Smart legislative regulation: investigation of the behavior of the Czech RIA Committee

JULIUS JANÁČEK

Jan Evangelista Purkyne University in Usti nad Labem, Czech Republic
✉ juliusjanacek@gmail.com
ⓘ orcid.org/0000-0002-0267-0126

LIBOR PACOVSKÝ

corresponding author
Jan Evangelista Purkyne University in Usti nad Labem, Pasteurova 1, 400 96 Ústí nad Labem, Czech Republic
✉ libor.pacovsky@ujep.cz
ⓘ orcid.org/0000-0001-8038-0194

JIŘINA JÍLKOVÁ

Jan Evangelista Purkyne University in Usti nad Labem, Czech Republic
✉ jirina.jilkova@ujep.cz
ⓘ orcid.org/0000-0002-4299-4387

JINDŘICH JÍLEK

Jan Evangelista Purkyne University in Usti nad Labem, Czech Republic
✉ jindra.jilek@gmail.com
ⓘ orcid.org/0000-0001-8142-2413

Abstract

Motivation: This article studies the behavior of the Czech Regulatory Impact Assessment (RIA) Committee during the years between 2013–2018. This institution assesses RIAs of new laws and regulations which are in the process of ratification.
Aim: The main aim was to find if the legislative change of February 3, 2016 had a direct impact on the decision-making of the Committee. Further, we ask whether there are

other distinct patterns in the behavior of Czech RIA Committee members. Specifically, do the RIA Committee's verdicts become more negative with time? We also investigate the level of independence of the Committee. In our analysis we used basic statistics: Chi-Square test of independence and regression analysis. To complete our study, we used data from a questionnaire which was distributed among RIA Committee members.

Results: In our analysis we found that the legislative change did not have a direct immediate effect on the RIA Committee of the Czech Republic. However, we discovered that the RIA Committee has lost most of its independence and power in the six years of its existence. This change was gradual and most likely catalyzed by pressure from politicians. Further, voting per rollam yielded more positive results. We also discovered an institution whose RIA Committee verdicts differed significantly. Based on the findings of our research, we offer recommendations to the RIA Committee and other institutions with a similar purpose.

Keywords: Regulatory Impact Assessment; legislative regulation; better regulation; Czech RIA committee
JEL: D78; K20; L51

1. Introduction

Many regulations have had a negative influence on market environment. Therefore, it is important to reduce the regulatory burden and evaluate the impact of regulations thoroughly before they are accepted. In many countries there are mechanisms or institutions whose purpose is to evaluate each law before being passed and thus consider all aspects connected with the new regulation. Such institution is the RIA (Regulatory Impact Assessment) Committee of the Czech Republic.

The RIA Committee was established by Czech government resolution no. 768 on October 19, 2011. It is authorized to publish quality reviews for proposed RIA reports, that accompany the drafts of legal regulations in the Czech Republic.

For every new law, the RIA Committee evaluates the quality of the RIA which was created by the proposer. The Committee's final verdict can be A, B, C or D. (A) recommend the proposal to the government to be approved, (B) to be approved if recommendations are taken into consideration, (C) suspend the negotiations for remaking the proposal and (D) not to pass the proposal

However, on February 3, 2016, an institutional change took place which markedly decreased the role of the Committee. Since that time, the verdict of the RIA Committee does not have to be A for the law to pass. Also, the redoing of the bad RIA has not been necessary since that time. Although the RIA Committee still evaluates the RIA, its main role is now to discuss the RIAs and the structure of the law. The final approval of the RIA Committee is no longer necessary. The government tried to justify this step as making the legislative process more flexible and faster. However, it is more likely that the government only wanted to decrease the role of the RIA Committee and thus gain more freedom to pass any law it wants regardless of the real impact of the law.

The aim of this article is to:
1. Find out whether the legislative change of February 3, 2016 had an impact on the behavior of the Committee?
2. Find distinct influences and patterns in the behavior of Czech RIA Committee members.
3. Find out if the behavior of the Committee changes when the vote is conducted per rollam (online).
4. Evaluate the independence of the Czech RIA Committee.
5. Formulate recommendations for the future operation of the Committee.

