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# **Review of Policy on RIA and Legislative Drafting Capacities Of Republic of Croatia**

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## **Contents**

|   |    |
|---|----|
| Executive Summary .....                             | 3  |
| Introduction.....                                   | 5  |
| RIA in Croatia .....                                | 7  |
| Implementation of RIA policy.....                   | 9  |
| Ideas for improvement.....                          | 15 |
| Legislative drafting process - Internationally..... | 17 |
| Legislative drafting process - Croatia.....         | 17 |
| Conclusions and Recommendations .....               | 20 |
| Appendix 1.....                                     | 23 |
| Appendix 2.....                                     | 25 |
| Appendix 3.....                                     | 28 |
| Appendix 4.....                                     | 28 |

## Executive Summary

SIGMA was asked, in 2013, by the Government Legislation Office (GLO) in Croatia to review and report on progress being made with the implementation of the policy on Regulatory Impact Assessment (RIA) in Croatia and progress with building capacities in legislation drafting.

Over the last 15 to 20 years, increasing attention has been paid, generally in OECD countries and in European Union Member States, to the necessity to improve the quality of regulatory governance and, specifically, to make provision for a more rational approach to policy making. This approach is characterised by the use of tools such as RIA and Public Consultation.

Attention has also been paid to improving capacities for legislative drafting in many OECD countries and EU Member States. In addition, the Institutions of the European Union, notably the Commission of the European Union, have made substantial efforts to improve the quality of legislative drafting and the accessibility of legislation. Similar efforts concerning improving legislative drafting are to be seen in the Member States of that Union.

RIA was introduced in the Croatian legislative system in 2012 in the form of a Strategy, an Act, a Regulation and Guidelines. Since January 2013, an effort has been made by the executive branch of government in Croatia to use RIA. During 2013, it was planned to prepare RIA's for 61 laws, as set out in the Legislative plan for the government.<sup>1</sup> 22 of these laws were accompanied by a RIA – 33.4%. The ratio between laws that has gone through RIA process (22) in relation to total of 344 laws was introduced in 2013 is 6.4%.

The RIA law obliges ministries to prepare a RIA for relevant primary (e.g. laws) legislation based on the GOC's Annual plan for normative activities and where the proposed law is likely to have a "substantial" impact on: the economy; socially sensitive and other groups with special interests and needs and on the environment and sustainable development. The decision of what is "substantial" is a matter for the Ministry proposing the measure.

The RIA Act obliges ministries to prepare Initial-RIA Report (shorter questionnaire with 13 questions) alongside with short "thesis" (i.e. brief justification and rationale for that law) for each draft Act that a ministry is proposing (irrespective of whether that law in the Annual plan or not).

In addition to RIA Law, the Government of Croatia's Rules of procedure (NN 154/11) obliges line ministries to conduct Fiscal Impact Assessment (FIA) for primary and secondary legislation (e.g., policies, decrees, decisions) that has been enacted by the GOC. Ministry of Finance is obliged to review FIAs prior official submission to Government session.

SIGMA examined 10 RIAs. None explained the problem to be addressed succinctly and none undertook a very satisfactory analysis of the costs or benefits of the different approaches. However, all of the RIAs undertaken followed the procedures laid down by law. All made an effort to consider alternatives but quantification of alternative options were not addressed in a satisfactory manner.

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<sup>1</sup> Source: Government of Croatia's Report on implementation of normative activities in 2013 (issued in 18. December 2013.)

Some improvements can be seen in the transparency of the preparation of some legislation as a result of the introduction of the RIA policy. No progress was made on building capacities in legislative drafting. However, there is a relatively high acceptance of RIA in some ministries (e.g. Ministry of Social and Youth Policy, Ministry of Labour and Pension System, Ministry of War Veterans). This acceptance will eventually lead to better quality legislation as it reflects a more rational approach to policy making which in turn will be reflected in better drafted laws.

## Introduction

Further to work, undertaken by SIGMA with the Government Legislation Office (GLO) in Croatia between 2010 and 2013, the GLO requested SIGMA to undertake a review of:

1. The operation of the Regulatory Impact Assessment (RIA) policy in Croatia,
2. Developments in relation to capacity building for legislative drafting in Croatia,
3. Related matters.

The purpose of this paper is to document that review. The approach adopted was to: undertake desk research to supplement materials already available to SIGMA, circulate the questionnaires as set out in **Appendix 1** to this Report, and conduct interviews in accordance with the programme set out in **Appendix 2** to this Report<sup>2</sup>. **Appendix 3** sets out some international comparisons of legislative drafting rules. **Appendix 4** sets out a bibliography of materials consulted in preparation for the review.

A draft report was submitted to the GLO on 7 April. A meeting was held with the GLO on the 27 May 2014 and a final report submitted to it on the 10 June 2014.

## RIA Internationally

The development of Regulatory Impact Analysis in OECD countries and in EU Member States has seen a number of iterations across the OECD countries and in EU Member States. There is a substantial body of literature documenting the development of RIA from its beginnings, pioneered by the Reagan Administration in the United States of America in 1981.<sup>3</sup> In the United Kingdom, the use of economic appraisal dates from the mid 1990's and is now seen as a central tool of government.

Within the EU, the European Commission's *White Paper on Governance* laid the ground for the introduction of impact assessment into the work of the European Commission. Its diffusion in Member States has varied. Many other Member States (notably Denmark Netherlands and Germany) have focussed more on the reduction of administrative burdens and have placed greater emphasis on the use of tools such as the Standard Cost Model.

Advocates of formal economic appraisals such as RIAs make many claims for its value added, including improving democracy (RIA should always involve consultation with those affected by the proposed regulations). In theory, RIA also provides more accountability, a better process for policy making, and greater use of expertise. Also, it is argued that the use of RIA, generally, leads to greater efficiencies by enacting regulations than have a good benefit balance between costs and benefits as well as imposing as few burdens on business and citizens as possible.

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<sup>2</sup> One official in SIGMA undertook this review with the support of a local expert. The latter was engaged for three days. A much more comprehensive review would require more resources. As a comparator, an assessment was conducted for the OSCE of the Law Drafting and Legislative Process in the Republic of Serbia in 2011. That assessment was undertaken by two experienced international experts who were supported by two OSCE staff members, one national consultant and staff members of the Democratisation Department of the OSCE Mission to Serbia.

<sup>3</sup> Executive Order 12991 requiring all executive agencies in the USA to submit all major regulations to Cost Benefit Analysis and only to put forward for Presidential approval those regulations predicted to produce a surplus of benefits. The system has survived many Presidents and still continues under the Obama administration and is said to have achieved its objectives. (Baldwin, p 316)

In practice, RIAs present many technical challenges. The results of RIA are not always as clear-cut or as beneficial as its advocates claim. These include the challenge that there is no one single best model. Countries need to struggle to develop a model that best suit their political and cultural conditions. This means that a country cannot adopt a US, European Commission or British model but must develop their own and suffer the criticisms and opprobrium that experimentation inevitably attracts.

