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SUMMARY

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SOCIAL IMPACT ASSESSMENTS IN THE GOVERNMENT'S LEGISLATIVE PROPOSALS: FROM CLASSIFICATION TO QUALITY AND ITS DEFICIENCIES

SUMMARY

The research design

This research examines the number, scope, targeting and quality of social impact assessments in the 2017 legislative proposals. First, a quantitative analysis focused on the topics and population groups that the assessments covered, and their relationship to the administrative sector of the government. Some of the main results were compared to similar analyses made in previous years.

The credibility of social impact assessments was analysed by means of argumentation analysis, using the model designed by Stephen Toulmin¹, as well as general forms of reasoning (such as deductive and inductive reasoning). The data consist of five legislative proposals, each from a different ministry. The ministries which produced the most social impact assessments during 2017 were chosen. The reforms deal with 1) the single parent's child allowance, 2) the reduction of fees for early childhood education, 3) various types of tax relief 4), the registration of names, and 5) varied working hours (zero-hour contract). In addition, the proposals were selected on the basis that they genuinely sought to identify potential social impacts, and the amount of text was neither small nor large in terms of thorough analysis.

The central concept of social impact assessment refers only to the point of view of the study. That is, it does not mean that the impact assessments examined are necessarily of high quality or that they would focus on people at a tangible level. The realisation of these aspects is the object of the analyses.

¹ Toulmin S. (1964) *The Uses of Argument*. Cambridge University Press.

The amount of social impact assessments is relatively moderate

To begin with, impact assessments were identified according to how they were targeted: public authorities, individuals and groups of people (social impacts), society at large (societal impacts), businesses, and the environment. Social and societal impact assessments were then examined in detail. About half of the proposals (48 %) include social impact assessments (refers to assessments that have identified potential social impacts). The equivalent results on other types of impact assessment are the following: 79 percent focus on public authorities, 45 percent on society at large, 46 percent on businesses, and 16 percent on the environment.

The social impact assessments were divided into two categories based on either the subject matter or the different kind of rights. Of the first category, most impact assessments were made on people's financial position (30 % of all proposals). These estimates have increased significantly in four years as they were identified in 13 % of the 2009 legislative proposals. The next highest results focused on impact assessments on procedures with public administration (23 %), on employment and life in the workforce (20 %), on health and social well-being (16 %), on behaviour, values and attitudes (16 %), and on education (9 %). Impacts on people's mutual relationships (4 %), language and culture (4 %) and consumption and leisure (4 %) were the least assessed.

Among the types of legal impact, impact on equality (12 %) were the most assessed, then on legal protection (8 %) and on participation in decision-making (6 %). The impact assessments on equality have increased slightly compared to previous years (2012 and 2013). Linguistic rights were assessed as little as before (3 %), but the overall impact assessment for linguistic and cultural affairs was five percent. Impact assessment on gender (11 %) more than doubled from previous years of analysis from 2012 and 2013 (3–5 %).

Social impact assessments focused almost as much on people in general and on specific groups of people. In some of the proposals, the impacts extend to both people in general and specific groups. Of the special groups, assessments targeted mostly students, young people, children and employees (when classified separately). The ministries identified well the groups that were perceived as being their main target groups.

In relation to the number of proposals given by individual ministries, social impact assessments were mostly identified by the Ministry of Education and Culture (in 70 % of their proposals), the Ministry of Social Affairs and Health (69 %), and the Ministry of Justice (69 %).

Quantitative assessments were found in about 40 % of social impact assessments. The number of quantitative assessments has increased

somewhat from previous years. In particular, it has increased regarding assessments on the financial position of people. Of these, 62 % contained quantitative assessments.

Approximately half of the proposals contained only positive impact assessments, and a third contained both positive and negative assessments. The number of negative assessments was significantly higher than in previous years. Negative considerations increase the credibility and reliability of impact assessments. They also make it possible to prepare for drawbacks when implementing regulations.

Legislative proposals that included social impact assessment were mostly based on a national initiative (81 %), compared with 75 % on average. Approximately a quarter (23 %) of the proposals were based on an initiative from the European Union (average 26 %).