2. Literature review

In 1995 OECD released a recommendation to all members of the organization, concerning regulation policy and management (OECD, 2008; 2012). The main idea of this recommendation is to create a good law environment. In all regulations, all economic, social and environmental benefits should be greater than regulation costs.

The theoretical framework of the paper is represented by Smart regulation theory, Better regulation and Regulatory impact assessment. Smart regulation performs a compromise approach between strong state regulation and on the other hand the enforcement of deregulation (Gunningham & Grabosky, 1998; van Gossum et al., 2010). Smart regulation theory is characterized by several principles that help policymakers formulate "smart" regulatory instruments to reach policy objectives.

The objective of the concept "Better Regulation" is to control legislative motions, their impact ex-ante and ex-post. This means fighting against the excessive bureaucratic burden and trying to achieve simpler as well as a better-quality law environment (Alemanno, 2015).

EU policy reflects the guidelines of Better regulation toward transparent, evidence-based and quality law. One of the phases of the law-making cycle is impact assessment. The RIA is the instrument that systemically evaluates impacts of proposed legislative to certain stakeholders, economic sectors and environment (Erlandsson, 2008; Radaelli, 2009). The role of the RIA is to improve the efficiency and effectiveness of regulation (Alemanno, 2015). The policy desired and policy process of adopting new legislation are essential elements to develop effective regulatory instruments. Based on the result of the RIA and independent evaluation, politics can consider if a proposed law is quality or not.

The functioning of different RIA mechanisms in different countries is described for example by Davidson et al. (2021) and Kamkhaji et al. (2019). These mechanisms have different uses as far as the legislative process is concerned (de Carvalho et al., 2019).

There is a wide range of areas which are effected by the quality of regulatory impact assessment such as innovation (Zilgalvis, 2014). Also, Schmidtchen et al. (2021) stresses the important qualities of the RIA.

Unfortunately, van Humbeeck (2007) comments that the quality of RIAs is usually very poor having little effect on decision-making although the quality of RIA institutions differs across countries (Staroňová, 2010). The RIA procedure was also implemented by the EU (Oermann & Schulz, 2019).

This article investigates the functioning of the Czech RIA Committee during the years between 2013–2018. We focus on potential trends and influences relevant to the decision-making of the Committee.

3. Methods

3.1. Dataset

Our dataset includes all laws whose RIA was evaluated by the Czech RIA Committee between November 1, 2013 and February 28, 2018. Our aim is to analyse and find trends in the behavior of the Czech RIA Committee between the years 2013 and 2018. The verdicts A, B, C or D were not given until November 1, 2013.

Our dataset includes 298 cases (RIA Committee verdicts). For each case (proposal), we have information presented in Table 1, second column.

Together, there were 21 proposers. The only proposer who stood out based on the number of prepared RIA is the Ministry of Finance with 53 documents. Furthermore, there are about 5 institutions where the number of RIAs proposed were around 25. The remaining RIAs were distributed among the rest of the proposers.

The most common type of proposal is a "law proposal" with 220 cases. There were 56 documents whose verdict was given per rollam. This means that there was no meeting and the voting was conducted online.

The types of verdicts are quite evenly distributed with verdict B standing out. Chart 1 shows the absolute numbers of the four RIA verdicts. D stands for the most negative verdict and A as the most positive.

3.2. Quantitative analysis

In our article, we statistically investigate trends in the behavior of the RIA Committee between the days from November 1, 2013 and February 28, 2018. We do so using the Pearson Chi-Square test and regression analysis.

Although the Chi-Square test provides some information, in order to discover what factors influence the verdicts of the RIA Committee, we have to construct a regression model. We used an ordered logit model. The dependent variable in our model is the verdict of the RIA Committee. We are aware of the fact that

the changes of verdicts from D to C, from C to B and from B to A are not similar. However, even under these circumstances, the result will mirror the real situation and applying the ordered logit model is relevant. To be sure, we also created multinomial regression models. Their results were the same or very similar to the results of the logit model. Therefore, we use the logit model in our analysis. As for multicollinearity, the correlation matrix shows that there are no variables with a high correlation coefficient. Table 1 summarizes all of the variables used in our models.

