

## MAKING REGULATORY IMPACT ASSESSMENT GENDER-SENSITIVE: THE CASE OF THE CZECH REPUBLIC AND SLOVAKIA\*

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### Abstract

Gender Impact Assessment (GIA) has been institutionalized in different ways in the Czech and Slovak Republics; the Czech Republic introduced GIA independently of regulatory impact assessment (RIA) process relatively early on, while Slovakia did so only during the modernization of RIA processes in the early 2010s. Based on the analysis of 671 RIAs from 2007 to 2015 the study finds that with a few exceptions largely coming from the Ministries of Social Affairs where gender equality units were originally anchored in both countries, the GIA responses are relatively formal and 'blind'. This is despite the obligations and RIA modernization processes in both countries which introduced also standardization and supervision of RIA processes by independent bodies. Both countries witness persistent invisibility of gender, despite different GIA trajectories which can be attributed to the dominance of economists in both RIA processes.

**Keywords:** gender impact assessment, regulatory impact assessment, gender mainstreaming, gender equality, gender analysis, Czech Republic, Slovakia.

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## 1. Introduction

Each intervention of the government has its impacts, intended or non-intended. The government can decide upon the optimal form and way of intervention if it is aware of the individual impacts of the decision, be it financial, economic, political, legal, social or health-related, etc. Although not a new tool, impact assessment is seen by a range of national and international actors as a tool for strategic governance and better regulation. In the European Union (EU), for example, impact assessment (EU does not use regulatory impact assessment) is seen as a major part of the drive for better regulation and smart regulation (European Commission, 2010), which includes the use of knowledge, openness, transparency and inclusion of multiple stakeholder groups.

Thus, no intervention has neutral impacts, particularly if the position of certain actors (women) is not equal at the starting point. The tool of gender impact assessment (GIA) aims at identifying the effects of various interventions on gender relations in the society. It is possible to conduct GIA prior to the intervention (*ex ante*) or to monitor and evaluate the outcomes and implications of the current policies and interventions (such as austerity measures in the recent economic crisis). In this article, we focus only on *ex ante* GIA as a tool for analysis of intended interventions.

There is little literature covering the theme of gender and impact assessment. Part of it focuses on projects in economics (Johnson, 2000; Plantenga, 2000), other deal with concrete measures (Koh *et al.*, 2010) or policy interventions (Foster and Reddock, 2011). In general, the academic production deals with particular policy contents (Koh *et al.*, 2010; Foster and Reddock, 2011). The aim of this paper is to apply a unique point of view focusing on the institutionalization of GIA and its connection with regulatory impact assessment (RIA).

Academics tried to measure RIA quality utilizing various simple or more complex methods in order to compare them across countries. Most of the authors focus on the output of the RIA process (e.g., Rissi and Sager, 2013), on the analytical tools utilized in the assessment (e.g., Nilsson *et al.*, 2008) and on the presence of basic elements in the RIA (Staroňová, 2010). Yet, there are authors who measure the quality of RIA not only by the analysis of the output but also by analyzing the process: diffusion (De Francesco, Radaelli and Troeger, 2012) or institutionalization (Staroňová, 2010 and 2016). In our paper, we want to build upon these approaches and study the quality of GIA contents and link it to the way RIA is institutionalized in the respective countries.

When we are talking about gender perspective in impact assessment it is necessary to outline some of the concepts related to GIA. The most significant is 'Social Impact Assessment' (SIA). Many authors assume that gender is one of the aspects worth following in SIA (see Burdge, 2003; Esteves, Franks and Vanclay, 2012; Lahiri-Dutt and Ahmad, 2011). Some authors still oppose that SIA and GIA are two distinct IAs although their scopes overlap (Vanclay, 2003). SIA appeared in the 1970's as an addition to environmental impact assessment (Esteves, Franks and Vanclay, 2012). Since then SIA has undergone a considerable development and has been adopted by many

institutions all over the world but the basic frame has remained an 'analysis of impacts of proposed intervention on the lives of individuals and communities' (Burdge, 1999, p. 2), which covers such characteristics as age, gender, belonging to vulnerable communities. Gender perspective is thus present, yet is one of many. This feature is nevertheless typical also for 'Health Impact Assessment' (Payne, 2009) and for 'Economic Impact Assessment' (e.g., Johnson, 2000; Himmelweit, 2002).

In Health Impact Assessment gender is also of a certain importance, though not explicitly. The definition developed in 1999 declares HIA to be 'a combination of procedures, methods and tools by which a policy, programme or project may be judged as to its potential effects on the health of a population and the distribution of those effects within the population' (World Health Organisation, 1999, p. 4). One of the variables monitored by HIA is also gender, still the perspective is marginal.

