

Mission impossible? – regulatory impact assessment of a climate bill in a politically hostile environment

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Starting points

- 1) Turnpenny et al 2009 ...“there has been, until recently, a distinct paucity of research on what might be termed the ‘policy and politics’ of policy appraisal.” → “link research of policy appraisal with research *for* policy-making.”
- 2) “One of the main discourses surrounding policy appraisal is that it helps policy to be based on arguments and evidence instead of bargaining and interests. However, political scientists are instinctively suspicious that such an aim might be fully achieved.”
- 3) Hertin et al. 2009 “why RIA often becomes an arena for political conflict involving both government departments and stakeholders.”

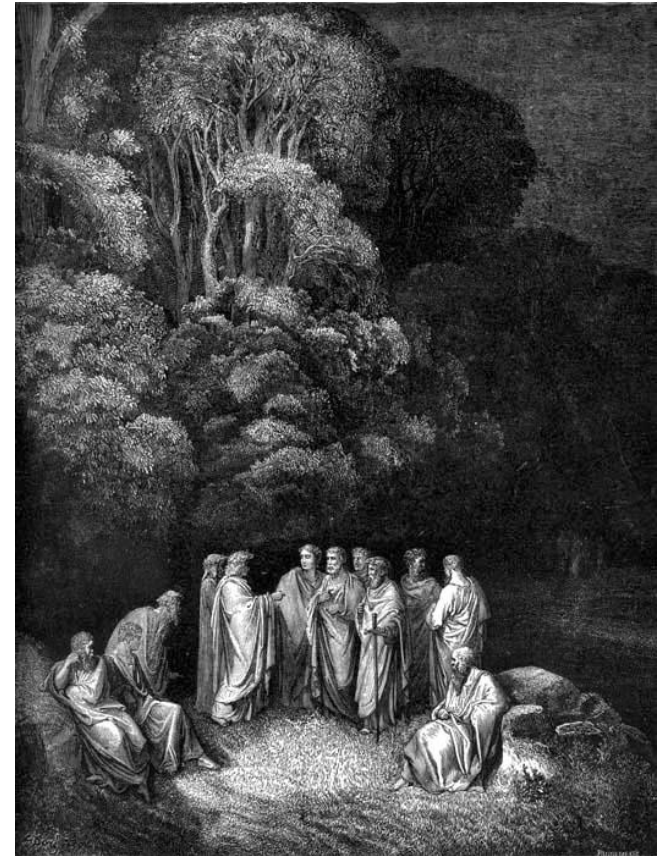
What is known?

“We have shown that RIA as it operates in practice shows little resemblance to the linear and instrumentally rational process of gathering neutral facts for better policies that it typically held up as the ideal-typical model in policy documents.”

*Julia Hertina, Klaus Jacob, Udo Pesch, Carolina Pacchic 2009
The production and use of knowledge in regulatory impact assessment – An empirical analysis*

What do the attempts to introduce a Climate Act in Finland tell us about politics of appraisals?

- Climate Acts are in a state of diffusion (in 2014 Denmark and Ireland have progressed)
- The proposed Finnish Act is a very modest attempt to diffuse the idea, it would primarily confirm a set of planning and monitoring processes already in place, with some incremental improvement
- The RIA was included in the preparation, but is, with the proposed Act, in a political Limbo



Claim 1: Lack of commitment and resources to RIA.

“RIA is seen as a ‘side event’ of the political process with a large gap between the prescribed linear RIA formats and the practice of political decision making plays an important role. “

“If assessment processes are seen rather separate from policy formulation, important actors will not devote substantial resources to carrying out a thorough analysis, discussing implications or drawing conclusions about desirable courses of action.”

➤ *Resources were not major problem, but the discussion about implications or drawing conclusions about desirable courses of action never progressed to anything creative.*



Claim 2: An instrumentally rational approach leads to a problematic bias in the selection of analytical methods

“The focus of RIA methodology on prediction and precision tends to narrow down the scope of the assessment as it carries with it a dominance of economic valuation and other quantitative methods. While this often increases the depth of the assessments, the trade-offs in relation to the breadth of impact areas is not sufficiently acknowledged. “

“Qualitative knowledge tend to be undervalued and few attempts are made to capture uncertainties or explore sensitivities in relation to methods and assumptions.”

➤ *The RIA was not constrained by demands of analytical methods, although attempts were used to raise economic costs as an issue by some stakeholders from an admin efficiency perspective*



Claim 3: The presumed simple relationship between knowledge and policy appears as a lack of attention to process issues

“As RIA procedures tend to make little effort to involve different types of expertise target groups, other affected stakeholders, and implementing bodies, they miss the opportunity to gather knowledge for the robust design of workable and acceptable policies.”

- *The RIA was not formally constrained, it involved stakeholders, but true participation was heavily constrained by the political constellations to the point that the discussions on alternatives was a shadow discussion as clear alternatives were not presented until very late. In this sense opportunities were missed.*



Could the difficulties of the RIA be understood as challenges related to the governance of innovations?

- Climate Acts are, or hope to be, policy innovations. Jordan and Huitema 2014 argue that policy innovation can be interpreted as the source of new elements ('invention'); their entry into wider use ('diffusion'), and their subsequent effects ('evaluation')
- Polsby (1984, p. 8): a policy innovation alters (or promises to alter) the lives of people in 'substantial and fairly permanent ways'.
- The Finnish Climate Act may not fully live up to this, but one can argue that it is an innovation in that it "evokes hopes or fears that lives will change"
- The Regulatory Impact Assessment can be seen as part of the diffusion, but also has links to evaluation.

