

# Regulatory Reform in EU accession countries: **Developing Regulatory Impact Assessment system – Croatian case**

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## Introduction

Regulatory Impact Assessment (RIA) System is an instrument designed to increase the efficiency of adopted policies and regulations in achieving their objectives, by increasing the quality of original regulatory solutions. The instrument presents a basis for reviewing and evaluating certain characteristics and alternatives in order to get a better view of the main aspects of implementing a policy, by applying specific regulatory solutions. The purpose of the RIA System is not to replace, but to improve the quality of decision making, and RIA therefore can not and must not be a substitute for decision making.

The process of European integration is an unavoidable catalyst for different processes and related impacts. One of the key requirements, resulting from the European integration process, is to increase the capacity of administration to make important (numerous) decisions and develop related regulatory solutions within a relatively limited period. This further emphasizes the need for good preparation of decision making.

Some of the candidate states have noticed that as much as 20% of annual regulatory activities are related to amendments and changes to existing regulations to correct their inadequacies, be they in concept or in unwanted and originally neglected implications of their implementation. Apart from being time consuming, such occurrences can also be very damaging to the economy, either due to regulatory solutions that are poor in contents and directly influence businesses, or because of indirect negative impacts that constant changes to the legal framework have on different business factors.

## Legal Framework

RIA is still not being systematically implemented as a part of the regulatory process in Croatia, even though there are provisions whose purpose is to assess the impact of implementation of specific regulations. These are primarily based on the Rules of Procedure on the Amendments to the Rules of Procedure of the Government of Croatia (GOC) adopted on February 10, 2005, stipulating in Articles 10, 17, and 18 elements for obligatory assessment of the following regulatory impacts:

- Financial impacts;
- Impacts on competition and grants;
- Social impacts; and
- Environmental impacts.

All proposed regulations submitted to the regulatory procedures of GOC need to contain the above regulatory impact assessments. Also, it is important to note that elements of RIA can also be recognized in Article 132 of the Rules of Procedure of the Croatian Parliament. However, even though the Rules of Procedure of GOC bind the relevant ministries – Ministry of Finance, Ministry of Economy, Labor, and Entrepreneurship, Ministry of Environmental Protection, Physical Planning and Construction – only the Financial Impact Assessment (FIA) has so far been used in practice and is actively implemented and monitored by the Ministry of Finance as an obligatory attachment to all proposed decrees and other regulations adopted by GOC, as well as to all proposed acts and other regulations proposed by GOC to the Parliament.

The Ministry of Health and Social Welfare has drafted the methodology and forms for assessing social impact and the proposal is currently in the process of submittal to the

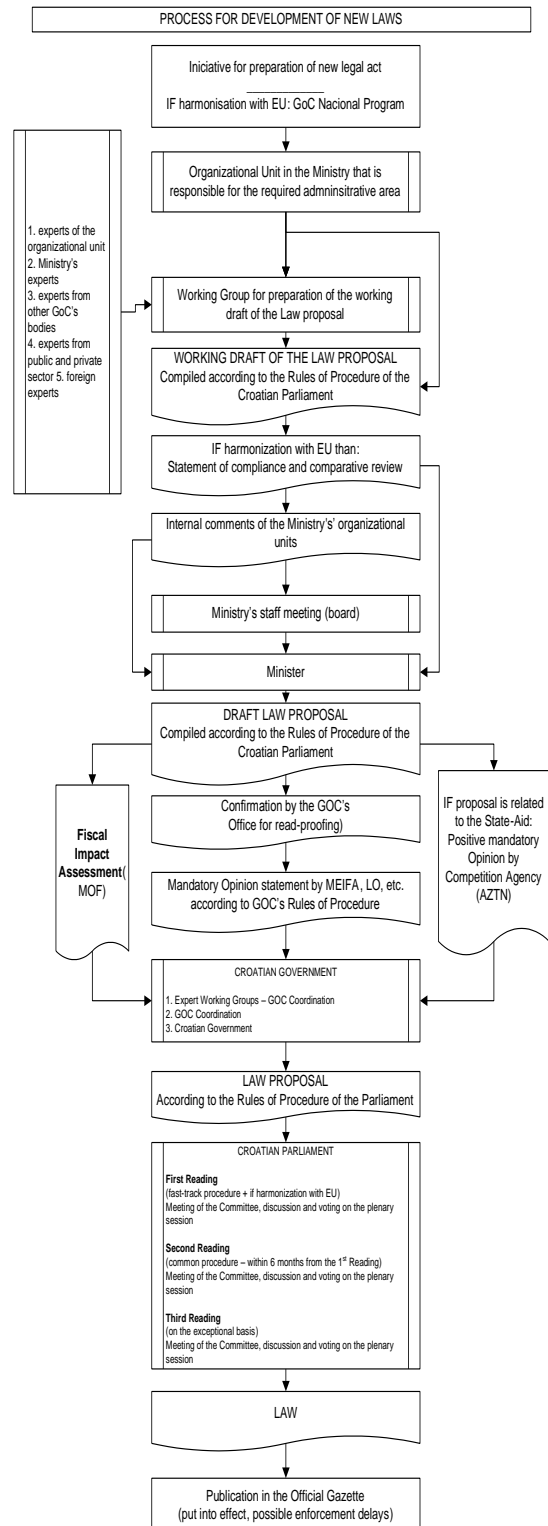
Government, as are the standard methodology and forms for assessing environmental impact, developed by the Ministry of Environmental Protection, Physical Planning and Construction. Methodology for assessing the impact on competition and grants is currently being developed by the Ministry of Economy, Labor, and Entrepreneurship.