The most assessed societal impact assessment focused on economic impacts (26 %), other societal impacts (21 %), impacts on crime prevention and security (18 %), digitalisation and the information society (14 %) and impacts on infrastructure (4 %). Both impact assessments on crime prevention and security, and digitalisation and the information society, had increased compared to previous years of analysis.

As we can conclude from the results, the most assessed types of impact are rather tangible, such as impacts on people's financial position, impacts on procedures with public administration, and impacts on employment and life in the workforce. In addition, the assessment of the diverse types of impact seem to have increased in general. In other words, when social impacts are assessed, the assessment is often directed at many types of impact. This is a positive development.

However, it is worrying that there has been no increase in the assessment of social impacts in relation to all legislative proposals for a given year, compared to previous analyses: in 2009, social impacts were assessed in 56 % of legislative proposals, and in 2013, the proportion was 44 % whereas it was 48 % in 2017. Moreover, the percentages are significantly lower than the corresponding estimates of the European Union and the United Kingdom².

The impact assessments of legislative proposal are related to the number and type of proposals each ministry gives each year. Government policies

² Fritsch O., Radaelli C. & Schrefler L. (2013) Comparing the Content of Regulatory Impact Assessments in the UK and the EU. *Public Money & Management*, 33 (6), 445–452. According to this research, the coverage of regulatory social impact assessments by the European Commission for the period 2005 to 2010 was 86 %, and the comparable percentage for UK was 71 %. The Finnish results (48 %) refer to assessments that have identified potential social impacts whereas the results for the EU and UK contain also situations in which the impact assessment explains why an item was not considered. When a similar approach was applied to the Finnish data, the result was 54 %, which is not much better.

can also affect the results. It is noteworthy that the number of social impact assessments and impact assessments on businesses is roughly the same in the 2017 legislative proposals. Considering that laws are ultimately prepared for people, assessing social impacts has not yet been sufficiently incorporated in Finnish regulatory policy.

The incidence of different types of impact assessment reflects the overall legislative culture

From the results of the quantitative part, it is not possible to conclude the extent to which the impacts have been assessed in relation to actual opportunities, nor can conclusions be drawn on the quality of the assessments. Rather, the quantitative results illustrate the law-making culture of the time: what is appreciated and brought out as essential elements of regulatory policy. International trends are often embraced by national law making, and the trends affect the impacts that are emphasised. In recent years, for example, regulatory policy has emphasised the quantification of economic impacts and reduction of regulatory burdens. These trends are manifested in this study.

The emphasis on quantitative, economic assessment may contribute to the use and development of applicable methodology such as microsimulation or employment assessment models. Then again, sometimes basic calculations are enough, as the qualitative analysis of this research project shows. Economic, quantitative assessments are seen as being important in the planning of policies, and the law-making culture with guidelines for impact assessment emphasises their importance. It is also possible that the activities of the Finnish Council of Regulatory Impact Assessment have contributed to the assessment of household effects by investing in the evaluation of economic impact assessments (although the Council also evaluates other types of impact assessments).

The number of economic impact assessments is also explained by the fact that they can often be linked to other types of impact, mostly related to the topic of the proposal, such as employment or education. Impacts on rights can also be related to many other topics. This is especially true of equality that was most widely assessed type of rights-based impacts. In any case, legislative proposal in 2017 contained more impact assessments that reflected subject matters other than assessments dealing with rights.

Procedures with public administration is a type of impact assessment that has been developed based on the data (it is not mentioned as a specific type of impact in the instructions for law drafters). These impacts may have been

assessed in the past as part of other types of impact. However, we estimate that numerous impact assessments related to procedures with public administration reflect the government's efforts to streamline regulation. It has been found that the legislative proposals in 2013 and 2017 did not consider unnecessary regulatory burdens from the citizens' human point of view, but in many assessments, new types of government arrangements were meant to clarify, ease or streamline people's ability to deal with public authorities. Many of these activities meant increasing the digitalisation of services³.