Another group of authors see GIA as part of the Economic Impact Assessment (e.g., Johnson, 2000; Himmelweit, 2002; Elomäki, 2015). In these types of GIA one of the main focuses is on paid and unpaid type of economy, since women are often present in unpaid or low-paid professions. Himmelweit (2002) argues that the simple fact that women spend a part of their lives in the unpaid economy (childcare, household, etc.) is affecting their position in the household, the labor market and therefore any GIA requires a dynamic perspective and the need to take these factors into account (e.g., in tax policy, transport policy, etc.).

Due to very sparse research on GIA institutionalization and practice (but Kim and Kang, 2016; Verloo and Roggeband, 1996; Roggeband and Verloo, 2006) we want to analyze the quality of RIAs conducted particularly in the areas of social, health and economic areas. As such, the aims of this paper are: (1) to explain the reasons and ways of enforcing GIA in terms of supranational institutions; (2) to analyze the way of institutionalizing the GIA based on case studies from the Czech Republic and Slovakia; (3) to identify and highlight the important factors that affect the quality of GIA in practice.

## **2. Gender impact assessment: its history and varieties**

Foundations enabling the connection between gender perspective and impact assessment were laid by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which was adopted in 1967 by the United Nations (UN). The basis for impact assessment lies in the formulation obliging signatories to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt the ones prohibiting discrimination against women. Another key document passed by the UN is Beijing Action Platform resulting from the Fourth World Conference on Women in 1995. Here, the connection of 'gender' and 'assessment' has been explicit. The document also introduces the concept of 'mainstreaming (of) a gender perspective' which influenced the way gender equality is achieved – among others in the European Union, and opened the door to GIA. OECD is using the formulation of 'gender-responsive assessment' where the aim is

'to support the creation of security and justice institutions that are representative, accountable, rights-respecting and responsive to the specific security and justice needs of women, men, boys and girls' (OECD, 2009, p. 1).

In the European Union, gender impact assessment is conceived as one of the tools of gender mainstreaming (GeM) which is a general strategy for achieving gender equality. As a follow-up to Beijing Platform for Action, the European Commission (EC) approved a document (European Commission, 1996) where GeM is thoroughly described as a complex strategy to achieve gender equality. According to the guide from 1997, 'gender impact assessment means to compare and assess, according to gender relevant criteria, the current situation and trend with the expected development resulting from the introduction of the proposed policy' (European Commission, 1997, p. 4).

The EC's recommendation to apply GIA is put into practice in many diverse ways by EU member states: regarding its complexity or systematic approach, width of its scope or interconnection with other concepts. In terms of individual countries, the European pioneers of GIA were the Netherlands (Roggeband and Verloo, 2006) and Sweden (Åseskog, 2003) where GIA emerged in late 1990's. Implementation of gender perspective has also a considerable tradition in Austria where GIA has been part of a process of gender responsive budgeting embedded in the Constitution since 2009 (Klatzer *et al.*, 2010).

### **3. Institutionalization of Gender Impact Assessment within RIA framework in the Czech and Slovak Republics**

We can differentiate two phases of RIA adoption in CEE countries (Staroňová, 2014): first, an early phase with RIA adoption mostly due to international requirements or impetus and, second, quite recently, a phase of RIA reforms that occurred after 2010 to increase the efficiency of the system. The biggest triggers for adopting RIA in the CEE region in the first phase were the influence of international organizations, such as OECD and World Bank or simply accession to the EU (Staroňová, 2010). The adoption in the first phase was generally only formal (see Staroňová, 2010; Radaelli, 2009).

Both the Czech Republic and Slovakia started to reform their regulatory processes as of 2010 in order to increase the efficiency of the system and bring RIA closer to decision-making processes. However, the modernization phase was conducted in two different ways: one through inner learning and with political support (the Czech Republic) whereas the other took place due to OECD recommendations without any political support (Slovakia).

In the Czech Republic, the first internal audit report on the inefficiency of RIA guidelines was prepared in 2009 by the Ministry of Interior, but only with the change of the government in 2010 the recommendations were transformed into new general principles and put into practice. In the same year, the Czech Republic introduced several institutional RIA innovations (Staroňová, 2014), such as a comprehensive RIA report to cover all procedural aspects of RIA, an oversight body to review the

quality of RIAs. The RIA oversight body consists of 16 independent (mostly economic) experts from outside of the civil service. The oversight body has the power to stop the legislative process (utilized also in the practice) if RIA is considered to be of poor quality.