3.3. Qualitative analysis

To investigate the behavior of the RIA Committee in more detail, we conducted a questionnaire survey among members of the RIA Committee. Details of the survey are described in section 4.3.

4. Results

4.1. Pearson Chi-Square test

First, we investigated if there was a change in behavior of the Czech RIA Committee at the point when the change A 2016 (February 3, 2016) occurred. In the first phase of our analysis, we use the standard Chi-Square test of independence.

The Pearson Chi-Square test statistics of a 2-sided test equals 18.053 and the p-value equals 0.0004. Thus, the zero hypothesis of independence is rejected and we can say that there is a difference between the behavior of the Committee before the A 2016 change and after the change.

With regard to our results, one could think that the verdicts of the Committee are directly influenced by the A 2016 change and that the more negative verdicts after the change are the result of the new system. However, this conclusion would be wrong. The Chi-Square test only tells us that there is a significant difference between the verdicts before the change and after the change. It tells us nothing about causality or about other relevant factors.

4.2. Regression model

As mentioned in the previous section, in order to get a full picture of the situation in voting, we have to construct an order logit regression model. In Table 2 is the statistical output for the logit model with dependent variable RIA.

The independent variable AfterChangeA is not significant. Therefore, the change of the legislative system did not have a direct effect on the behavior of the Committee. However, the variable Date_RIA is significant with a p-value of 0.034 and a negative coefficient. The variable Date_RIA is a standard time

variable. Its significance and its negative coefficient tell us that during the time that we are studying there is a gradual deterioration of the verdicts (verdict D is marked as 1 and verdict A is marked as 4). The reasons that could be the cause of this behavior will be investigated later in this article.

The variable RIA_Pages is not significant. This means that as far as the RIA Committee verdicts are concerned, the number of pages is not an important factor. It shows that quality is more important than quantity.

The independent variable Per rollam has a significant positive coefficient. This means that verdicts given per rollam are on average more positive while controlling for all other factors. People who vote online tend to give more positive results.

The independent variable DProposer_10 (MPSV — Ministry of Labor and Social Affairs) has a p-value 0.042 and a negative coefficient −2.14. This shows that RIAs proposed by Ministry of Labor and Social Affairs get significantly more negative verdicts when controlling for other variables. 16 out of 24 RIAs from this proposer received verdict D. It can simply mean that Ministry of Labor and Social Affairs is not good at writing RIAs. However, there could be other internal reasons as well.

4.3. Questionnaire

The questionnaire used in our analysis included 9 questions which are shown in Table 3. The last two columns also show the results of the survey.

As far as answers "f" to the second question and answers to question no. 9 are concerned, the members said that the quality of RIAs oscillates a lot, that in their opinion an independent RIA Committee is very much needed and that some government institutions see the RIA Committee as a hindrance to passing laws quickly. This shows the traditional contradicting opinions on such Committees: they hinder the legislative process, but on the other hand, many people including members of the RIA Committee believe that such Committee is essential. They argue that it discerns good laws from laws which would have more negative than positive effects. This way such Committee stops many harmful or unneeded laws from being passed.

4.4. Interpretation of results

Below, we address three questions using the results from both quantitative and qualitative analyses:
1. Q1. Why is Per rollam significant with a positive coefficient?

It has been proven that people working from home are happier and more productive (Hill et al., 2003). People who have a happier/positive mood evaluate a target/problem more positively than people who are in a bad mood (Schwarz, 2000). This is a possible explanation regarding our question.

Time pressure is another aspect that can have an influence on the RIA decision-making. The assessing of the RIA final report in the form of per rollam is more flexible and leads to less time pressure. Atsan (2016) studied literature on stress-based decision making and based his work on Bronner's (1982) book, who stated that time pressure leads to a reduction in interaction and coordination between decision-making units. Ahituv et al. (1998) showed that time pressure exerted on an individual causes ineffective decision making. In our case, voting per rollam creates less time pressure and causes the members to be more relaxed. Thus, it is probably one of the reasons that voting per rollam yields more positive results.