Deficiencies in argumentation

In accordance with Stephen Toulmin's model, the argumentation of the impact assessments was examined by paying attention to the data (facts), the warrant, and possible backing for it, qualifiers reflecting uncertainties, and rebuttals implying possible exceptional situations. The conclusion refers to the results of the impact assessment. The model has helped to identify strengths and weaknesses of impact assessments of the five legislative proposals chosen as the data for the qualitative analysis.

At its simplest, the actual proposal, such as new opportunities to choose a name, is the starting point (data) for the self-evident impact, that is, increased freedom of choice. In another quite simple model, the data describe the current state of affairs (level of child allowance), whereby the impact (new level of child allowance) can be directly derived from the warrant (proposal to increase the level of child allowance by a certain principle). However, such direct impact assessments are not very informative, and sometimes the conclusions they produce serve as the data for a new impact assessment as part of the impact chain. Impact assessments can also be much more complex, requiring particularly careful argumentation.

One could think that the presentation of the data would be unproblematic, but this was not always the case in the reforms examined. In complex assessments, the data from a calculation were often expressed without explaining where the figures originated from. It is as if many calculations, like microsimulation models, are to be based on unofficial agreements as to what kind of data are adequate and appropriate. In the reforms examined, the data used in such models were explained with varying degrees of precision. Then

³ Alasuutari N., Rantala K. & Kuokkanen K. (2018) Ihmisiin kohdistuva sääntelytaakka hallituksen esityksissä [Regulatory burden on people in government's legislative proposals]. In K. Rantala et al. (eds.) Sääntelytaakan arviointi ja vähentäminen [Evaluating and reducing regulatory burden], pp. 114–119. Publications of the Government's analysis, assessment and research activities 27/2018].

again, the reader of a proposal does not need to receive complicated scholarly explanations which would be difficult to understand, but they should receive fairly straightforward notions explaining the reliability of the data.

Assessments based on clear assumptions form a special group, implying that if the assumption (data) is valid, the conclusion is valid. This seems to be a common choice when a direct impact assessment is not possible. An alternative approach would have to indicate (as qualifiers) that the impact would only be likely or possible. However, there was often room for refinement in the presentation and credibility of assumptions.

In a chain of impacts, the conclusion of the previous assessment serves as the starting point (data) for the following assessment. In such cases, it is important to pay attention to the point at which previous reasoning is based on uncertain or conditional argumentation. The proposals examined contained these chains of impact.

Also, the documentation of the warrant was often inadequate. In three out of the five legislative proposals examined, the focus was on quantified impact assessments, aiming at valid calculations. The documentation of the assessments was generally result-orientated. Overall, the results were clearly presented, using many illustrative tables and figures. However, it was not easy to understand how the numbers in them were formed in all cases. Sometimes the methods of calculation were reported in scholarly language that the average reader might not be able to understand.

Occasionally, the assessment did not provide a valid warrant for the conclusion but made an invalid generalisation. Then again, on some occasions, the conclusion could be correct, but given insufficient warrant. Some of the assessments were presented in a self-evident way, but it was obvious that the mere entry into force of the law was not enough to justify it.

One general feature of the five legislative proposals examined is their emphasis on positive assessments. In many cases, the assessments would have been more realistic if they had reservations (rebuttals), that is, descriptions of situations in which the goals might not be met as intended. Such analysis would make it possible to minimise harms when implementing the law.

When the process of assessment is described inadequately, it may be difficult for the reader to know the uncertainties it may contain. Finding a balance between brevity and enough information is not easy but it is a major problem if the results give the reader an erroneous picture of what can actually be concluded from the assessment. The reader should be able to understand the uncertainties at a rough level at least.

Occasionally, the assessments were very general in explaining how something could happen or progress was expected. Such arguments make it

difficult to present counter arguments; even a slight change can be interpreted as progress. In other words, the expressions contain expressions of uncertainty, which is positive. However, the information value of such assessments is quite small.

Lack of concrete substance of everyday life

In the proposals examined, both quantitative and qualitative assessments mainly indicate the conditions and opportunities that the laws offer for people rather than how the laws would impact their everyday lives. The cost of certainty that is sought in the impact assessments is that they are presented at a very general level.