## Institutional Framework

Even though the Rules of Procedure of the GOC (and Rules of Procedure of the Croatian Parliament) prescribe regulatory impact assessments, the same Rules of Procedure, nevertheless, do not determine a unified methodology and set elements for the assessments. Thus, each of the four ministries has its own methodology, and some overlapping is to be expected. Also, the fact that there is no standardized methodology to define the minimum scope of the assessment can significantly influence the length of procedures for proposing regulations, can cause contradictions in supplying basic information of RIA, and lack of coordination between the ministries in charge.

To enable a systematic approach to RIA, it is essential to finalize preparations related to developing of clear procedures, standardized process steps and guidelines, internal documentations, and education of the Office for RIA staff. On the other side it is very important to develop a training curriculum for the officials and other stakeholders in the RIA system, which is currently being under implementation of the by the Office for the Coordination of the RIA System which have been established by a Government Decision on June 28, 2006.

The RIA Office, in cooperation with the Legislation Office, Ministry of Finances, Ministry of Economy, Labor, and Entrepreneurship, Ministry of Health and Social Welfare, Ministry of Environmental Protection, Physical Planning and Construction, and the State Office for Administration, will develop a comprehensive RIA system, the concept, methodology, training curriculum, and proposed methods and procedures for RIA in the Republic of Croatia. The RIA Office will also coordinate



the development of a pilot-project which will serve as a reference for gaining practical knowledge and for familiarization with all tools applied in RIA. This pilot-project will then be used as a model for further training of administration employees and other stakeholders.

## Croatian RIA System

In the process of developing decree proposals and proposals of other regulations to be adopted by GOC, as well as proposals of acts and other regulations to be proposed by GOC to the Croatian Parliament, it is necessary to implement regulatory impact assessment in practice. This is necessary to ensure quality decisions when selecting the method of adopting a regulation or a policy, as well as to engage the public already at the beginning of development process of regulatory proposals by informing them about the objectives and goals, cost and benefits, considered regulatory approach options and selected option. RIA System includes a number of techniques and procedures leading to a structured analytical approach and considerations *before* decisions are made on how to implement a desired policy by introducing a new or amending and changing the existing regulatory framework in a certain area.

For some time now, OECD countries have been using regulatory impact assessment as an unavoidable instrument in the decision making process, while EU accession and candidate countries have also recognized the significance of this instrument and have included or are in the process of including it into their regulatory procedures.

## The Need for Implementing RIA

The following are the main reasons for implementing RIA in Croatian legislation:

- SAFETY – to create a system and comprehensive standards for selecting methods for adopting regulations or policies, with an aim of reviewing the demands of the market and the expected implementation of the regulation.
- TRANSPARENCY – to build a platform for transparent, adequate and timely consultations with interest groups and the public, with the purpose of enabling all stakeholders to participate in the creation of regulations or policies.
- LEGALITY – compliance with the legislation regarding environmental protection, health, public safety, consumer protection and public interest.
- EFFICIENCY – improvement of work quality and increased responsibility of the administration with the purpose of increasing the efficiency of the administration in forming policies and regulatory solutions in order to enhance the competitiveness of Croatian economy.
- EXPERTISE – in creating the system and standards for adopting regulations, it is extremely important to include the expertise of economists, and institutions involved in research, development, and quality systems, in order to review the proposals and the practical implementation of the proposed regulations before they are adopted.

RIA system is also crucial for Croatia to successfully complete the process of harmonizing its legislation with the *acquis*. RIA helps in reviewing the available options in harmonizing its legislation with *acquis* by identifying those options that will benefit Croatia the most, i.e. finding such compromises which will mitigate negative effects and use the positive ones as much as possible. Practical implementation of RIA is necessary in order to create a firm

basis for the arguments that Croatia is presenting through its negotiating teams to the European Commission during the negotiations on membership in the EU, and is therefore necessary to achieve the best possible conditions for Croatia's accession to EU.