→ See INOGOV

http://www.cost.eu/domains_actions/isch/Actions/IS1309

How does RIA fit into innovation management?

Maturity of the policy innovation	Innovation management stages (Innovation champion perspective)	Socio-political transition processes (The political dynamics perspective)	Contributions of assessments and evaluations (The evidence perspective)
Early emergence	Initiation/Stimulation: Reframing and learning through active experimentation.	Niche activities: Emerging pressure on the existing socio-political regime; signs of destabilization of the existing regime. Negotiations and political struggles over alternatives	Initial evaluations and assessments: Evaluations of the existing regime; Assessments of proposed policy elements.
Formation and implementation of new policy design	Experimentation/ Incubation: Choice and design of specific policy solutions; Ensuring leadership in the process	Emergence of a dominant design: Establishment of the new regime and its operations.	Evaluations and assessments in negotiations: Evaluation of experiments and niche innovations; regulatory impact assessments of dominant design.
Mature, established practice	Full implementation: Design and maintenance of practice and tools to support it; fine-tuning of innovation.	Consolidation: Processes stabilizing and adjusting the new regime; processes for resisting new destabilization	Monitoring and evaluation: Feedback on adopted solutions; potential destabilization of the adopted policy innovation

The stalled proposed climate act and its regulatory impact assessment

- Introducing a regulatory policy innovation is a risk game;
- The RIA is a chance card for the policy developers and for those opposing the development;
- The difficulties of the RIA are rather symptoms than causes of problems.



The difficulties of the proposed Finnish Climate Act

Maturity of the policy innovation	Innovation management stages (Innovation champion perspective)	Socio-political transition processes (The political dynamics perspective)	Contributions of assessments and evaluations (The evidence perspective)
Early emergence	No real reframing and learning through active experimentation.	No signs of destabilization of the existing regime.	Perceived bias in evaluations of the existing regime and in the proposed policy elements.
Formation and implementation of new policy design	Contested leadership in the process	New dominant design presented late for debate; unsuccessful conceptual establishment of a new regime and its operations.	Assessments did not enter negotiations; Late regulatory impact assessment of contested design instead of open alternatives.
Mature, established practice	Unclear view of design and maintenance and fine-tuning of innovation.	Weak process for stabilizing and adjusting the new regime	Little feedback on proposed solutions

Summary: Barriers to RIA

The production and use of knowledge in regulatory impact assessment – An empirical analysis
Julia Hertina et al. 2009

The RIA of the draft Finnish Climate Act

Politicians tend to see policy assessment as restricting their discretion

RIA kept on a tight leash by the lead Ministry as *an interpretation* of the political power

Policy-makers in ministries tend to see it as counterproductive to their effort to push a legislative proposal through

Main tensions between policy makers in different Ministries. RIA seen as a "chance card"

Major stakeholder groups with access to ministries also tend to benefit from traditional corporatist styles of consultation

Strong tensions between stakeholder groups – "indirect consultations", but no simple corporatist structure, instead diverse corporatist networks

Alternative orientation of RIA?

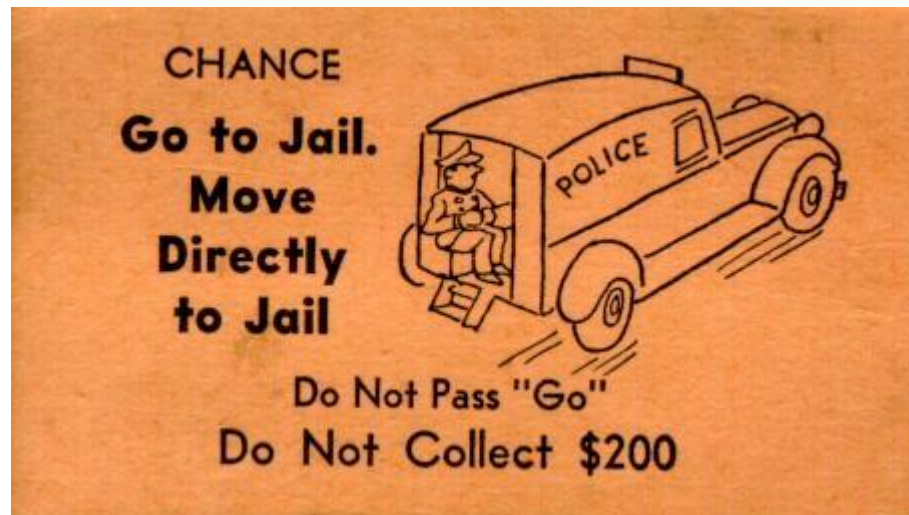
“The post-positivist perspective is arguably better at pointing to the weaknesses of traditional assessment approaches than at providing operational alternatives” (Hertina et al 2009).

- “RIA needs to engage with the political process and normative choices in a constructive way.” *Yes, but...*
- “In important and controversial policy cases, it might be necessary to involve interested parties in the detailed design of the approach to ensure that the results are widely accepted.” *The results were accepted, but not used at the political level...*



Elements of solutions ... accepting the game

- Seeing RIA as part of the innovation management and the risk taking any innovation requires from policy makers – from destabilizing experiments to detailed design
- Forcing a public discussion by publishing findings based on more independent RIA, with the risks that it involves for those conducting the assessments



But we should also make sure that we continue the analyses: “link research *of* policy appraisal with research *for* policy-making” - using the insights provided by research of policy innovations

Thank you!