Slovakia underwent a gradual process of incremental changes that resulted in the standardization of the RIA requirements through the utilization of a template, introducing several oversight bodies (four supervising ministries for four areas of fiscal, social, economic and environmental assessments) and phasing the process (Staroňová, 2016). Multiple supervising bodies (Ministry of Economy, Ministry of Finance, Ministry of Environment and Ministry of Labor and Social Affairs) face fragmentation and hierarchical problems vis-a-vis other line ministries. The opinions are not binding and thus there are no sanctions if the quality of RIAs is low. Only the Ministry of Finance is powerful enough to be able to send low-quality RIAs back.

In Slovakia, the gender element was added to SIA during the overall RIA reforms in 2010 by Gender Equality Unit (GEU) when a Joint Methodology was being prepared. Although GEU has existed at the Ministry since 1999 (in various forms and names), its main focus was not and is not on the regulatory policies but on the gender aspects of European structural funds (Interview 1). GEU added the GIA element primarily to reflect EU goals in the social policy (Očenášová, 2011). Thus, the origin of the GIA idea can be traced back to guidelines on SIA of the European Commission. The Ministry of Labor and Social Affairs became the supervisor of SIA which already was looking at impact on individual citizens' groups. There is a lack of any type of supporting documents or guidelines on how to conduct GIA.

As of today, in Slovakia GIA is part of SIA as one of four SIA elements where a standardized form explicitly asks in one question on impacts on 'equal opportunity and gender equality'. GEU plays a minor role in the overall RIA process since it is not a regular part of the quality review process although the Ministry where it is anchored is a supervising ministry for the quality of SIA (Interview 1). Instead, the unit tries to follow the regulatory items with GIAs that are internally produced since there is an internal mechanism of intra-ministerial review process where there is a possibility to step in and comment upon the quality of GIAs.

In the Czech Republic, the request to apply the gender perspective appeared in the amendment of Legislative Rules of the Government already in 2004. This request met the requirements of GEU established in 1998 as a body to elaborate reports on gender equality in the Czech Republic for the UN, EU and other institutions. Thanks to the support of Vladimír Špidla, then minister of Labor and Social Affairs (who later became also Prime Minister and European Commissioner for Employment, Social Affairs and Equal Opportunities) where GEU was assigned, the agenda grew and in 2001 GEU suggested to discuss the possibilities of GeM implementation in the Legislative rules. Later on, the suggestion was adopted by the Council for Equal Opportunities of Women and Men and succeeded in 2004. The request stated that the

legislative proposals must contain the assessment of *status quo* and impacts of the prospective legislation in relation to equality of men and women if the aim is to regulate the subject differently for men and women. When RIA became more elaborated, GIA was included in RIA guidelines in 2007.

In the 2007 RIA guidelines, women are mentioned as one of the social groups potentially affected by a new regulation (as well as corporations, consumers, employees, NGOs and many others). At this stage, taking into account of the groups is not obligatory, the potential effects or affected groups are not categorized or further elaborated. In the RIA, the social group of women is filled in by specifying 'gender equality' in brackets. Four years later, a special chapter (one page long though) is dedicated to 'specific impacts' – here, eight impacts are classified: among others also 'social impacts' and 'impacts on equality of men and women'; GIA is thus set apart from SIA. The document says the expected impacts on the equality of men and women are to be assessed if the prospective regulation affects the citizens. In the guidelines from 2014, the earlier 'impacts on equality of men and women' are replaced by 'impacts related to ban on discrimination'. The change was initiated by the Office of Ombudsman and it was passed even though GEU opposed the proposal as it weakens the focus on the idea of gender equality which stands above the idea of discrimination. The guidelines request to state expected impacts and explanations of the causes of potential differences and expected development using statistical and other types of data (where available). In the latest version of 2016, the original GIA is renamed to 'impacts related to ban on discrimination and on equality of women and men'. The gender aspect of proposed legislation and other materials has been assessed by GEU which worked under the Ministry of Labor and Social Affairs (1998-2007; 2011-2014) and Government Office (2008-2011; 2014-ongoing).

In 2015 a manual on GIA was introduced as an output of the ESF project 'Optimization of gender equality infrastructure' carried by GEU and heavily supported by Jiří Dienstbier, the Minister for human rights, equal opportunities and legislation and chairman of the Government Legislative Council. Contrary to the RIA guidelines where the keywords are 'gender equality', 'equality of women and men' and 'discrimination', the manual widens the scope by introducing GeM in the spirit of its widely-accepted definition as a strategy.