Also, it is likely that the RIA final reports that were discussed at the RIA meeting were studied more rigorously than reports evaluated per rollam. The advantage of group decision making is the higher ability to process the problem, the possibility of the mutual monitoring of errors and the sharing of information on the issue. A group operates more rationally and confidently (Kugler et al., 2012). Thus, decision-making in a negotiating group might be stricter than voting per rollam.

Also, the factor of biased selection needs to be taken into account. It is possible that only laws with their RIAs of lesser significance were allowed to be evaluated per rollam. Although the commission members disaffirm this, we cannot rule out this possibility completely.

2. Q2. Why is the variable AfterChangeA not significant?

In our regression model, the variable AfterChangeA is insignificant and the variable Date_RIA, which stands for time, is significant. This tells us that there is no immediate deterioration of verdicts. Rather, the verdicts steadily become more and more negative. The general trend towards negative verdicts is so strong, that even when an immediate official limitation of the power of the RIA Committee comes, the steady deterioration prevails.

3. Q3. Why is Date_RIA significant with a negative coefficient? In other words, why is there a general trend of giving worse and worse verdicts during the period that we monitor?

An explanation could be that RIAs assessed by the Committee have lower and lower quality. We can see the structure of the evaluated RIA final reports for each year in Chart 2. The graph shows the decreasing quality of RIA final reports. This graph roughly reflects the political cycle-government period. The newly elected government came to power in 2014 and operated for four years. The graph shows the general trend of the government cycle (Fischer et al., 2007, pp. 45–55).

In the questionnaire, the average number to question no. 1 is 77.9. This means that the quality of the new RIAs is about 78 percent compared to the older RIAs. Also, concerning question no. 2, three members of the RIA Committee answered "a". Here "a" stands for new RIAs have lower quality. Thus, we can conclude that the quality of the RIAs is really decreasing. The reason for this

can be that proposers feel no need to write a good RIA to please the government and the law proposers.

4.4.2. Decrease of power of the RIA Committee

It is generally known that the supervising or advisory body increases efficiency and therefore in the absence of an effective supervising body (in our case the RIA Committee), productivity and efficiency are getting worse (Ronan et al., 1973); (O'Regan, 2010). In our case, the RIA verdicts became worse with time. Based on the results of our quantitative and qualitative analyses, this most likely reflects the fact that the RIA Committee continuously lost its power over the years studied.

The average answer to questionnaire question no. 3 is 71.4. Since this question inquires about a significant impact of verdicts given by RIA Committee before Change A 2016, we can say that the power of the Committee was indeed quite high in the past. On the contrary, the average answer to question no. 4 is 38.1. Since this question inquires about the significance of the RIA Committee in the last year and now (after Change A 2016), we can note that the power of the RIA Committee has decreased to about half of what it was relative to the time before the A 2016 change.

In questions 7 and 8, we asked the members to give their opinion on the importance of the RIA Committee regarding its influence on other institutions. The average answers were 30 percent regarding the Legislative Council of the Government of the Czech Republic and 15.6 percent regarding other institutions connected with the legislative process. These small numbers clearly show that the importance of the RIA Committee is now very low.

4.4.3. The Committee and its verdicts are no longer important and thus the Committee can freely give true verdicts.

In question no. 2, half of the responding members of the Committee answered d) "The Committee and its verdicts are no longer important and thus the Committee can freely give true verdicts." Also, one member gave answer c) "In the past the verdict of the Committee had greater impact and the members were afraid that if they give negative results, the RIA Committee will be closed down or its position made unimportant." These observations show that the less important the Committee is the more negative verdicts it gives.

In the past, the Committee had more power and responsibility. Naturally, the Committee members preferred making a mistake by passing a bad law before making a mistake by rejecting a good law. A similar issue can be found in statistics where a type 1 error is more serious than a type 2 error.
4. Independence of the RIA Committee

The results to Question 5 and 6 in the questionnaire show that there was and still is pressure on the RIA Committee. This shows that this Committee is not as independent as it should be.