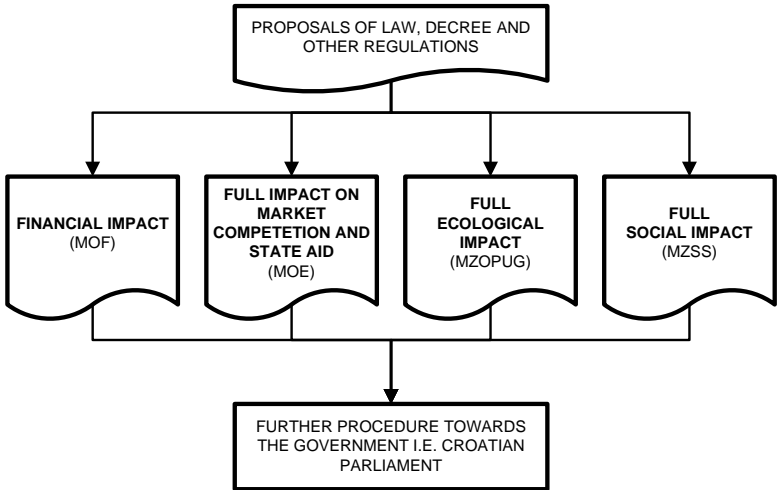
It is therefore necessary to adopt recognized procedures and techniques that can be implemented in practice in order for the European Commission to accept the assessments of the impact of implementing parts of the *acquis* in Croatian economy, society and environment as objective and valid. By introducing standardized methodology and techniques of RIA into regulatory procedures, formulation and adaptation of policies will be improved, and the administrative process would be simpler and more efficient, which would ensure a more efficient development and would simplify Croatia's entrance into the highly competitive market of the European Union.

The policy formation and public consultation processes in the proposal development phase, which are already well established in the market economies of EU member states, are currently underdeveloped or inadequately implemented in Croatia. Croatia must, therefore, develop an efficient administration which will be ready to face the challenges of building Croatia as an internationally competitive market economy. Inclusion of RIA standards, forms and techniques into administration bodies will greatly contribute to the efforts and initiatives of Croatian Government to raise the level of expertise among government officials and to build the institutional capacity of the administration as a whole.

## Current Situation with RIA in Croatia

Current practices in implementing the Rules of Procedure of GOC have indicated the following:

- Only budgetary impact is actively assessed (Financial Impact Assessment) as a part of regulative procedures, while economic, i.e. market, social, and environmental impacts are not assessed, that is, economic, i.e. market, social, and environmental impacts of specific options are not systematically analyzed before draft proposals are made;
- There are no comprehensive standards in place to implement systematic impact assessments of various regulatory solutions according to internationally recognized standards, and there is no coordination between them;



There are currently no Croatian standards or methodologies in place for the implementation of the obligations prescribed by the Rules of Procedure of GOC which would set and describe the minimum required scope. They are developed according to the proposer's own *ad hoc* approach and interpretation. If some proposers of regulatory solutions do use their own assessment techniques and skills in developing legislation proposals, these materials are not developed according to set standards and are not available to other stakeholders in the decision making process.

## **Standardization and Development of RIA System**

Introduction of RIA does not represent introduction of a new instrument into regulatory procedures but standardization and further enhancement of an existing obligation – an instrument prescribed by the Rules of Procedure of GOC and Rules of Procedure of Croatian Parliament.

The success of the project directly depends on the development of human resources in the administration, and on the adaptation of current procedures to new circumstances and requirements, which will be considered in the following phases of project implementation. The first phase of this proposal intends to present the administration with feasible requirements, and therefore proposes the standardization and development of regulatory impact assessment.

