deputy head of the Working Group team is a director of the Summary Department.

The Summary Department operates organizational, technical and research functioning of the Working Group team.

165. The Working Group team within 15 days draws up a RIA conclusion from the date when draft of the Commission decision, the information sheet and the summary (see item 150 herein) were receipt from the Department-Developer.

During the preparation of the RIA conclusion, the Working Group team takes into consideration the RIA conclusions that was prepared with respect to the current draft decision of the Commission by authorized bodies of the Member States (if there is any).

All comments and suggestions from coordinators from behalf of business community, experts and interested persons have to be taken into consideration.

The RIA conclusion additionally has obligatory reflects following:

- information about consolidated position of coordinators on the side of the Business Dialogue to the draft decision of the Commission (if there is any);

- information about position of Department-Developer to the draft of the Commission decision (in case of its receipt in the Summary Department or submission at the Working Group team meeting).

166. The RIA conclusion is signed by the head of the Working Group team or deputy head of the Working Group team in case of temporary incapacity, vacation or business trip of the first.

167. The lead time of the RIA conclusion (see sub-item 1 item 165 herein) can be extended by the Chairman of the Board at the instance of the head of the Working Group team in case if any appeals from behalf of the Business Dialogue about necessity of public consultations of the draft of the Commission decision were received (with the exception of sub-item 2 item 149 herein).

168. The Summary Department no later than 3 calendar days from the date of signing of RIA conclusion directs it to Department-Developer, members of the Working Group team and provides its publication on the official Union site.

169. On the basis of the RIA conclusion the Department-Developer refines the information sheet and if necessary the draft of the Commission decision.

After finalization the draft of the Commission decision refined information sheet is to contain data concerning accounting of the comments (that are in the RIA conclusion) and (or) reasons of their rejection.

The refined draft of the Commission decision and the information sheet are published on the official Union site.

170. The RIA conclusion is to be taken into consideration by the Board and (or) the Council during consideration of the draft of the Commission decision at a meeting of Board and (or) Council.

In case of insertion changes (that provide establishment of any restrictions fit the subjects of business activity) into the draft of Council decision as a result of it consideration at a meeting of Board, then Working Group team can submit the RIA conclusion introducing it at the meeting of Council.

4. Annual report on monitoring of realizing RIA procedure

171. Preparation of annual report on monitoring of RIA procedure (see sub-item 5 item 24 of the Statute of Commission) provides by the Summary Department until the 1st of February following the accounting period.

172. Annual report on monitoring of RIA procedure contains:

1) Information about quantity of the Commission decisions where the RIA took place and results of the conduction. It also contains information about quantity:

of decisions of abandonment further preparation of draft of the Commission decision as a result of the examination of the proposals received during public discussion;

quantity of cases of detection in draft of the Commission decisions too high limits of restrictions for subjects of business activity;

2) number of cases of disregard rules of RIA herein by Departments-Developers.

173. Annual report on monitoring of RIA can additional contains:

1) suggestions for improvement RIA procedure order that is specified herein;

2) suggestions for improvement forms of documents used during the RIA procedure and rules of drawing them enacted Internal Documentation Procedures of the Commission;

3) suggestions for improvement organizational, technical and research functioning methods for RIA conduction;

4) suggestions of amendments in the adopted Commission decisions which currently or can potentially negatively influence on the business activity.

5) other data of statistical and analytical type.

174. A Member of the Board which is a head of the Summary Department until 15th of March following the accounting period submit a draft of annual report on monitoring of RIA for consideration on the Board and the Council meetings in order enacted in Chapters II and III herein.

A draft of annual report on monitoring of impact assessment approved on Board meeting submits by a Member of the Board which is a head of the Summary Department until 15th of May following the accounting period

175. A Council submits an annual report on monitoring of RIA for consideration to Intergovernmental Council until 15th of June following the accounting period.