In sum, the institutional anchoring and support of GIA is profoundly different in both countries (see Table 1). While in Slovakia GIA is part of SIA in one standardized question with no real support from GEU experts or political actors, the situation is different in the Czech Republic. There, GIA was included very early on in an unstructured way, underwent various forms of development and to a great extent reflected political support. Therefore, our research focuses on finding to what extent such an institutional difference is seen also in the actual GIA output.



**Table 1: Institutionalization of GIA into RIA**

	<b>Czech Republic</b>	<b>Slovakia</b>
<b>Adoption of RIA</b>	1998 (in effect 2007)	2001
<b>RIA reform</b>	2010	2010
<b>RIA process</b>		
Two-phase	No	Yes (as of 2010): a) Preliminary review process to indicate impacts b) Analysis of indicated impacts
Oversight body	Yes (as of 2012): – independent committee of experts after inter-ministerial review process	Yes: – four supervisory ministries in their respective areas (2010-2015) during inter-ministerial review process; – RIA committee as of October 2015, as part of the Legislative Committee after inter-ministerial review process
RIA guidelines	Yes (2007)	Yes (2010)
<b>RIA output</b>		
Standardization of RIA form	No (self-standing report)	Yes (form of questions) since 2012
	RIA report to cover all elements with no prescription (5-100 pages)	RIA standardized template since 2012: a) First phase: a simple ticking table on positive/negative/no impact in 5 areas (including SIA) b) Second phase: where a tick provided above, template with questions
<b>GIA introduction</b>	2007 (introduction of RIA guidelines; in the Legislative Rules of the Government since 2004)	2010 (RIA reform)
Form of GIA	Part of RIA (section of 'specific impacts'), not part of Social Impact Assessment	Part of Social Impact Assessment (1 question in a template on equal opportunity and gender equality)
GIA guidelines	Yes (as of 2007)	No
GIA methodology	Yes (as of 2015) Gender Equality Unit	No (expected to be elaborated in 2017)
<b>Institutional support for GIA</b>	(Ministry of Labor and Social Affairs, 1998-2007; 2011-2014) and Government Office (2008-2011; 2014 until now)	Gender Equality Unit (Ministry of Labour, Social Affairs and Family)
GEU Established	1998	1999

**Source:** Authors' computations

#### 4. Methods and data

The analysis of the relationship between GIA and RIA consists of three inter-related aspects. First, we focused on institutional differences in RIA processes and on the way how GIA was included into RIA in both countries. In this sense, we analyzed the wider institutional and political contexts of the RIA tool in order to establish the determinants of scope and sophistication of GIA. We also examined the objectives of GIA inclusion into RIA, the impetus and reasons for doing so, as these emerge from formal legislative framework, guiding documents and practice. We combined these with five interviews conducted between June and September 2016 with civil servants from GEU and RIA oversight bodies from both countries in order to explore the institutional constraints and opportunities for GIA.

Secondly, we analyzed RIA documents accompanying draft laws and amendments to see whether and how the gender perspective was included in the construction of the problem, proposed solutions and assessed impacts. The documents selected for the analysis were from 2007-2015 and the following questions were applied: (1) What is the occurrence of GIA (overall trend, frequency and scope) within RIA framework? (2) How are GIAs elaborated and characterized (social, health, economic or fiscal orientation)? (3) Which ministries are the main proponents of GIA?

Thirdly, we analyzed the quality of gender-related statements in RIA. What sorts of argumentation is being utilized? Is the reference a formal one or does it provide data and evidence?

The study analyzed a total of 671 proposals (348 Czech and 323 Slovak) for laws presented and discussed by Czech and Slovak governments in 2007-2015. Proponents of such materials are the line ministries that include four thematic areas of GIA as expected from theoretical discussion: social, health, economics and interior. In the Czech Republic (CZ) these are represented by the Ministry of Labor and Social Affairs (MoLSACZ), the Ministry of Interior (MIntCZ), the Ministry of Health (MoHCZ) and the Ministry of Industry and Trade (MoEcoCZ), and in Slovakia (SK) by the Ministry of Labor, Family and Social Affairs (MoLSAFSK), the Ministry of the Interior (MIntSK), the Ministry of Health (MoHSK) Ministry of Finance (MoFinSK) and Ministry of Economy (MoEcoSK). In addition, in Slovakia all other ministries have been also monitored. This is so because of the low number of Slovak materials containing GIA within the RIA. At the end of the day, 322 drafts containing GIA were subjected to a detailed analysis (229 Czech and 93 Slovak).