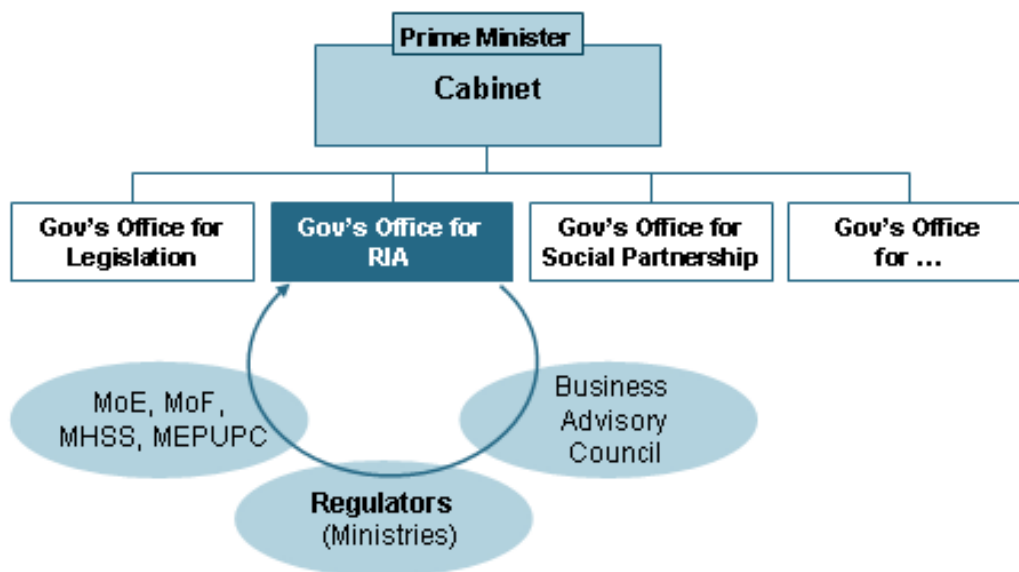
There are two main reasons for such approach. First, standardization and development of regulatory impact assessment presume the development of human resources and institutional capacity of administration. This poses a threat that too difficult requirements in the first phase could result in the finalization or even rejection of the entire concept, instead of adopting it as an extremely useful instrument.

Second, regulatory impact assessment should not make the process of harmonization with the *acquis* more difficult or slower, and thus influence the progress of Croatia towards EU integration. Quite the contrary, the goal of RIA is to improve the process, but only if proposed and implemented in a way which is acceptable and feasible, and consistent with the existing absorption capacities of the regulators.

## **Office for the Coordination of the RIA System**

Institutionalization of the RIA system will be the first step towards a comprehensive RIA system in Croatia. This assumes the establishment of a coordination body for the comprehensive RIA system, in the form of a Government Office for the Coordination of the RIA System (RIA Office). The primary task of the Office would be to control the quality, maintain the standards and further develop the RIA system. Other tasks of the RIA Office would include coordination of economic, social, and environmental impact assessments of proposed laws and of other regulations proposed or adopted by GOC. RIA Office should be authorized to supply opinions on the minimum contents and scope of the preliminary regulatory impact assessment, to give instructions and opinions regarding the preparation of RIA, to collect, record, process and analyze RIA data, to propose Rules on Regulatory Impact Assessment to GOC, prepare and participate in the implementation of training curricula for regulatory impact assessment, propose measures for further development and improvement of RIA system, coordinate and analyze the implementation of HITROREZ

measures and perform other functions within the scope of their expertise. Financial Impact Assessment will be renamed into Fiscal Impact Assessment and will remain under the authority of the Ministry of Finance. New Financial Impact Assessment will become an integral part of the Economic Impact Assessment that is under responsibility of Ministry of Economy, Labor and Entrepreneurship – however, the Financial Impact Assessment part of it will continue to be under authority of Ministry of Finance. Fiscal Impact Assessment will not at this time be included into the scope of work of the RIA Office, but remains under authority of Ministry of Finance. RIA Office will be operational from July 2007, and will develop the methodology and rules for regulatory impact assessment, as well as models of cooperation between the above mentioned ministries by September 2007. The mandatory RIA system will be formally required since September 2007, but given the Parliamentary elections in November 25, 2007, the RIA will be required once the new Parliament in place early 2008.