Measuring benefits and costs also presents its own special problems. Some costs may be hidden and some benefits may be hard to measure due to the non-availability of accurate, or indeed any data. Economists and other experts will differ in allocating a value to a human life, human health or clean air or water. Expert evaluation of risks may differ from those of lay people. The aggregation of costs in a complex analysis may conceal information that the public needs to know, such as who will be the winners and losers of a particular policy option.

The incorporation of RIA into the design and application of policy-making processes is recommended by both the OECD and the European Commission. Consequently, it is seen to be an important feature of a good policy - making process and is seen to be central to the process of achieving Better Regulation.

However, even countries that take great pride in their impact assessment policies and processes do not always get it right, as may be seen from various reports of the National Audit Office in the UK and the British National Chambers of Commerce.

With regard to undertaking Regulatory Impact Assessments, there is not a single correct model for the process. However, three principles seem universal for the successful adoption of a policy on RIA. (*George and Kirkpatrick*). RIA needs the development of skills, including skills in evaluating the problem that is being addressed and enumerating the costs and benefits. Secondly, RIA requires the extension of the consultation procedures to ensure that the appropriate information is collected and analysed. This is a more difficult exercise in countries where there is no tradition of consultation with the public. Thirdly, RIA needs to be championed across government and become a normal feature of the policy - making process of a country.

There are many challenges involved in the introduction of RIA. Apart from the challenges of getting political support and resources, there are many practical problems with the development and use of RIA. These include that RIA involve a certain amount of heroic guesswork.<sup>4</sup> The collection of data to undertake the RIA and to enforce regulations may result in an increased regulatory burden. In some cases, regulations need to be introduced quickly, irrespective of costs.

Despite the challenges involved in establishing RIA, its development is an important step in the journey towards more rational policy making and regulation. The introduction of RIA is not necessarily an ultimate or only destination. To that extent, what has happened internationally only provides some guidance as to how RIA should operate in Croatia but it may serve as a useful frame of reference for that experience.

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<sup>4</sup> See: Baldwin, etc., 2010

## RIA in Croatia

### Background

The Rules of Procedure of the Government of Croatia, adopted in October 2000, define the legislative process in three sequential steps: expert task forces, ministerial co-ordination committees and, finally, review by the Inner Government Cabinet prior Government session. Within this process, the GLO has the task of reviewing drafts of legislative proposals from the perspectives of constitutionality and coherence with the general principles of law.

Other ministries are responsible for reviewing legislation prior to its official submission to the Secretariat Government. The Ministry of Finance reviews legislation from the point of view of its potential impact on the budget (e.g. Financial Impact Assessment - FIA) which is obligatory since 2005. The Ministry of Foreign Affairs and European Integration reviews proposals from the perspectives of compliance with international obligations, notably those that arise out of membership of the European Union. In addition, the Rules of Procedure of Government required review of potential social, economic and environmental impacts but only fiscal impact on the budget remained as a formal requirement because of a position taken by the of Ministry of Finance, while analysis of the other impacts had not been developed. In addition, consultations with relevant non-governmental organisations were required according to the Government Rules of Procedure.

RIA has developed slowly in Croatia since 2005. In 2005, 2007 and 2009 the Rules of Procedure were amended to incorporate regulatory impact assessment procedures into legislative drafting. Impacts to be assessed included: economic, social and environmental impacts. Despite a reference in the Rules of Procedure of the Parliament to impact assessment, apart from economic impacts, the other impacts tended not to be assessed.

Some progress has been made in developing the RIA methodology at the Ministry of Economy where RIA Manual on the methodology (including questionnaires) for implementation of Economic impact assessment (EIA) were developed by using foreign experts through EU financed projects (e.g. BIZ-IMPACT, SMEPED).

In parallel with these developments, a step was taken to upgrade the regulatory environment to Community standards in 2006-2007 by the launch of a short-term statute law revision (regulatory guillotine) project known by its Croatian acronym as HITROREZ<sup>5</sup>. Its objective was to count, review, and streamline business regulations in Croatia. The results of this project were a foundation for a sustainable, strategic system-level restructuring based on RIA methodology. In 2009, the World Bank (IFC) assessed HITROREZ's impacts and concluded that HITROREZ impacted 66 million USD annual savings for Croatian economy. The experiences gained in the HITROREZ project were later applied in other countries, including Armenia, Vietnam, Iraq, Kirgizstan and Egypt.

In 2010 and 2011, a number of workshops were organised by SIGMA on RIA at the request of the Government Legislation Office. In 2011, an IPA Twinning project entitled "Development of Regulatory Impact Assessment System (RIAS)" was organised which included a substantial training programme for officials in RIA and facilitated the development of a policy and appropriate legislation on RIA.

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<sup>5</sup>A Croatian Government initiative co-founded by USAID and UNDP

## Current situation

Since January 2013, the GLO, as well as its responsibilities to review legislation from legal perspectives, has the responsibility of reviewing the extent to which the proposals have followed the RIA law.<sup>6</sup>The legal basis for RIA and related matters is set out in:

- The RIA Act (NN 90/2011) (the Act).
- The Regulation on the implementation of the RIA process, adopted by the Government of the Republic of Croatia, on 14<sup>th</sup> June 2012 (NN 66/12) (the Regulation), and
- The decision of the Government of the Republic of Croatia on the adoption of the RIA strategy for the period 2013-2015 and the RIA action plan for the period 2013-2015 (the Strategy).

The RIA Act provides for:

- Annual planning of legislation,
- Initial assessment of the current situation as regards a problem to be addressed in proposed legislation,
- Consultation with the public,
- Approach to be adopted in the drafting of a RIA,
- Mandatory consideration of non-legislative options,
- Further development of the RIA system,
- Continuing education and training of officials, and
- Development of institutional capacities for the RIA process.

The Regulation stipulates the more detailed criteria for an Initial RIA, the form for drafting of the Initial Assessment, the methodology for the implementation of the RIA process, the form for the RIA Statement, the mode for implementation of the consultation and public discussions in the RIA processes and other issues in this respect.

The impacts to be assessed are the expected impacts on the:

- Specific economic area being regulated and the economy in total,
- Socially sensitive and other groups with the special interests and needs, and
- Environment and sustainable development.