Although the analysis of argumentation has the potential to reveal obvious shortcomings in the formation of chains of impacts, the analysis does not reveal the unexplained processes through which impacts occur. What happens when people and authorities meet? Do all parties understand what the regulation requires or allows? And how do people view the opportunities or obligations offered by law in terms of their values, experiences, or circumstances? There were hardly any such impact assessments, or they were very general and generalising in their predictions.

Need for empirical qualitative analysis

None of the impact assessments of the proposal used qualitative, empirical material. In many cases, it would have strengthened the target group's perspectives on the reform. For example, possible impacts could be investigated, through surveys, workshops or interviews. As an alternative to empirical qualitative analysis, one could build on high-quality chains of reasoning. However, it would require a considerable understanding of the target groups' cultures and living conditions and the will to engage in them. Overall, the use of qualitative data and analysis would enrich the contents of social impact assessments. It could also help to identify less-assessed types of impact.

In addition, assessments based on calculations would become more diversified if more attention was given to the range of assumptions. However, it may be difficult to perceive meaningful assumptions without getting into the area of regulatory subjects or even asking them about the impacts of the reform, which would mean qualitative or questionnaire-based analysis. In other words, impact assessments could be done much more boldly, combining different forms of reasoning and analysis (explaining

limitations and reservations, of course), which could also bring out more unintended and negative assessments.

Ambiguity of expressions

The impact assessments of the proposals were generally fluently written, although there were some vague expressions which made understanding difficult. Some of them even gave a misleading impression of the matter. In addition, there was some use of specialist language related to methodology or the topics discussed, that is, it was often expected that the reader would have a better understanding of the issue being dealt with than it is reasonable to expect. However, there were also positive exceptions. As an example, the proposal of tax reforms clarified well the meaning of the Gini coefficient.

Particular difficulty was related to legal language. The impact assessment may be backed up by referring to other regulations without describing their contents. In addition, according to the assessments of two proposals, the proposal would safeguard a right or promote it without a point of reference to real life. It would be more understandable to write about the realisation of rights. In one proposal, normative rhetoric of rights was used as if it backs the impact assessment. However, from a right to something one cannot infer its realisation, no matter how important the right is according the proposal.

Occasionally, the structuring of impact assessments was confusing, which sometimes made the assessments difficult to comprehend. Occasionally, a reference to studies and other background material came too late or did not clearly focus on the assessment it was intended to back. Sometimes the impact assessment was mixed with goals or specified proposals.

Need to strengthen social science skills

Social impact assessment is demanding. It requires effort, and extensive expertise in the topics and methods suitable for assessment. It also requires understanding and tolerance of uncertainties, as well as political and administrative will to secure enough resources and to allow for negative assessments. In the drafting of laws, legal expertise has traditionally been strong but the results of this report show that there would be a particular need for strengthening broad-based methodological expertise in the social sciences.

Recommendations

The following recommendations are derived from the results. In addition to being suitable to social impact assessments, they can partly be applied to other types of impact assessment as well.

General recommendations:

1. In law drafting, it would be desirable to emphasise that informative assessment is, in principle, uncertain. Respectively, the more certain the assessment is, the less it contains relevant new information.
2. Impact assessments should be targeted as closely as possible.
3. When drafting a legislative proposal, a clear distinction should be made between objectives, actual proposals and their specification, and impact assessments.
4. More attention should be paid to impact assessments on rights.

Recommendations for methodological expertise:

5. More use should be made of qualitative data and methods of analysis
6. Methodological guidance on social impact assessment should be explored, and a guide for law makers should be drawn up.
7. There should be enough methodological expertise in legislative drafting in general. There is also a special need for comprehensive social science skills.

Recommendations on how to present impact assessments:

8. The presentation of impact assessments should be consistent and comprehensible, and the expression should be precise and written in standard language.
9. The presentation of an impact assessment should indicate its data and the warrant, and the uncertainty associated with the data, analysis and conclusions.
10. It is important to give illustrative examples of assessments.