#### 5. Practice of GIA in the Czech and Slovak Republics

The basic difference distinguishing Czech and Slovak practice is the frequency of the GIA and the range or the area that is dedicated to evaluating formulations. As shown in Table 2, the number of GIAs conducted in the Czech Republic in the four monitored areas is two times higher than in Slovakia. However, if we look at the overall trend of GIA occurrence, it is the same for both countries. The prime peak and intensity when GIAs are utilized is 2011 which witnessed a rapid increase that was



never mirrored in the subsequent years when the number of GIAs conducted in both countries dropped to the previous rates. This rapid increase might be attributed to the overall RIA reform in both countries which introduced oversight bodies in both countries since 2010 but which nevertheless did not pay attention to GIAs *per se* afterwards.

**Table 2:** Number of GIA 2007-2015 in CZ and SK according to the main areas – social, health, economics and interior

		MoLSAF		MoEco /MoFin		MoH		MoInt		Other	Total	
		N	GIA	N	GIA	N	GIA	N	GIA	GIA	N	GIA
2007	CZ	2	2 (100%)	3	0	4	4 (100%)	7	5 (71%)	n/a	16	11 (69%)
	SK	5	0	12	0	5	0	15	0	1 (GO)	38	1 (3%)
2008	CZ	6	6 (100%)	6	4 (66%)	7	4 (57%)	14	5 (36%)	n/a	33	19 (57%)
	SK	14	1 (7%)	3	0	9	0	11	0	0	37	1 (3%)
2009	CZ	6	3 (50%)	7	3 (43%)	5	1 (20%)	4	2 (50%)	n/a	22	9 (41%)
	SK	11	0	10	1 (10%)	5	0	7	0	1 (MoEdu)	34	2 (6%)
2010	CZ	8	6 (75%)	12	5 (41%)	5	3 (60%)	8	4 (50%)	n/a	33	18 (54%)
	SK	8	3 (38%)	9	0	5	0	9	0	0	31	3 (9%)
2011	CZ	15	12 (80%)	9	5 (55%)	10	10 (100%)	19	7 (37%)	n/a	53	34 (64%)
	SK	12	6 (50%)	14	10 (71%)	8	4 (50%)	9	2 (22%)	15	58	37 (63%)
2012	CZ	11	9 (82%)	8	8 (100%)	8	8 (100%)	12	12 (100%)	n/a	39	37 (95%)
	SK	3	1 (33%)	9	0	8	0	3	1 (33%)	1 (MoTra)	24	3 (12%)
2013	CZ	11	7 (63%)	11	7 (63%)	14	6 (43%)	24	5 (21%)	n/a	60	25 (41%)
	SK	11	1 (9%)	8	0	5	0	10	0	2 (MoJ, MoTra)	36	3 (8%)
2014	CZ	19	19 (100%)	12	7 (58%)	10	6 (60%)	15	13 (86%)	n/a	53	45 (85%)
	SK	10	10 (100%)	6	4 (66%)	4	1 (25%)	3	1 (33%)	8	31	24 (77%)
2015	CZ	9	9 (100%)	7	5 (71%)	9	7 (77%)	14	10 (71%)	n/a	39	31 (79%)
	SK	9	4 (44%)	7	1 (14%) (MoEco)	2	1 (50%)	6	3 (50%)	10	34	19 (56%)
Total	CZ	84	63 (75 %)	75	44 (58 %)	72	49 (68 %)	117	63 (54 %)	n/a	348	229 (66 %)
	SK	83	26 (31 %)	78	16 (21 %)	51	7 (14 %)	73	7 (10 %)	38	323	93 (29 %)

Note: N – total number of draft laws submitted to the Cabinet with RIAs; n/a – data were not monitored for other ministries in the Czech Republic.

**Source:** Authors' computations

In both countries, the most submitting ministries are from the identified four GIA areas: ministries of labor and social issues, ministries of health, ministries of economics and ministries of interior. At the same time, it is the Ministries of Labor that dominate significantly in submitting materials containing GIAs in both countries. These are ministries where GEUs were originally anchored and pushed for GIAs in both countries. It seems that this capacity and expertise matters for production of GIAs. This is particularly visible with the Czech Republic, where the location of GEU moved twice

and only in the years when GEU was part of the Ministry of Labor (2011-2014) the production of GIAs doubled or even tripled in comparison to other years. In Slovakia, yet another ministry is important in the GIAs – the Ministry of Transport.

GIA *per se* has a crosscutting nature that should bring together the data on gender consequences across the segmented policy-making line ministries. Nevertheless, intersections between policy areas are entirely missing in both countries. In Slovakia, this is not surprising since GIA has been designed as a single standardized question within single policy area – social impact assessment. The Czech Republic, on the other hand, had potential to use GIA as a crosscutting element since the format of GIA is not structured and it is independent of RIA but didn't take advantage of it.