RIAs need to be undertaken in cases where the potential effect is substantial. The Ministry concerned with a particular item of proposed legislation decides what constitutes 'substantial'. The legislation requires the RIA to:

- Analyse positive and negative impact of regulations including the area of social welfare and the area of environmental protection, with the overview of the fiscal impact (Article 2).
- Comply with the following procedures:
  - Analyse the present situation,
  - Set out the goals to be achieved by the legislation,

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<sup>6</sup> The Government Legislation Office is a professional service to the Government of Republic of Croatia, established by the Law on the Government of Republic of Croatia (NN 150/11). The Office is managed by its director, three assistants to the director, eight advisers and two administrative assistants. Under the coordination of the director nine officials are engaged in legal affairs, while on RIA three officials are engaged. As a support to the activities of the director and office affairs are engaged two administrative assistants.



- Propose at least four options (two non-regulatory and two regulatory options as a minimum requirement),
- Establish the most significant positive and negative impacts, especially especially the impacts on the respective economic areas, including financial impacts; the area of social welfare and the area of environmental protection, for each proposed legislative solution,
- Provide an approximate assessment of the expected fiscal impact on the State budget.<sup>7</sup>

## Implementation of RIA policy

### Number of RIAs undertaken

There were 22 RIAs undertaken for the 344 laws enacted in 2013 or 6.4% of the total number of laws enacted. Despite it was planned to draft RIA for 61 laws in 2013 only those 22 of these laws were accompanied by a RIA – 33.4%. The reason for the small number of RIAs relative to the total number of laws enacted is that the law requires RIA in measures proposed in the Annual Legislative Programme. The majority of legislative measures enacted in 2013 were ad hoc proposals introduced to deal with issues that were seen by the Government as urgent measures to address the economic crisis or to comply with obligations necessitated by membership of the European Union.

### Quality of RIA

SIGMA examined 10 RIAs (5 submitted for consideration by the Government Legislation and 5 were considered at random). The table below sets out in Column 1, the requirements for RIA as set out in the Regulatory Impact Assessment Guidelines for Civil Servants and in column 2 the general comments of SIGMA on the 5 assessments submitted by the GLO for consideration. Similar comments may be made on the other RIAs considered.

### RIA of law for the implementation of Directive (EU) No. 1946/2003 On the cross border transport of the genetically modified organisms

| The requirements for RIA         | Observations of SIGMA  |
|----------------------------------|--|
| Definition of problems and goals | <p>The problems and goals could be expressed more simply.</p> <p>One approach might be to set the problem and the goal to be achieved as follows:</p> <p>“The cross border transportation of genetically modified organisms (gmos) presents problems for health and safety, particularly as regards biological diversity. This issue has been addressed at the level of the EU by the adoption of Directive No 1946/2003. This draft law proposes to give effect, in Croatian law, to that</p> |

<sup>7</sup> These steps are also set out in more detail in the Guidelines for Civil Servants on the preparation of RIAs

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|  | Directive and addresses the problem of cross border transportation of gmos by the establishment of competent authorities to administer the requirements of that Directive.” <sup>8</sup>  |
| Possible options   | A number of options are set out.  |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | However, the options are not analysed in any detail.<br><br>It is not credible that there will be no costs associated with the implementation of this measure. If the measures are in place already to address this problem then why was there a need to enact a measure to implement the Directive?  |
| Consultation   | The initial consultation period from 22 March to 24 March 2012 is too short for any credible consultation process to have been undertaken. However, the consultation period for the draft regulation was longer (22 April to 21 May 2013). The statement does not provide any details of the number of comments on the draft or how they were addressed or who was consulted or was present at the ‘Round Table’. |
| Opinion of competent bodies  | This issue was addressed by the RIA.  |
| Proposed option  | Directives are binding in their effect and so if there is a law already in place there is, arguably, no need to implement a new law.  |

### **RIA of the draft law for the professional rehabilitation and employment of people with special needs**

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| The requirements for RIA  | Observations of SIGMA   |
| Definition of problems and goals                                    | The problem is set out in a somewhat complex manner though it seems to be a simple one, namely, that there are a (significant) number of people excluded from the labour market due to disabilities of one kind or another. (Many, if not most) of these people lack work experience. A policy intervention could reduce unemployment of this class of citizen and improve their welfare and that of their families. The objective of the proposed policy is “to ensure full access to the labour market for people with disabilities, according to their abilities, knowledge and skills and to unify the system of professional rehabilitation” through the goals set out in the RIA. |
| Possible options  | Four options are presented: two which do not require a law and two which require a law. The first of these is to amend the existing law and the second is to draft a totally new law and consolidate all the existing legal arrangements. This was the preferred option.  |
| Comparison of options<br>Impact on the economy<br>Financial impacts | The costs are not set out in the materials provided to SIGMA. The difficulties in assessing the financial impact are acknowledged in the RIA. An explanation is offered   |

<sup>8</sup> See the text of that RIA

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| Social welfare impacts<br>Environmental impacts | <p>for the benefits but it is not easy to understand so the reasoning is set out here. "According to this study (the RIA) the benefit of the professional (working) rehabilitation in comparison to overall costs is significant even for persons what make 70% of the average gross salary since the costs of the rehabilitation for those persons would be covered through taxes and contributions already two or three years after they would start work." The reasoning behind this assertion by the proponents of the law cannot be faulted but it is based on several assumptions.</p> <p>Firstly, that the costs of the rehabilitation will be less than the costs of taxes paid by the person rehabilitated.</p> <p>Secondly, that all persons rehabilitated will get and retain employment.</p> <p>Thirdly, that all persons can be rehabilitated.</p> |
| Consultation                                    | <p>Consultations were carried out but the number of people consulted seems small in relation to the population of the country as a whole. For example, 52 people came to the round table convened to discuss the issues. Only nine submissions were made to the consultation initiated on the internet.</p>   |
| Opinion of competent bodies                     | <p>This issue was addressed by the RIA.</p>   |

### RIA on draft Labour law

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|--|--|
| The requirements for RIA   | Observations of SIGMA  |
| Definition of problems and goals   | <p>Definition of problems not clearly stated.</p> <p>The problem description is too long (5 pages) and goals on further 1.5 pages, both very unclear, with a lot of numbers and to some level inconclusive.</p>                                |
| Possible options   | <p>Four (4) options considered but without elaboration of any economic, financial or social impacts.</p>   |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | <p>No attempt made to evaluate costs or benefits.</p> <p>No analysis of any kind that would enable decision-makers to qualified decision on which option is the most appropriate.</p>  |
| Consultation   | <p>Consultation undertaken within government bodies and stakeholders. No attention paid to public consultations citizens' and businesses' comments and suggestions (13) received through the public consultation web site of the ministry.</p> |
| Opinion of competent bodies  | <p>Opinions of bodies sought as required by law.</p>   |