The Czech RIA Committee now gives stricter results. It does so because the members know that the verdict is not important. If the results given now are stricter and fairer because of freedom of the Committee, it demonstrates that the Committee was not completely unbiased in the past. It gave better verdicts even in cases when a worse verdict would be more fitting.

4.4.4. Less pressure implies more negative verdicts.

The mean value of members of the Committee to question 5 in the question-naire was 60 and to question no. 6 was 33.13. This demonstrates the fact that the pressure on the Committee has decreased. This corresponds to what we have described in previous paragraph. Now, when the importance of the Committee is lower, the pressure on the Committee naturally becomes lower as well.

Summarizing the results of our regression analysis, we can conclude that since March 1, 2013 the power of the Czech RIA Committee has been decreasing. This goes hand in hand with the fact that the pressure on the Committee has been decreasing as well. On February 3, 2016 the power of the Committee was decreased officially.

5. Conclusion

In our analysis, we discovered that the Czech RIA Committee has lost most of its independence and power during its seven years of its existence. This change was gradual and probably catalyzed by pressure of the politicians. One of the symptoms of this loss is that verdicts of the RIA Committee became worse and worse during the five-year period that we studied. There are two reasons for this: firstly, the members of the Committee feel freer to give unbiased (here more negative) verdicts when the Committee has little significance. Secondly, since the Committee lost its power, the institutions presenting the RIAs now do not have the obligation to write good RIAs and thus their quality has decreased.

Our analysis also discovered an institution whose RIA Committee verdicts differed significantly. This deviation should be taken into account by the RIA Committee members.

Based on our analysis and results, we make following recommendations:

1. Recommendations for all RIA Committees, for other committees with a similar function and for politicians:
– Verdicts given per rollam are more positive than verdicts given the normal way. If the RIA Committee wants to act fairly, they should take this into consideration and try to alter their behavior so that verdicts given either way are on average the same.

– Judge all RIAs of different proposers by the same meter. In our regression model, the variable DProposer_10 is significant with a negative coefficient. This can (but does not have to) mean that the RIAs from this proposer are judged more strictly.
– Keep independence of the committee: Only if the committee is independent, it can give fair verdicts. In this article, we saw that the RIA Committee of the Czech Republic was under pressure.
– We recommend that an analysis such as ours is conducted often for any institution that gives important verdicts. This way potential bias as well as unwanted trends will be discovered and prevented from continuing.
2. Recommendations for the Czech RIA and Czech politicians:
– Investigate why RIAs of the proposer no. 10 are judged more strictly. Is it because their RIAs have lower quality? Is it because the Committee is biased as far as this proposer is concerned?
– Restore the independence and power of the Czech RIA Committee. An RIA committee whose verdicts bear explicit importance is necessary if we want to reach a better legislative environment.

Our results were presented to the RIA Committee of the Czech Republic. The Committee said that our analysis will be taken into account when it comes to the future voting of the Committee.