The scope and space devoted to GIA formulations in both countries differ, in favor of the Czech Republic, except for the minimum number of words, which is the same (see Table 3). The average range of the formulation is in the case of the Czech Republic almost twice larger than in the case of Slovakia. In Slovakia, it is the Ministry of Labor that again dominates in this variable. However, in the Czech Republic the longest formulations can be noticed in GIAs proposed by both the Ministry of Interior and Labor.

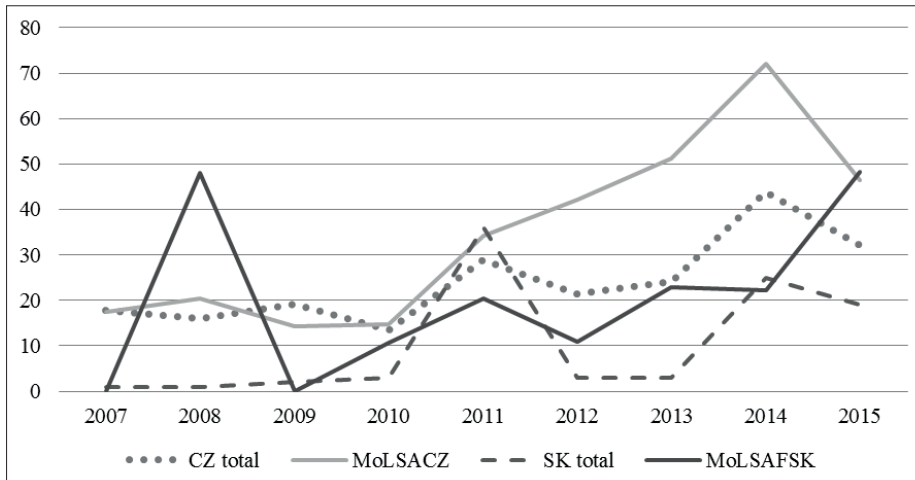
**Table 3:** GIA formulation range in CZ and SK 2007-2015

	GIA formulation	
	SR	
	CZ	SK
Minimum number of words	1 (3 of 229)	1 (7 of 93)
Maximum number of words	302 (2 of 229)	114 (1 of 93)
Average number of words	31	15
The most frequent average number of words	9 (30 of 229)	2 (33 of 93)

**Source:** Authors' computations

It is necessary to take into account also the frequency of contents of GIA statements: the analysis suggests that in Slovakia almost half of the GIA statements are formal – only using two words (40 from 93), most commonly in the form of 'no impact', 'without impact' and 'no effect'. GIA statements comprised of more than ten words make up 40% of all the GIA statements in Slovakia, whereas in the Czech Republic it is more than 70%.

The development in the length of GIA statements is illustrated in Figure 1 where we can observe a rising tendency in both countries with its peak in 2011. In Slovakia, one GIA prepared in 2008 by the Ministry of Labor skews the chart in average length since it was used as an illustrative pilot on the draft law that introduces measures for work-life balance and may improve equal opportunities in the labor market. In both countries, the space dedicated to GIA statements compared to the whole RIA is marginal: 0.6% in Slovakia and 1% in the Czech Republic. At the same time, the data do not confirm the expected hypothesis 'the longer RIA, the longer GIA'.



**Figure 1:** Development in the average length of GIA statements in CZ and SK 2007-2015

**Source:** Authors' computations

The differences in Czech and Slovak outputs of qualitative analysis primarily reflect the different conceptual and methodological RIA frameworks. Unlike the Czech Republic, Slovakia has introduced a two-phase RIA process, i.e., during the first phase the presence/absence as well as the nature of the impact is tested by using a simple yes/no table; and only if 'yes' is marked, the impact is evaluated in the second phase verbally but still in a standardized questionnaire (Staroňová, 2016). Our analysis shows that not enough attention is provided in the second phase analysis which is manifested in two types of inadequate GIA elaboration: (a) the value in the table from the first phase contradicts the verbal assessment in the questionnaire from the second phase (four occurrences), (b) despite the indication of SIA in the first phase, in the questionnaire where GIA is to be detailed down, the line item dedicated to GIA is left blank (in more than one third of all the GIA statements).