### RIA of the draft Family Law

| The requirements for RIA   | Observations of SIGMA  |
|--|--|
| Definition of problems and goals   | The proposal seems to cover a wide range of issues relating to family law. The main problems appear to be the need for alternative dispute resolution procedures and better protection of children generally. However, the problems are not well articulated and it is not easy to see what the objectives for the law are or how they will be achieved from this RIA                                |
| Possible options   |  |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | The options are not considered in any detail and there is no analysis of the costs beyond vague statements such as:<br><br>(1) "certain additional financing and in the long term those solutions will bring a more economical process,"<br><br>(2) "Increased costs due to possible initiation of procedures at the European Court for Human Rights". The latter costs should be easily calculated. |
| Consultation   | Consultations were conducted but the description does not convey the sense that there was anything like the level of debate that subjects of such importance should generate.  |
| Opinion of competent bodies  | These were obtained but the RIA gives no sense of the quality of the opinions or how the issues were addressed.  |

### RIA on draft state aid law

| The requirements for RIA   | Observations of SIGMA   |
|--|---|
| Definition of problems and goals   | Problem and objectives could, I suggest, be expressed more concisely and succinctly as follows: "Following accession of Croatia to the European Union, responsibility for the administration of State Aids will pass to the European Commission; the existing law needs to be repealed and replaced with a law that achieves this effect. |
| Possible options   |   |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | There is no real comparison of options. The costs and benefits are not addressed at all. The RIA simply states that "Option 3 is the most useful with the least cost. Costs are justified (presentation on the new law on the general level through strengthening of the administrative capacity of the Ministry for Finance)."           |
| Consultation   | A short consultation with the public was undertaken by the publication on the web page of the Ministry for Finance.   |
| Opinion of competent bodies  | The opinions of competent bodies were sought but the RIA does not give any sense of what these were or how they were addressed.   |

### RIA on draft Law on Protection at work

| The requirements for RIA   | Observations of SIGMA   |
|--|---|
| Definition of problems and goals   | Definition of problems not clearly stated. The problem is elaborated too long as well as goals. The problem is unclear, and a lot of statistical data is making it even harder to read.                           |
| Possible options   | Four (4) options considered but without elaboration of any economic, financial or social impacts.   |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | Costs or benefits elaborated briefly for each option. Estimates provided but without more detailed analysis.  |
| Consultation   | Consultation within government bodies and stakeholders done through web site of the ministry. Comments collected from public consultations were summarized but it seems that those were not seriously considered. |
| Opinion of competent bodies  | Opinions of bodies sought as required by law. The RIA does not give any sense of what these were or how they were addressed.  |

### RIA on draft Credit Institutions Act

| The requirements for RIA   | Observations of SIGMA  |
|--|--|
| Definition of problems and goals   | Definition of problems clearly stated – necessity to align local legislation with relevant EU legislation that was recently changed. The goals stated clearly. |
| Possible options   | Four (4) options considered without elaboration of any economic, financial or social impacts.  |
| Comparison of options<br>Impact on the economy<br>Financial impacts<br>Social welfare impacts<br>Environmental impacts | Costs or benefits elaborated briefly only for selected option but without sufficient economic or financial analysis.   |
| Consultation   | Consultation within government bodies and stakeholders done – no comments. Public consultations done – no comments received.                                   |
| Opinion of competent bodies  | Opinions of bodies sought as required by law. One suggestion by Chamber of Economy provided and was considered in the drafting process.                        |

### RIA on draft Law on research and exploration of Hydro-carbon

| The requirements for RIA                       | Observations of SIGMA  |
|--|--|
| Definition of problems and goals               | Definition of problems and goal stated as necessity alignment with other relevant legislation.       |
| Possible options                               | Four (4) options poorly considered without elaboration of any economic, financial or social impacts. |
| Comparison of options<br>Impact on the economy | No costs or benefits considered at all.  |

|  |   |
|--|---|
| Financial impacts<br>Social welfare impacts<br>Environmental impacts |   |
| Consultation   | No information about consultations in the Initial-RIA Report. |
| Opinion of competent bodies  | Not existing.   |

### **Good enough or room for improvement?**

The analysis set out above suggests that there is significant room for improvement of the quality of RIAs but a good start has been made to initiate a RIA process and create “appetite” at some key ministries for the task of undertaking RIA’s. The introduction of RIA has been accompanied by greater transparency in the preparation of some laws and a greater awareness, generally, about the potential for a more rational approach to policy making.

One tool at the disposal of the GLO to improve the quality of RIA is to send back RIAs of poor quality and request more work to be done on them. Secondly, the GLO has the power to reject completely RIAs of poor quality. The GLO stated that most RIAs are the subject of some discussion between it and the Ministry concerned for the purposes of suggesting improvements. The GLO requested initial-RIAs for all primary legislation. In 2013, out of 22 submitted RIAs, the GLO rejected completely one RIA because of poor quality, while the other RIAs were sent back for addressing additional GLO’s comments.

When asked why more RIAs were not rejected on grounds of quality the response was that the initial objective was to put the procedure in place. The question then arose as to what standard should be applied to reach the point where the RIAs would be “good enough”. There is no simple answer to this question. RIAs need to reflect more analysis especially in costs and benefits for them to be as good as those undertaken, for example, by the European Commission. However, for the GLO to reject too many RIAs would possibly bring it into unnecessary conflict with ministers proposing legislation. There are limits as to the extent to which technical interference with proposed legislation is politically acceptable.

A balance is needed between getting a policy on RIA up and running and getting it to work to the highest possible standards. The GLO has probably got the balance right for 2013 but will have to work hard on a number of fronts for the policy to be sustainable. The GLO will also need much more political support for its efforts and much better understanding by all officials of the fact that RIA is a useful tool and not an extra administrative burden on officials who are already hard pressed from a number of perspectives.

The GLO is happy with progress made so far. It has seen the acceptance by Ministries of the need to undertake RIA. The next and greater challenge is to improve the quality of RIA. This challenge cannot be overcome by the GLO alone. Officials in the GLO and those officials who were interviewed are conscious that there is a long way to go before there is a fully functioning RIA system. The GLO is conscious of the fact that the quality of the RIAs undertaken need to be improved from the point of view of the clarity of the problem definition and goal setting, the level of analysis (financial, economic, social and environmental), notably the analysis of costs and benefits. There are limits to what the GLO can achieve without more maturely and fully articulated political support. The RIA process also needs to be more fully accepted by other parts of the administration including the Office of the Prime Minister, because no sanctions exist or have been

executed for those ministries that do not comply with obligatory RIA requirements. There are no rewards for those that comply either.

The GLO introduced further changes to the RIA process at the beginning of 2014 to start the long journey towards improvement. From January 2014, the GLO insists that all proposed primary legislation (including all ad hoc primary legislation which is out of scope of 2014 Government Annual Legislative Plan) follows the RIA process. This change suggests that the GLO remain actively committed to a process of continuous improvement. However, it cannot achieve everything on its own. It will require substantially more political and administrative support as well as the making available to it of more personnel in GLO, as well as at the ministry level, if RIA is to become a sustainable reality in the policy cycle in Croatia.