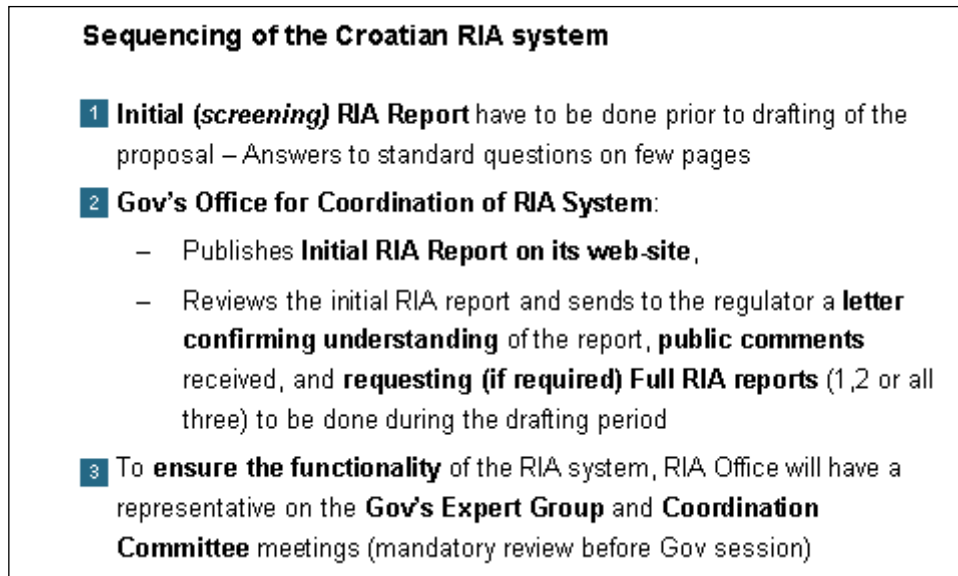


## Methodology Summary

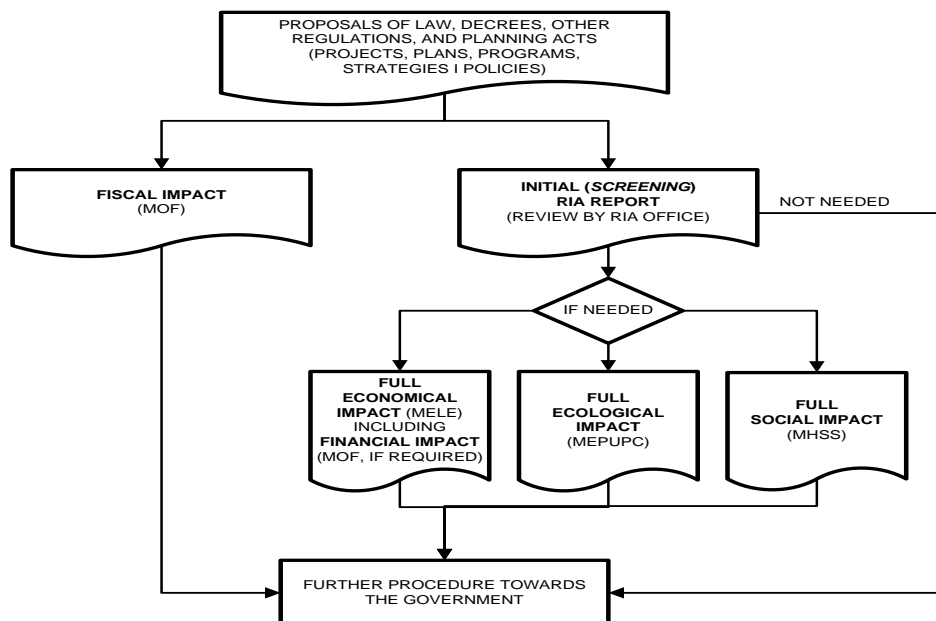
In the phase of formulating a specific policy or regulation, the regulation proposer, before starting to develop a draft proposal of a regulation, must perform a *preliminary* RIA which will be a short report (few pages) which answers the basic questions regarding the policy or regulation that the proposer is intending to implement. This includes the following:

1. Determine the problem that the act is intended to solve;
2. The objective that is to be achieved;
3. Available options for achieving that objective;
4. Positive and negative impacts of the proposed solution (market/economic, social, and environmental);
5. Method for selecting the preferred option;
6. Selection of the method for monitoring impacts, i.e. implementation of the regulation / policy.

Depending on the answers to the basic questions, the proposer of the regulation submits the preliminary RIA report to the RIA Office for review (the RIA Office, if necessary, consults with experts or relevant institutions, Ministry of Economy, Labor, and Entrepreneurship, Ministry of Health and Social Welfare, Ministry of Environmental Protection, Physical Planning and Construction) and/or other relevant institutions.



RIA Office then sends the opinion on the minimal contents and scope of the preliminary RIA to the proposer, noting any and all shortcomings and required further analyses. RIA Office also has the option of ordering the regulation proposer to perform an *expanded RIA*, which could include the none, one or more additional Impact Assessments:



- *Economic Impact Assessment* (according to the methodology, forms and standards set by the Ministry of Economy, Labor, and Entrepreneurship), including if necessary Financial Impact Assessment (according to the methodology, forms and standards set by the Ministry of Finance) and/or
- *Social Impact Assessment* (according to the methodology, forms and standards set by the Ministry of Health and Social Affairs) and/or
- *Environmental Impact Assessment* (according to the methodology, forms and standards set by the Ministry of Environmental Protection, Physical Planning and Construction)

This model ensures both efficiency and speed, and also leaves room for the possibility that the proposer commits to perform an *extended* assessment, either for the Croatian Government, or to defend the selected option in the Croatian Parliament.

Understandably, in an informal procedure, the proposers can, according to their own judgment, while conducting the preliminary assessment consult the RIA Office and other stakeholders as well as relevant ministries - Ministry of Economy, Labor, and Entrepreneurship, Ministry of Health and Social Welfare, Ministry of Environmental Protection, Physical Planning and Construction – and include their opinions in the impact assessment or, based on the consultations, independently perform the *expanded* assessment.