The methodological framework in both countries asks for clarification and explanation of analysis conducted in GIA statements and for consultation with experts on gender issues. Nevertheless, most of GIA statements in both countries do not provide evidence and/or justification for their statements. Some form of reasoning occurs in the case of Slovakia in total of fourteen times across the reporting period (most often by Ministry of Labor where GEU is anchored). In the Czech Republic it is in 56 materials, with a sharp increase from 2015 (11 of 31) (most often by Ministry of Labor). Most often, the argumentation takes the form of a relatively concise description of what the proposal is (not) or expectations about future developments. A stronger argumentation based on the data, statistics, or legislative materials on gender issues is absent in almost all of the cases in both countries. Instead, both countries utilize predominantly references to the European legislation as the primary argumentation for the justification of the gender related measure. In fewer cases, the Czech Republic utilizes also references to the domestic legislation: Antidiscrimination Act and the new

Government's Strategy for equality between women and men. Justification based on data is still uncommon (three cases in the Czech Republic, two in Slovakia) and consultations with experts is completely absent in Slovakia, and in the Czech Republic it occurs seven times.

Let us take a step behind the scope of GIA statements and accordance with official RIA framework to look at the gender argumentation itself. We have discovered that some documents are 'gender blind', i.e., references to gender were absent despite obvious tackling of gender issues. For example, law proposals whose goal was to establish protection against domestic violence was assessed as having 'no effects' for gender equality even though domestic violence is a strongly gendered problem (Ministry of Justice in Slovakia, 2015). Similarly, the contradiction between the objectives and the evaluation of the impact can be seen also in the Czech law with the aims to reconcile family and working life of public servants. The corresponding GIA says that the objectives of the Government's Strategy for equality between women and men in the Czech Republic for 2014-2020 should be fulfilled and a positive social impact will be achieved, but in the end 'the proposed legislation does not have either direct or secondary effects on gender equality' (Ministry of Interior of the Czech Republic, 2015).

## 6. Discussion

Despite the commitments in both countries (both signed CEDAW and annually report the progress they achieved) to consider gender aspects in the proposed legislation, despite strategies written and approved on this issue, policy documents continue to ignore gender completely or to a big extent. There is a systematic failure to recognize the relevance and importance of the gender element in all areas. Thus, we can constantly observe the gap between the rhetoric and reality. Why GIA, which is formally compulsory, is ignored, overlooked and pushed out of the margins?

Of course, one can link this ignorance to the lack of capacity or training of civil servants in gender issues, which is obvious in the GIAs from ministries where there is no input from GEU expertise both in terms of quantity and quality. Both countries have experts on equal opportunities at their disposal in GEUs. These, nevertheless, do not communicate adequately horizontally with their counterparts from ministries preparing RIAs (and GIAs). The empirical results of the case studies show natural commitment to GIA with Ministries of Social Affairs in Slovakia and partially also in the Czech Republic where GEU was run under MoLSACZ in 1998-2007 and 2011-2014.

However, it does not seem that it is only the lack of expertise that is holding back both countries from performing GIA since there are *ad hoc* occurrences where GIA does appear. To this end there is a noticeable difference between the Czech Republic and Slovakia which can be attributed to institutional factors. Thus, at this point we want to discuss institutional constraints on the introduction of GIA.

Gender seems to be sidelined by dominant discourses of economists who play an important role in overall methodological setup of RIA – in case of the Czech Re-

public by economists from oversight body of RIA committee, in case of Slovakia by economists from the Ministry of Finance. In one of the interviews, the head of GEU saw the problem with the Ministry of Finance of Slovakia pushing for quantifying and monitoring RIA: 'If you cannot provide numbers, you are not strong quantitatively then you rather write neutral or no impact ... this is unfortunate since GIA should bring people to thinking and not monetizing everything' (Interview 1). Bias towards economic and quantitative expression of RIAs in CEE countries was observed already by Staroňová (2016) and confirmed in an interview also by the head of regulatory oversight in the Czech Republic: 'We are economists in the [RIA] Committee and we mostly look at economic issues, GIA is not important to us and we do not pay attention to it at all' (Interview 5). The finding is not shocking though, as the gender perspective is seen as less valuable and less important than the others and it is marginalized among various policies (Elgström, 2000). Even in cases when the gender perspective is acknowledged by institutions, it may be sidelined by politicians (Gains, 2016). Shaw (2002) demonstrates on the case of the European Union that the fact the gender equality is 'embedded' in core documents does not necessarily mean it is not 'marginalized' at the same time. Elomäki (2015) points out that EU's equality policies have always been embedded in the logic of the market and economic framing in order to legitimize the EU economic policies and governance. Similarly, our study implies that economic priorities and policies, many of which are detrimental to gender equality, prevail on the expense of GeM.