In addition, the RIA Law gives possibility to GOC to require RIA for secondary legislation if the proposed secondary legislation or a draft is likely to bear potential significant impacts on economy, social affairs or on environment. This possibility has not been exercised for the time being.

## **Ideas for improvement**

The RIA process could be improved by better consultation with the public, i.e., with Non-Governmental Bodies (NGOs) and Civil Society. All of the people interviewed stated that transparency of the working of government had improved substantially as a result of the introduction of its legal requirement to consult with the public (30 days are required for comments to be made on the initial impact assessment and 15 days for comments on the draft laws).

There was an attempt to make some progress on improving consultation with the public also by creation of an Office for NGOs and the publication of a Code of Conduct on consultation with the public. In 2013 a Law on Right on Access to Information entered into force, which requires at least 30 days public consultation of primary and secondary legislation. The RIA law stipulates a two-step public consultation in RIA process – 30 days public consultation on an Initial RIA Report which follows with another round of 15 to 30 days public consultation on the RIA Report and a draft law.

In the view of the representatives of NGO are interviewed for the purposes of this report. One simple improvement would be to have a Central RIA web-site (perhaps that of the GLO) where NGOs could see at a glance what new laws are being prepared and what progress is being made towards their enactment.

The goal of such web-site was that it would become a central virtual place for all RIA in Croatia, similar to web sites of Better Regulations in UK or elsewhere. It should set out the history of all RIAs including comments and results of public consultation and enacted Law. It would be the place for RIA consultation on current Law proposals, as well as announcements of upcoming RIA (according to Annual plan for normative activities, and ad-hoc legislation).

In this way, it would not only provide better transparency and easier access for the public, NGOs and other stakeholders, but it would also enable better monitoring (and control) over the overall RIA process. Such a web site could be a good base for further development

of the Croatian e-government activities which may lead to development of a full e-RIA system and further on towards integrated e-Drafting system.

Larger and more powerful NGOs have the advantage that they work more closely with government and are better informed. On the other hand, the time available for consultation is too short for larger NGOs to be able to consult their members. International practice suggests that longer periods for consultation should be allowed. For example, the European Commission allows at least 8 weeks for consultation. This is regarded as a minimum period and the Commission advice that consultation should not be a one - off process and that time periods for consultation should take account of public holidays and other events that could affect the time allowed for consultation.<sup>9</sup>

None of the RIAs examined really considered non-regulatory solutions as an option because there is still a cultural attitude held by officials that everything has to be regulated by way of legislation. The GLO also noted a lack of serious consideration of non-regulatory solutions as an option in any of the RIAs submitted to it. This option was mentioned in all of reviewed RIA Reports, but was always poorly drafted and, as a result, the idea to do this was, discarded as not being a feasible option. The OECD suggests that “in many situations there may be a range of options other than traditional “command and control” regulation available, including more flexible forms of traditional regulation (such as performance-based and incentive approaches), co-regulation and self-regulation schemes, incentive and market based instruments (such as tax breaks and tradable permits) and information approaches.”<sup>10</sup>

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<sup>9</sup> [http://ec.europa.eu/smart-regulation/impact/index\\_en.htm](http://ec.europa.eu/smart-regulation/impact/index_en.htm)

<sup>10</sup>

[http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&uact=8&ved=0CCwQFjAA&url=http%3A%2F%2Fwww.oecd.org%2Fgov%2Fregulatory-policy%2F42245468.pdf&ei=WSw5U\\_LRHqea0QW6y4C4Bw&usg=AFQjCNGA3\\_HUGYrz\\_DfSBula0BGiHombhQ&sig2=SUMkYxKcYW\\_PimgTSX-ZTw&bvm=bv.63808443,d.d2k](http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&uact=8&ved=0CCwQFjAA&url=http%3A%2F%2Fwww.oecd.org%2Fgov%2Fregulatory-policy%2F42245468.pdf&ei=WSw5U_LRHqea0QW6y4C4Bw&usg=AFQjCNGA3_HUGYrz_DfSBula0BGiHombhQ&sig2=SUMkYxKcYW_PimgTSX-ZTw&bvm=bv.63808443,d.d2k)



## **Legislative drafting process - Internationally**

Attention has always been paid to the need to make available capacities for legislative drafting. Such was the concern regarding the poor state of legislative drafting in England towards the end of the nineteenth century that an office was created specifically to take responsibility for drafting legislation, a practice that has continued and spread throughout the common law world.<sup>11</sup>

In the common law world, officials formulate policy proposals at the direction of Ministers, and the proposals are submitted to specialist lawyers called parliamentary or legislative counsel. Their role is to draft the proposals into legislation that is clear and legally effective. In the civil law world, the formulation of policy and the drafting of legislation are often undertaken by the same officials. However, countries like France, Belgium, Italy and Spain have specialist bodies usually called Councils of State whose role is to review legislation before it is submitted to government to ensure it conform to the constitution and the general principles of law of the country concerned.

The development of Better and SMART regulation policies has also had an impact on legislative drafting. Notably, as regards ensuring the need to keep administrative burdens to a minimum. While there is not one single agreed standard for quality of legislation, many countries have adopted a set of principles for drafting legislation and most agree that there is a need to have legislation that is accessible, coherent, consistent, as well as enforceable. Some countries set these standards out in laws and some examples of this are provided in **Appendix 3**.

The training of officials to draft legislation relies very heavily in most countries on learning by doing. However, there has been much academic literature about the science of legislation or 'légistique,' as it is called in France. A number of Universities and schools of public administration across OECD countries have developed programmes for training officials to draft. There is less need for formal training in countries where there is a long tradition of legislative drafting or the recruitment of officials with a high level of communication skills in the task of writing memoranda or reports.

Attention has been paid also in many countries to managing the stock of legislation so as to improve its overall quality. Many countries have programmes of administrative simplification where attention has been paid to reducing administrative burdens on citizens and businesses. Some countries have made efforts also to repeal legislation that is redundant or no longer of practical effect and many countries have law reform programmes where the stock of legislation is kept under review and proposals are made to the government to revise existing legislation so as to modernise it.

## **Legislative drafting process - Croatia**

The legislative drafting process in Croatia follows what might be called the civil law model. Once an initial decision is taken to develop a policy and give effect to it by legislation, an official at the ministry concerned for this policy is given the task of developing a policy proposal and then, in consultation with the legal adviser in the Ministry concerned, drafting legislation. In the case of complex policy proposals, a working group may be formed, or the drafting work is outsourced to prominent lawyers

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<sup>11</sup> A variation on this approach in the common law world is the USA model where legislation is drafted by Senators or Congressmen and then polished by specialist lawyers in each House.

in a faculty of Law or private Law firms. In many cases the policy formulation process and the legislative drafting process are conflated.