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Acknowledgements

Appendix

Table 1.
Variables used in the regression models

Variable		Variable meaning
Verdict of the RIA Committee (dependent variable)	RIA	RIA=1 (D) ... not to pass the proposal
		RIA=2 (C) ... suspend the negotiations for remaking the proposal
		RIA=3 (B) ... to be approved if recommendations are taken into consideration
		RIA=4 (A) ... recommend the proposal to the government to be approved
Dummy variables for different proposers. Reference variable DProposer_1: CBU — Czech Office of Mining	DProposer_2	CSU — Czech Statistics Office
	DProposer_3	ERU — Regulation Office of Energy
	DProposer_4	MD — Ministry of Transportation
	DProposer_5	MF — Ministry of Finance
	DProposer_6	MK — Ministry of Culture
	DProposer_7	MMR — Ministry of Local Development
	DProposer_8	MO — Ministry of Defense
	DProposer_9	MPO — Ministry of Industry and Trade
	DProposer_10	MPSV — Ministry of Labor and Social Affairs
	DProposer_11	MSMT — Ministry of Education
	DProposer_12	MSP — Ministry of Justice
	DProposer_13	MV — Ministry of Interior
	DProposer_14	MZD — Ministry of Health-Care
	DProposer_15	MZE — Ministry of Agriculture
	DProposer_16	MZV — Ministry of Foreign Affairs
	DProposer_17	MZP — Ministry of Environment
	DProposer_18	NBU — National Security Office
	DProposer_19	UOHS
	DProposer_20	UVCR — KML
	DProposer_21	UVCR — RVV
Dummy variables for the different types of proposed material with the reference variable DType_1: Law proposal	DType_2	Directive proposal
	DType_3	Government Degree proposal
	DType_4	Law intention proposal
Dummy variable	Per_Rollam	The voting of the Committee was conducted online
Number of pages of RIA	RIA_Pages	Number of pages of the RIA document
Time of the verdict	Date_ RIA	Day when the PK RIA Committee was given. This is the standard time variable.
Dummy variable	AfterChangeA	The voting of the Committee was conducted after the change A 2016 (1) or before the change (0).

Source: Own preparation.

Table 2.
Regression model: ordered logit

Variable	Coefficient	Standard error	p-value
DProposer_2	0.251	1.869	0.893
DProposer_3	−0.290	1.110	0.794
DProposer_4	1.795	1.143	0.116
DProposer_5	−0.217	0.966	0.822
DProposer_6	−0.270	1.168	0.817
DProposer_7	0.111	1.048	0.916
DProposer_8	1.559	1.223	0.202
DProposer_9	0.398	1.007	0.692
DProposer_10	−2.139	1.054	0.042**
DProposer_11	−1.207	1.108	0.276
DProposer_12	−0.537	0.991	0.588
DProposer_13	0.099	1.000	0.921
DProposer_14	−0.250	1.047	0.811
DProposer_15	−1.285	1.091	0.239
DProposer_16	−0.268	1.756	0.879
DProposer_17	−0.560	0.992	0.573
DProposer_18	0.113	1.508	0.940
DProposer_19	1.393	1.610	0.387
DProposer_20	−0.283	1.210	0.815
DProposer_21	−0.305	1.251	0.808
DType_2	0.097	0.463	0.834
DType_3	0.164	0.513	0.750
DType_4	−0.654	0.447	0.144
RIA_Pages	0.005	0.004	0.170
Date_RIA	−0.001	0.001	0.034**
AfterChangeA	0.095	0.414	0.818
Per_rollam	1.052	0.327	0.001***
cut1	−53.714	24.644	0.029**
cut2	−52.591	24.636	0.033**
cut3	−50.618	24.620	0.040**

Notes:

Number of cases 'correctly predicted'=125 (41.9%).
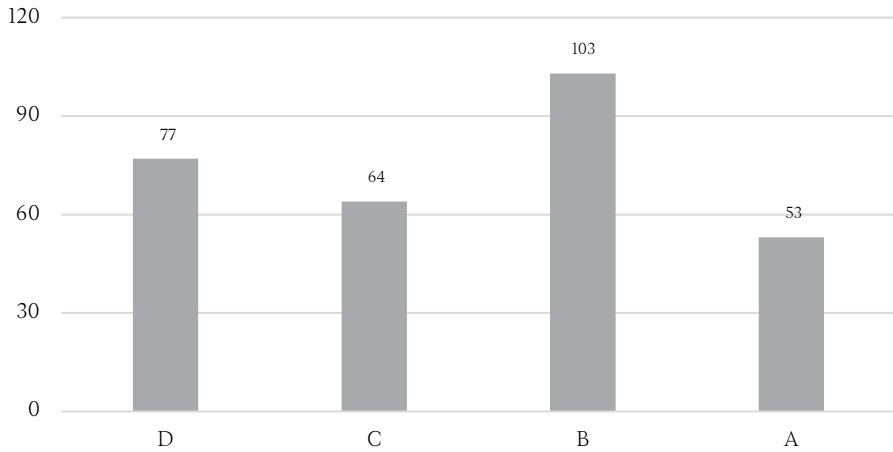
Source: Own preparation.