If the relevant Government Coordinating Committee or of their Expert Working Groups responsible, in further regulatory procedures, does not consider the preliminary RIA to be adequate for the proposed regulation, the Committee may order the regulation proposer to perform an *expanded* RIA. This option is available until the regulation is submitted to the Government for adoption. In addition, the Government Coordinating Committee would ensure that every regulation proposal that goes to the Government includes the required preliminary RIA report and all additional RIA reports (i.e. SIA, and/or EcolA, and/or EnvIA) requested by the RIA Office in the early stage of regulation proposal development.

The RIA Office will give instructions and opinions to administration bodies conducting RIA, and monitor the RIA system, with all the related authority.

## **Rules of procedures**

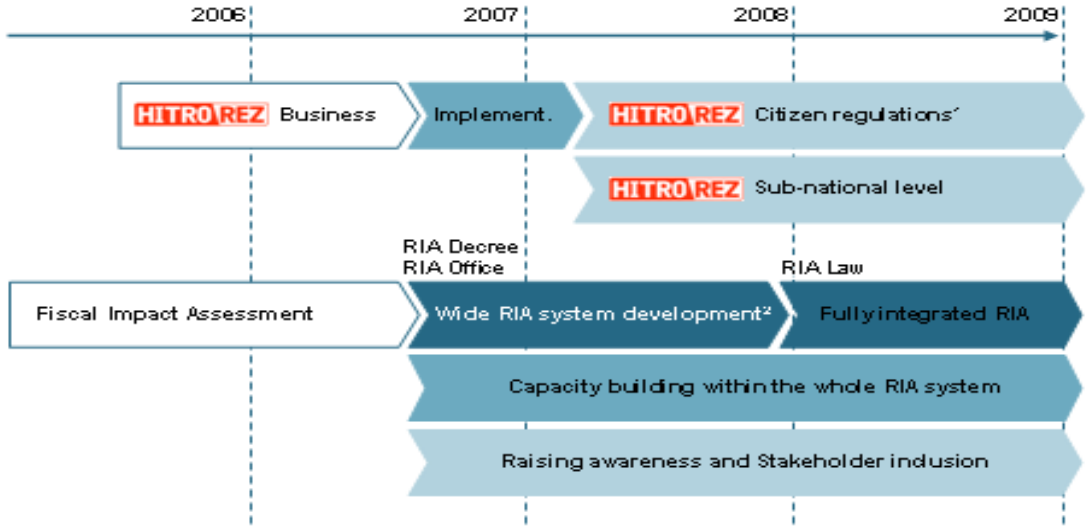
The central state administrative bodies and the Government's expert bodies are obliged to enclose the Initial RIA Report and the Fiscal Impact Assessment Report along with the proposed decrees, other regulation and planning acts (projects, plans, programs, strategies, policies, etc.) that are to be adopted by the Government; and along with proposed laws and planning acts initiated by the Government and forwarded to the Croatian Parliament for the adoption.

The central state administrative bodies and the Government's expert bodies are obliged to submit the RIA Report to the RIA Office to obtain its opinion prior to the submission of the draft proposal as stipulated above. These bodies are also obliged to submit the Fiscal Impact Assessment Report to the Ministry of Finance to obtain its opinion prior to the submission of the proposal to the Government as explained earlier. Along with the proposals and if requested in the opinion as of RIA Office, the central state administrative bodies and the Government's expert bodies draft and submit to the Government the following reports: the Economic Impact Assessment Report including, if required, the Financial (not Fiscal) Impact Assessment Report; the Social Impact Assessment Report and the Environmental Impact

Assessment Report. Prior to their submission to the Government and if drafting is required pursuant to the opinion as stipulated above, the following Impact Assessment Reports are mandatory for submission to the relevant central state administrative bodies as follows: the EIA Report to the Ministry of Economy, Labor and Entrepreneurship including, if required, the Financial (Fiscal) Impact Assessment Report which is submitted to the Ministry of Finance; the Social Impact Assessment Report submitted to the Ministry of Health and Social Care; and the Environmental Impact Assessment Report submitted to the Ministry of Environmental Protection, Physical Planning and Construction. The standardized methodology required for submission of the reports is prescribed by the special decision issued by the Government. The central state administrative bodies that draft proposed regulation and planning acts, are obliged to submit to the Government the reports which they deem acceptable and which are harmonized with the opinions issued by the RIA Office and relevant central state administrative bodies. In case of divergence of opinions on any segment of the Report between a central state administrative body which drafts a proposal and the Office, and a relevant central state administrative body, the central state administrative body which drafts the proposal encloses a statement specifying divergence issues and their causes along with the Report.

The Government, i.e. its permanent working bodies, do not scrutinize proposed regulation or operational documents if all required reports are not enclosed. Its permanent working body may scrutinize single proposals lacking enclosed, i.e. required reports if so recommended by the Prime Minister and in cases when the Government deems that the degree of urgency and importance is such that it should not be postponed. The reasons for urgency shall be explained in writing by a proposer.