The task of drafting then falls between the official with primary responsibility for the proposal, the legal adviser in the Ministry concerned (where there is one) and the lawyer in the Government Legislation Office concerned with reviewing the draft. There is no style guide or legislative drafting manual. Few officials involved in the preparation of legislation have formal training in policy making or law drafting. Officials are expected to develop skills on the job followed by very limited training usually provided within EU financed projects or by bi-lateral assistance.

The problems associated with legislative drafting are well known and understood by those interviewed. These include: the pace and pattern of legislative activity. Too much is done too quickly with little time allowed for reflection. As a result, laws are amended frequently, making them difficult to read easily and creating uncertainty from frequent changes in legislation. Capacities vary from Ministry to Ministry. The quality of the legislation is a function of the appropriate training, experience, skills and knowledge of the officials in each Ministry. Those ministries which draft legislation frequently have greater possibilities to develop the necessary skills and knowledge.

There are no agreed criteria for what constitutes good quality legislation in Croatia and those who were interviewed gave different answers to the question as to what constituted quality. However, in general, all persons interviewed agreed that legislation needs to be drafted in a manner that is clear, that complies with the constitution and general principles of law, conforms to the requirements associated with membership of the European Union and meets the objectives of the proposers of the law.

A manual of legislative drafting, funded by the European Union, was prepared by the GLO with the assistance of Croatian Law Centre and Ministry of Foreign and European Affairs. However, recent adoption of the Parliament Rules of Procedures (Official Gazette, 81/13) prescribed a formal requirement that the publication of any manual on legislative drafting is the responsibility of the Parliament as the body responsible for legislative quality.

Work then stopped on the Manual and, consequentially, progress could not be made on the building of capacities for legislative drafting by means of training based on agreed standards for legislation such as those documented in a Manual. This review afforded an opportunity for the Legislation Commission of the Parliament to initiate discussions with the GLO on possible ways of reconciling different views on matters of common concern set out in the draft Manual.

There are no coherent or consistent practices for law reform (reviewing and modernising laws) or statute law revision (reviewing the stock of legislation and repealing legislation that is spent or no longer of practical utility). There have been continuous attempts by political opposition, business associations (e.g. HUP, HGK), embassies and investors in promoting a need for regulatory guillotine or a similar project. At the time of finishing the report, no further action has been taken.

There are particular problems associated with the drafting of transitional provisions. These are the provisions that regulate the transition from one set of legal arrangements to another. If these are not drafted well they can create fundamental legal problems and are a constant challenge for the Constitutional court to balance the need for justice through certainty with badly drafted provisions that create uncertainty. There are a number of positive factors in the development and maintenance of good legislative drafting practices in Croatia. The GLO is a valuable repository of knowledge and skills and

is known for its helpful approach to its clients. The GLO maintains contact with previous members of its staff and this maintains a tradition in the office of passing on knowledge to future generations.

Legislation published since 1990 is available electronically. When amendments to legislation exceed 50% of the text there is a compulsory practice of consolidation (re - publishing the legislation with the amendments inserted so that the law can be read as one text). The GLO is open to new ideas but has very limited capacities. It has made great efforts to ensure that it is kept up to date with international developments and has held a number of seminars where international experts have described developments in their countries. This practice should continue and the GLO should increase its efforts to become involved in international networks such as the group of High Level Experts in Better Regulation.

## **Conclusions and Recommendations**

### **Conclusions**

A substantial effort has been made to develop and provide a sustainable policy on RIA. However, the effort is excessively dependent on the small staff of the GLO and a couple of enthusiastic civil servants at the level of the ministries. This is not sustainable in the long term. The GLO is conscious of the shortcomings of the process in the first year of operation of the policy. It has set out its views on the situation in a report submitted to government and is available on its website.

Improvements will not come about unless more investments are made in human and technical capacities. The process as a whole needs much more tangible political and administrative support.

### **Preparation of Annual plan**

The preparation of an Annual plan for legislation is an excellent idea. However, during 2013 the plan was less effective due to the need for the enactment of a substantial body of ad hoc or emergency legislation to deal with a deteriorating economic situation. Lack of adherence to the plan meant that many Acts were enacted by using the fast-track law-making process at the Parliament. This has also caused very low number of impact assessments, 6.4% of total enacted laws in 2013. This creates a threat to the viability of the RIA process if it is felt that it can be ignored for reasons of expediency. The experience of 2013 suggests that there are too many ad hoc regulatory measures introduced. Some of these measures have potential major impacts on the economy such as the proposed law capping interest rates at 11% and the proposed law on significant investments in the economy.

### **Quality of Impact Assessments**

The form and content of the RIAs leave a lot to be desired. In general, they are not written in a succinct and concise manner. For the most part, the RIAs are not easy to read, even by a person who is familiar with the subject matter under consideration. None of the RIAs examined made any serious attempt to address the costs or benefits of the proposals. Some efforts are made to estimate the financial impacts of proposals by the Ministry for Finance. These calculations do not appear to be taken into account by the Commission in the Parliament that considers budgetary issues.<sup>12</sup>

### **Consultation**

The periods for public consultation, prescribed by the RIA Act, are seen by the GLO to be sufficient at the current stage of RIA development. The attention paid to the need for, or the value of consultation, varies from Ministry to Ministry. The Ministry of Labour is seen by civil society to pay attention to consultation whereas the Ministries of Economy and Finance appear to be less interested in consultation. NGOs interviewed expressed this view. Neither Ministry would accept this criticism as valid.

There was widespread recognition by those interviewed that a positive feature of the introduction of the RIA process is that there is much more transparency in the operation of the policy making process in Croatia.

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<sup>12</sup> This observation is made as a result of an interview conducted with the official in the parliament who acts as the secretariat for that Commission.

## Resources

The number of staff in the GLO is unrealistically small. The reliance on the goodwill, dedication and good health of that staff constitutes an unacceptable level of risk to the effective functioning of government. The interviews conducted suggested that substantial capacity building is needed in line ministries and the GLO so as to be able to improve the quality of RIA and the quality of legislation.

Legislative drafting capacities

## Capacities for legislative drafting

Once discussions between the GLO and the Commission for Legislation in the Parliament are concluded to the satisfaction of both parties on the publication of a manual, a programme of capacity building for legislative drafting can begin. The State School of Public Administration has indicated its willingness to facilitate this process in every way possible from the point of view of logistics. Trainers for this possible initiative are available from the GLO, Legislation Commission of the Parliament and the University of Zagreb. In addition, funding for such capacity building should be available from EU structural funds which Croatia as an EU member state has access to.

## Recommendations

### General

#### Short term (next 12 months)

**There should be a central website** making available information about legislative proposals and the progress being made with them so as to make it easier for civil society to track and make contributions to public debate about legislative proposals. In addition, **the periods for consultation need to be extended.**

#### Medium term (3 to 5 years)

**Consideration needs to be given to the development of an electronic system** for tracking the whole policy-making and legislative drafting process so that there is a seamless process from conception of idea to publication of legislation.