Table 3.
Questionnaire and its results

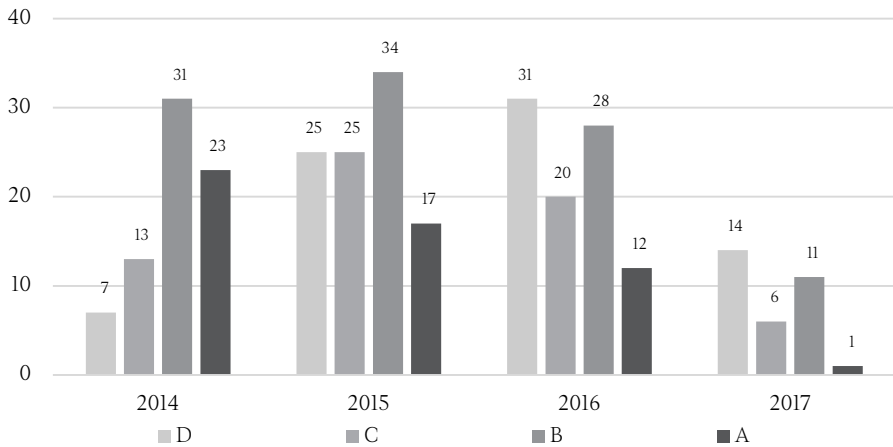| Question	Possible answers	List of answers	Mean value
1. If we mark the average quality of RIAs before February 3, 2016 (A 2016 change) as 100 percent, what is in your opinion the average quality of RIAs after this date?	Number	100, 50, 80, 100, 70, 75, 70	77.9
2. Statistically it has been shown that the RIA Committee verdicts are stricter after the A 2016 change. Why do you think this is? You can mark any number of answers.	– RIAs have a lower quality	3x	
	– In the past the verdict of the Committee had a greater impact and the members were afraid that by giving negative verdicts they would evoke the displeasure of other institutions	0x	
	– In the past the verdict of the Committee had a greater impact and the members were afraid that if they give negative results, the RIA Committee will be closed down or its position made unimportant	1x	
	– The Committee and its verdicts are no longer important and thus the Committee can freely give true verdicts	4x	
	– The new members are stricter than the old members	0x	
	– Other	1x	
3. Do you think that before the A 2016 change the verdict the RIA suggested had a significant impact? Answer on a scale 0–100, 0 no impact, 100 crucial impact	0–100	80, 60, 50, 70, 90, 50, 75	71.4
4. Do you think that after the A 2016 change the verdict the RIA suggested had a significant impact? Answer on a scale 0–100, 0 no impact, 100 crucial impact	0–100	40, 50, 40, 50, 30, 15, 40, 40	38.1
5. Before the A 2016 change did somebody put you under pressure regarding positive or negative verdicts? Answer on a scale 0–100, 0 no pressure, 100 highest pressure	0–100	80, 10, 50, 90, 30, 90, 40, 90	60,0
6. After the A 2016 change did somebody put you under pressure regarding positive or negative verdicts? Answer on a scale 0–100, 0 no pressure, 100 highest pressure	0–100	50, 0, 40, 10, 20, 50, 35, 60	33.13
7. To what extent do the verdicts of the RIA Committee have an influence on the decisions of the Legislative Council of the Government of the Czech Republic? Answer on a scale 0–100, 0 no influence, 100 crucial influence	0–100	10, 60, 40, 30, 10, 20, 40, 28	29.8
8. To what extent do the verdicts of the RIA Committee have an influence on the decisions of other legislative institutions? Answer on a scale 0–100, 0 no influence, 100 crucial influence	0–100	10, 30, 10, 30, 10, 5, 20, 10	15.6
9. Is there anything else you would like to tell us regarding the RIA Committee?	Text		

Source: Own preparation.

Chart 1.
Distribution of the RIA Committee verdicts

Source: Own preparation.

Chart 2.
The number of evaluated RIA final reports for each year

Source: Own preparation.