### Prerequisites for the Implementation of the RIA System

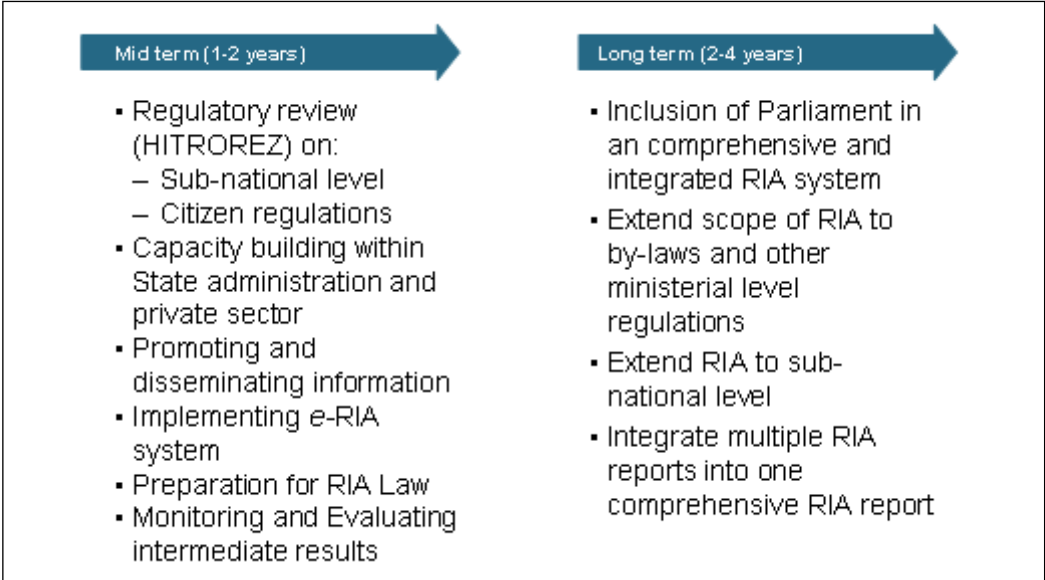


The platform for a sustainable and continuous regulatory reform in Croatia has been created during the Croatian regulatory guillotine project – HITROREZ – which reviewed all business regulations and recommended the simplification or cancelation of about 55% of all regulations related to doing business in Croatia. In addition, the legal and institutional setup for RIA system in Croatia enabled integration of mandatory impact assessment for all new higher level regulations.

However, to make the RIA system appropriately work in the government practices, some of the prerequisites have to be in place. Most important elements of those are following:

- Each administration body shall identify an assistant minister level officer who will be in charge of implementing RIA in their respective administration bodies.
- Each administration body shall identify at least 2 operations level employees (e.g. economist – lawyer) who will participate in further development of the RIA system and in training programs in order to be able to conduct training within their respective administration bodies. Advantage should be given to those employees who have already had some experience in impact assessment.
- In the long run, all administration bodies should make efforts to establish a department within their organization which would be in charge of conducting RIA. By establishing such departments, the necessary basis for support of the RIA process would be created.
- Each administration body shall conduct the preliminary RIA according to the standardized RIA methodology, prescribed by the RIA Office.
- Each administration body shall make an objective estimate on whether an expanded regulatory impact assessment should be performed for specific policies or regulatory solutions.
- The RIA Office shall be responsible for coordinating the entire process, giving instructions and opinions to assist the administration bodies, organizing training for representatives of the administration bodies, and when necessary, reporting to GOC on the implementation of the system and its efficiency.