## RIA

### Training and awareness building

#### Short term (next 12 months)

**More training and awareness building are needed** to raise the standard of analysis for the purpose of RIA's and to develop legislative drafting capacities.

## **Training**

Training is needed in respect of Regulatory Impact Assessment so as to equip a further generation of officials with the knowledge and skills to train the next generation of officials to be able to carry out Regulatory Impact Assessments.

There are two dimensions to this recommendation: the development of a body of trainers who can train officials in the techniques of Regulatory Impact Assessment and the continuing education of those who have already been trained in the processes and techniques of Regulatory Impact Assessment.

Training is also needed to build capacities in legislative drafting. This training is needed at three levels:

- Introductory training to introduce officials generally to the skills and knowledge needed to draft legislation,
- Advanced training to equip officials who have already some knowledge and skills to broaden and deepen that knowledge and those skills, and
- Continuous education so that on a regular basis officials who are involved in drafting legislation can meet on a regular basis and discuss problems, challenges and developments.

## **Awareness building**

Awareness is needed to develop a better understanding by NGO's of their role in the consultation aspects of Regulation Impact assessment. This process could be used as a means to encourage them to participate with government in consultation processes in a constructive and scientific manner.

Some awareness building would be useful also for members of parliament and the support staff of parliament of the Role of Regulatory Impact Assessment in the development of public policy and the challenges of drafting and implementing good quality legislation.

The details of these training and awareness building programmes both from the points of view of timing, intensity and frequency are a matter for the Government Legislation Office, in consultation with ministries but these recommendations are presented as a means of setting out the broad parameters of what is needed to sustain and develop the momentum already created in these areas.

## **Medium term (3 to 5 years)**

**The RIA legislation needs to be reviewed and simplified with particular attention being made to extending the periods for consultation.** An alternative to the system in place could be to approach RIA with a two-tiered policy. The idea would be to undertake fewer RIAs but to do them better. However, all proposals submitted to government should be supported by a concept paper which followed the format proposed in Paragraph 6.2 of the RIA Guidelines for Civil Servants with its logical articulation of a set out questions that need to be addressed for the purpose of policy analysis, options and a recommendation for a decision based on a well-reasoned and factually supported arguments.

## **Appendix 1**

### **Questionnaires**

#### **The questionnaire: to be answered by Government Legislation Office Re: Assessment of regulatory impacts**

1. Please describe briefly the procedures in place for:
  - a. Undertaking RIA,
  - b. Reviewing the quality of RIAs undertaken,
  - c. The nature of the work done and the value added by the Government Legislation Office in the RIA process.
2. Please describe the training provided to officials to undertake RIA. The description should provide details of the nature of the training, the number of officials trained and the existence or not of continued education and training in RIA.
3. Please provide a list of RIAs undertaken since the formal adoption of a policy to undertake RIAs and provide examples of RIA.

#### **The questionnaire: to be answered by Government Legislation Office: Re Legislative drafting**

1. Please describe the developments that have taken place in building legislative drafting capacities [recently or since the creation of the Republic of Croatia].
2. Please describe briefly the procedures for reviewing primary and secondary legislation.
3. What are the criteria<sup>13</sup> used by the Government Legislation Office to review the quality of legislation submitted to it?
4. Does the Government Legislation Office have a view on the general quality of legislation submitted to it and whether the quality is improving, not improving or remaining the same?
5. What training is provided to those who review legislation?
6. Is the stock of legislation accessible?

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<sup>13</sup> Do the criteria include issues such as: conformity with: the constitution, the general principles of law, the original policy decision or the potential effectiveness of legislation from the perspective of efficiency, enforceability.

7. Is legislation consolidated once it is amended?
8. Are there systematic reviews of the stock of legislation undertaken on a regular basis?

**The questionnaire: to be answered by Ministries Re: Assessment of regulatory impacts**

1. Please describe briefly the procedures in place for:
  - Undertaking RIA,
  - Reviewing the quality of RIAs undertaken.
2. Please describe the training provided to officials to undertake RIA. The description should provide details of the nature of the training, the number of officials trained and the existence or not of continued education and training in RIA.
3. Are there adequate guidance and training materials available for the implementation of the RIA policy?
4. Please provide a list of RIAs undertaken since the formal adoption of a policy to undertake RIAs and provide examples of RIA.

**The questionnaire: to be answered by civil society organisations**

1. Has the introduction of RIA met the expectations created at the time the introduction of RIA was discussed with your organisation?
2. Does your organisation consider that the RIA process used in Croatia is effective?
3. Does your organisation consider that the RIA process used in Croatia is transparent and that you have been consulted on proposed legislation of concern to your organisation?
4. Does your organisation consider that the RIA process used in Croatia is consistent?
5. Does your organisation consider that the RIA process used in Croatia is proportionate to the policies being considered or could the resources used for developing RIAs be better used, i.e., would a simpler system serve the needs of Croatia better?

**The questionnaire: to be answered by Officials in Ministries responsible for drafting legislation**

1. Please describe briefly the procedures for drafting primary legislation.
2. Please describe briefly the procedures for drafting secondary legislation.
3. What are the criteria used by officials to judge the quality of legislation prepared by that Ministry?



4. Does the Ministry have a view on the general quality of legislation drafted by it and whether the quality is improving, not improving or remaining the same?
5. What training is provided to those who draft legislation?
6. Is the Ministry aware of any difficulties in legislation drafted by it that has manifested itself in decisions of the courts criticising the drafting of legislation?

## Appendix 2

### Programme and people interviewed

#### Monday, 24 March

|               |   |
|---------------|---|
| 09:00         | <b>Arrival at GLO</b><br>Edward Donelan<br>an interpreter   |
| 09:00 – 09:15 | <b>Welcome and introduction</b><br>Edward Donelan<br>Anamarija Badovinac<br>Boris Zelenika<br>an interpreter  |
| 09:15 -10:00  | <b>Meeting and introduction to the review – Zdenka Pogarčič, Head of GLO</b><br>Edward Donelan<br>Zdenka Pogarčič<br>Anamarija Badovinac<br>Boris Zelenika<br>an interpreter          |
| 10:15 – 11:00 | <b>Interview</b><br>Edward Donelan<br>Anamarija Badovinac – RIA and Legislative drafting<br>an interpreter  |
| 11:30 – 12:15 | <b>Interview</b><br>Edward Donelan<br>Branka Šavrljuga – RIA and Legislative drafting   |
| 12:15 – 13:00 | <b>Lunch break</b>  |
| 13:00 – 14:00 | <b>Interview</b><br><b>American Chamber of Commerce - AmCham</b><br>Edward Donelan<br>Andrea Doko Jelušić, executive director<br>Zdenka Pogarčič<br>Mihaela Bošnjir<br>Boris Zelenika |
| 14:00 – 14:45 | Representatives of Ministry of Social and Youth Policy<br><b>Snježana Franković</b> – RIA - Legislative drafting<br>Boris Zelenika<br>an interpreter                                  |
| 15:00 – 15:45 | <b>Interview</b><br>Edward Donelan<br>Boris Zelenika – RIA  |
| 15:45 – 16:00 | <b>Wrap-up</b>  |