Another similarity in both countries relates to the narrow interpretation of GIA as assessing potential impacts rather than a process of searching for alternatives to achieve a certain goal. Again, this phenomenon is to be linked to the institutionalization of RIA. The narrow focus has several consequences. First, it looks solely on one aspect (equal treatment of men and women in employment or antidiscrimination) that can change in time (as in the Czech Republic) but does not have to (stable in Slovakia). As one of the interviewees noted 'the focus is not why certain legislation exists or what it wants to achieve, we do not know that at all' (Interview 1) and thus comprehensive women's policy is largely missing from GIAs.

Second, gender perspective as a crosscutting issue is about integrating all policy areas. Nevertheless, in both countries, if GIA is found it does not address the relation between crosscutting issues. Instead of looking for political dialogue across main domains via identified measures, it solely looks at effects of one legislative area. GIA consequently fails to achieve its potential and thus becomes mostly a box ticking exercise which can be incorporated into existing institutions without interfering with cross-institutional issues; this is a phenomenon identified not only in CEE countries, but also at the EU level (Allwood, 2013).

One of the reasons why there is such a difference in quantity and quality between the two countries refers to the methodological framework, including the level of standardization of the evaluation process. Slovak methodology and practice is standardized and clearly defines the different impacts of the monitored area in tables, i.e., one

question on GIA. On one hand, this approach is more instructive for submitters. On the other hand, if the submitter does not recognize a relevance of the proposal to gender perspective, GIA is not there. Czech evaluation practice shows a sharp contrast: 100% cover of GIA within RIA and high diversity of GIA formulation features (often against respective guidelines). Clearly, these are the limits of standardization – the report does not provide specific information unless such information is asked for, as noted in Even's (2016) and Staroňová's (2016) researches. On one hand, the standardization of a template in Slovakia meant that GIA was brought into RIA and some thinking is given to it as can be seen in the increase from almost zero to a peak in quantitative occurrence in 2011 (Figure 1). However, when looking into the depth of assessment measured by word quantity we see that even this peak in GIA occurrence is a simple 'box-ticking' bureaucratic exercise.

In terms of values, it can be concluded that GIA in both countries is a value exposed by the EU and it occupies a subordinate position in the overall RIA process. In fact, gender equality is seen as import from Brussels which strengthens the resistance to the concept (Hondlíková and Hejzlarová, 2015). This explains also why gender issues in both countries are understood solely in the context of 'equal opportunity' element of the formal social policy *acquis*. At the same time, areas where international presence is strong, e.g. structural funding, NATO, GIA becomes more natural (Interview 1). When explaining the dynamics of GIA implementation, the most important element beside the international exposure, was the presence of elected representatives favorable to the concept of gender equality (Vargas and Wieringa, 1998) – in the case of the Czech Republic these persons were Vladimír Špidla and Jiří Dienstbier – and high-level bureaucrats, as our informants claimed (Interview 3, 4); the absence of such actors in Slovakia probably led to additional side-lining of GIA.

## 7. Conclusions

The aim of the overview mapping the development of GIA as a concept was to demonstrate the varieties of GIAs, distinct contexts in which GIA appears and distinct starting points of its conceptualization. The summary provided us with the background for the analysis of Czech and Slovak RIAs. It also helped us to become aware of general differences between RIA and GIA (although there are many similarities as well). First, the development of GIA and RIA differs: GIA grew from the ideas of human and women's rights, whereas the ideas behind RIA are more of economic efficiency and costs of rulemaking. Second, there are many notions and uses of GIAs on many levels which make the concept uneasy to grasp and work with thoroughly. On the contrary RIA is a widely (and critically) discussed, yet there exists a universal agreement on the shape of the tool. Third, GIA (on the European level) is considered a particular tool of the strategy of a GeM or the agenda of gender equality which are both rather marginal and 'rhetorical' topics in public policy, RIA is a widely-accepted procedure. The differences may explain a complicated co-existence of the two concepts which is far from a symbiosis.



On the micro level, the overview of the state of gender impact assessment in the Czech Republic and Slovakia has shown us that there is no structured coherent and comprehensive instrument on which decision makers can rely regardless on the form of institutionalization and level of political support. GIA is an innovative instrument that can support cross-sectoral integration of policies and thus increase the quality and effectiveness of rule-making as well as the effectiveness of gender informed policy outputs.

However, we would argue that this is the only possible way to correctly put it into practice, with incentives for implementation outside established gender equality networks, inter alia strengthening the supervisory bodies on the issue of gender aspects. Thus, this conclusion is valid also for other coordinating and quality supervisory mandate of individual bodies that seek crosscutting inclusion in both countries.

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