## Action Plan

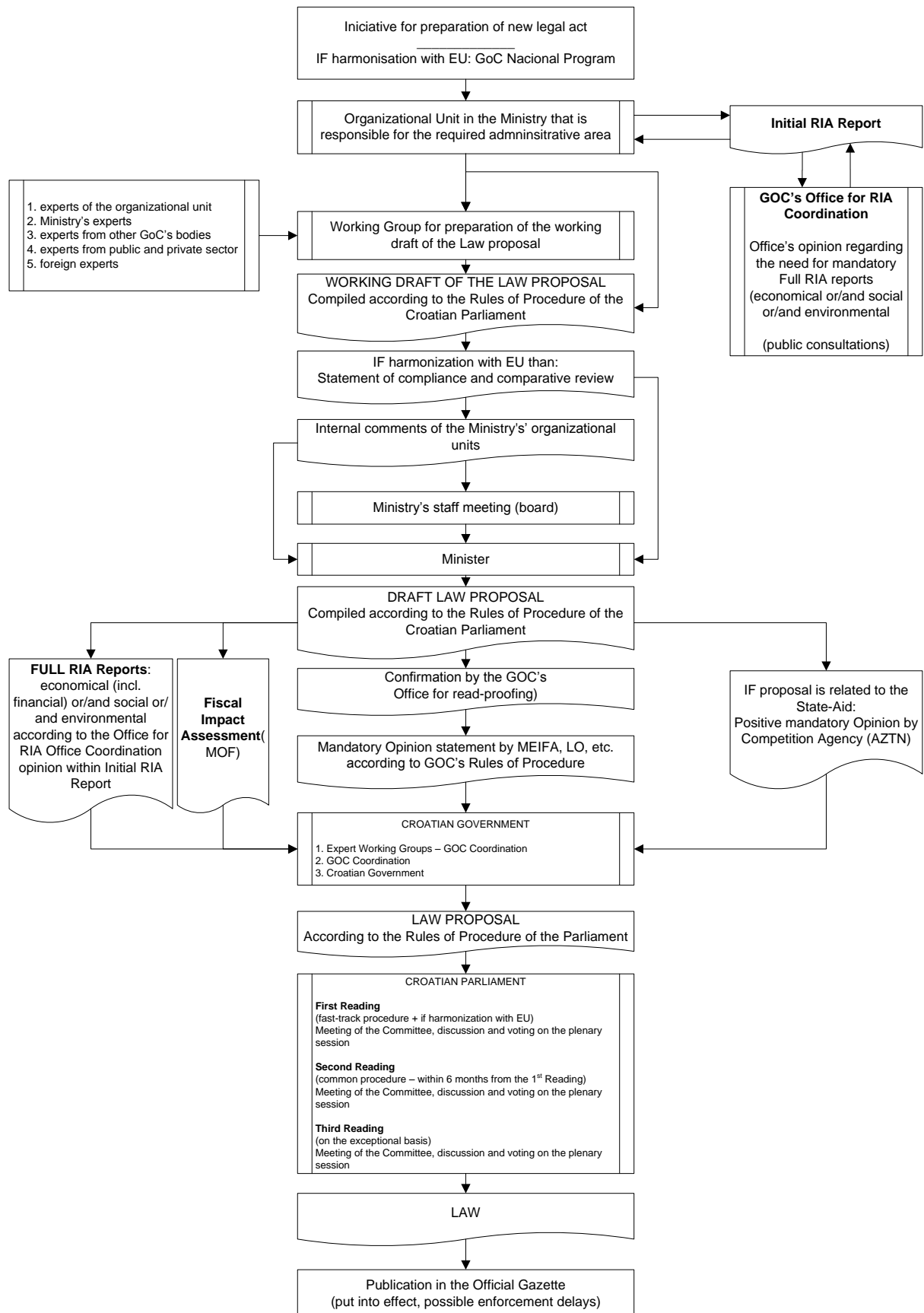


1. Develop a pilot RIA analysis on the Law on SME Incentives at MELE, based on standardized methodology to assess the system and develop the methodology **(September - October 2006)**.
2. GOC adopted a Decree on Establishing the Office for the Coordination of the RIA

System (RIA Office) which has a task to coordinate the assessments of impact on the market i.e. economy, financial sector, society, and environment. **(June 2007)**

3. In parallel, the GOC adopted a Decree on Change of Rules of Procedures of the Government, which will reflect the RIA system procedure for new regulation proposals. **(June 2007)**
4. RIA Office will develop and propose the Rules and Instructions on Regulatory Impact Assessment by September 15. **(September 2007)**
5. Ministry of Economy, Labor, and Entrepreneurship will develop particular **Economic Impact Assessment** (EIA) methodologies, forms and standards for the area of their responsibility, whereby it will closely coordinate development of **Financial Impact Assessment** (FIA) with Ministry of Finance. FIA will be an integral part of the EIA and will have to be undertaken for regulation that have an direct impact to the financial sector and capital markets in Croatia. **(September-October 2007)**
6. Prepare the training curriculum and organize training for administration employees and officials, local governments, business community, civil society, and other interest groups relevant to the RIA system **(October-December 2007)**
7. Organize Training Workshop I for Office for RIA staff and responsible professionals from MELE, MHSW, MEPPPC, MOF – introduction to the concept of the RIA System and guidelines on about the process **(January-March 2008)**
8. Organize Training Workshop II for responsible professionals from other Ministries – introduction to the concept of the RIA System and guidelines on about the process **(February-April 2008)**
9. Organize Training Workshop III for business community and citizens – introduction to the concept of the RIA System and guidelines on about the process **(February-April 2008)**
10. Organize Training Workshop VI for sub-national governments – introduction to the concept of the RIA System and guidelines on about the process **(Mai-October 2008)**
11. Organize workshops and seminars for further development of institutional capacity of administration bodies, in cooperation with foreign partners and donors **(during 2008)**.

# Process for development of new Laws (with integrated RIA)



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