**Tuesday, 25 March**

|               |  |
|---------------|--|
| 09:00         | <b>Arrival at GLO</b>  |
| 09:15 -10:00  | <b>Interview</b><br>Edward Donelan<br>A representative of Ministry of Economy<br><b>Tina Markuš</b> - RIA and Legislative drafting<br>Boris Zelenika<br>an interpreter                                       |
| 10:15 – 11:15 | <b>Free time</b>   |
| 11:45 – 12:30 | <b>Interview</b><br>Edward Donelan<br>A representative of Ministry of Environment and Nature Protection<br><b>Nataša Kačić Bartulović</b> - RIA and Legislative drafting<br>Boris Zelenika<br>an interpreter |
| 12:30 – 14:00 | <b>Lunch break</b>   |
| 14:00 – 14:45 | <b>Interview</b><br>Edward Donelan<br>A representative of Ministry of Finance<br><b>Mirjana Skakelja</b> - RIA and Legislative drafting<br>Boris Zelenika<br>an interpreter                                  |
| 14:45 – 15:00 | <b>Wrap-up</b>   |

**Wednesday, 26 March**

|               |  |
|---------------|--|
| 09:00         | <b>Arrival at GLO</b>  |
| 09:15 -10:00  | <b>Interview</b><br>Edward Donelan<br>A representative of General Secretariat of the Government<br><b>Vesna Petković</b> , Assistant Head of General Secretariat – Government policy coordination, RIA and Legislative drafting<br>Anamarija Badovinac<br>Boris Zelenika<br>an interpreter |
| 10:45 – 11:30 | <b>Interview – the Parliament premises</b><br>Edward Donelan<br>A representative of Parliament Committee for Legislation<br><b>Sanja Vukojević</b> , adviser – RIA & Legislative drafting<br>Boris Zelenika<br>an interpreter  |
| 11:45 – 12:30 | <b>Interview - the Parliament premises</b><br>Edward Donelan<br>A representative of Parliament Committee for Public Finance and State Budget<br><b>Mr Dino Bulešić</b> - Legislative drafting<br>Boris Zelenika<br>an interpreter  |
| 12:30 – 14:00 | <b>Lunch break</b>   |
| 15:00 – 16:00 | <b>Interview – Chamber's premises</b><br>Edward Donelan<br>a representative of Croatian Chamber of Crafts<br><b>Sanja Želinski Matunec</b> , legal expert  |

|               |  |
|---------------|--|
|               | <b>Suzana Kolesar</b> – RIA and legislative drafting<br>Boris Zelenika<br>an interpreter |
| 14:00 – 14:15 | <b>Wrap-up</b>   |

#### Thursday, 27 March

|               |   |
|---------------|---|
| 11:00         | <b>Arrival at GLO</b>   |
| 11:00 – 12:00 | <b>Interview</b><br>Edward Donelan<br>Representatives of Croatian Law Centre<br><b>Agata Račan</b> , Head of Croatian Law Centre – Legislative drafting<br><b>Heidi Eterović</b> , project coordinator - RIA<br>Anamarija Badovinac<br>Boris Zelenika<br>an interpreter   |
| 12:00 – 13:30 | <b>Lunch break</b>  |
| 14:00 – 15:15 | <b>Interview</b><br>Edward Donelan<br>Representative of Croatian Employers' Association<br><b>Maja Pokrovac</b> , Head of Braches' – RIA and Legislative drafting<br>Boris Zelenika<br><br><b>Interview</b><br><b>Croatian Banking Association</b><br>Zoran Bohaček, Executive Director – RIA & Legislative drafting<br>Anamarija Badovinac<br>Boris Zelenika |
| 15:15 – 15:30 | <b>A wrap-up meeting at GLO</b><br><b>Zdenka Pogarčić</b> , Head of GLO<br>Edward Donelan<br>Anamarija Badovinac<br>Boris Zelenika<br>an interpreter  |

#### Friday, 28 March

|               |  |
|---------------|--|
| 10:00 – 11:00 | <b>Interview</b><br>Edward Donelan<br>A representative of Croatian Chamber of Economy<br><b>Domagoj Juričić</b> , Acting Head of International Relations - RIA<br>Boris Zelenika |
| 11:00 – 12:00 | <b>Lunch break</b>   |
| 16:00 – 17:15 | <b>A wrap-up meeting</b><br>Edward Donelan<br>Paulina Stanoeva, European Commission, Transitional Croatian Team  |

## Appendix 3

### International comparisons

In Slovenia, the National Assembly adopted a resolution on Legislative Regulation. This legal and political enactment extends adequate political support to quality legislation. The resolution includes an assessment of the situation and defines the legislative drafting process. It sets out the starting points and principles of regulatory development and defines the purpose of developing and applying regulatory impact assessment.<sup>14</sup> Moldova also has a law on Law Making. It establishes the procedure for initiation, drafting, agreement, examination, editing, interpretation and repeal of legislation.

It also established principles to be complied with when drafting, adopting and applying legal acts. These include:

- Reasonability, coherence, consistency and correlation of competing norms;
- Continuity, stability and predictability of norms of law;
- Transparency, publicity and accessibility.<sup>15</sup>

Countries like Austria, Germany and Switzerland have legislative drafting guidelines as distinct from laws on law making. In contrast, common law countries like the United Kingdom and Ireland have neither laws nor guidelines and rely more on the experience and traditions of the drafting services that have developed slowly since 1857.<sup>16</sup>

## Appendix 4

Materials consulted for the desk research

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Cost Benefit Analysis Readings, Mulreany, M (2002) Dublin: Institute of Public Administration

EU White Paper on Governance COM (2011)

Regulation on the Implementation of Regulatory Impact Assessment

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<sup>14</sup> See generally *Survey on the Improvement of the Legislative Process in the Republic of Serbia*. GiZ Belgrade, 2012

<sup>15</sup> See Law on Legislative Acts N 780-XV dated 27.12.2001 Monitorul Oficial al R. Moldova N 36-38/210 dated 14.03.2002

<sup>16</sup> That date marks the establishment of a specialist office in London to draft legislation. Similar offices have developed all over the common law world.

Review of the Operation of Regulatory Impact Analysis, Dublin Institute of Public Administration: Goggin, I and Lauder, G (2008) Department of the Taoiseach (Prime Minister) Ireland

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Understanding Regulation, Baldwin, R, and others (Oxford, 2011)