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**Improving Information to the Croatian
Business Community — BIZimpact II**
**Economic Impact Assessment (EIA) for
Small and Medium Enterprises (SMEs)**
Manual



This project is funded by the
European Union



Ministry of Entrepreneurship
and Crafts

BIZimpact

Improving Information to the
Croatian Business
Community



Pohl Consulting and
Associates GmbH



0.I. PROJECT SYNOPSIS

Contract Reference:	Country of Assignment:	Project Duration:	Contracting Authority:
EuropeAid/131132/D/SER/HR	Republic of Croatia	24 months	Central Finance and Contracting Agency, Mr Rade Dubreta
Project Title: Improving information to the Croatian Business Community — BIZimpact II		Reporting Period: Second period	Report Submitted on: 17 January 2014
Contractor: Pohl Consulting and Associates GmbH Pinto Consulting GmbH Altair Asesores West Midlands Enterprise		Project Director: Andreas von Brühl-Pohl Team Leader: Dr Ricardo Pinto Project Officer: Marko Šilinger	
Project Partner and Main Beneficiary: Ministry of Entrepreneurship and Crafts (MINPO)		Project Manager: Ms Veronika Tolj Project Coordinator: Ms Adela Renka	
Commission Representation in Croatia:		Project Manager: N/A	
Brief Context of the Assignment: The Overall Objective of the project is the: "Improvement of the business environment thus enhancing the competitiveness in the country" (ToR, p.8). The Project Purpose is threefold: <ul style="list-style-type: none"> ➤ Further develop the capacity of policy makers and business organisations to identify, analyse and communicate future impact of key regulatory areas for business in Croatia; ➤ Improve the awareness of the business community regarding these key areas; ➤ Leverage the development of a stronger culture of entrepreneurship specifically focused on regional development. The following Planned Results are anticipated: <ul style="list-style-type: none"> ➤ Economic Impact Assessment (EIA) [for SMEs] developed and implemented; ➤ Consultation process/Public-private Dialogue with business community and awareness of the business community in key legislative fields improved; ➤ Dissemination of Information and Awareness-raising upgraded; ➤ Development of partners/regional capacities for information campaigns conducted. 			
Specific Objectives of the Assignment: <u>Component 1: Economic impact assessment for SMEs</u> Activities include: <ul style="list-style-type: none"> ➤ Developing a methodology for Economic Impact Assessment (EIA) for SMEs (measuring the economic impact of new laws and regulations), including an "SME test" in line with best EU practice; ➤ Publishing a Manual and providing training on EIA for SMEs procedures; ➤ Developing an EIA for SMEs information base; ➤ Developing a Virtual Centre of Excellence on EIA for SMEs; ➤ Organising study tours; ➤ Organising awareness-raising campaigns and events on EIA for SMEs. <u>Component 2: Development of consultation process/Public Private Dialogue with business community within the context of EIA for SMEs</u>			



Activities include:

- Evaluating current Public-Private Dialogue mechanisms and recommending improvements relevant to the EIA for SMEs consultation process;
- Developing the consultation process and an accompanying manual;
- Developing a Croatian Business Test Panel;
- Developing and implementing tools for e-consultation.

Component 3: Dissemination of Information and Awareness-raising

Activities include:

- Updating and republishing the existing seven Mini Guides for SMEs produced during the first stage of the project;
- Developing and publishing a new series of Mini Guides on new legislative areas, based on research of the needs of small businesses;
- Providing training to beneficiaries and other partners on the legislative areas covered by the new Mini Guides;
- Developing and publishing a newsletter and e-newsletter containing essential information for small businesses.

Component 4: Development of partners/regional capacities for information campaigns

Activities include:

- Assessing beneficiaries' communications activities and recommending improvements;
- Developing Communication Strategies and Action Plans for each beneficiary plus an accompanying manual relating to the awareness-raising campaigns and activities of the project;
- Organising national visibility events;
- Organising regional information campaigns and visibility events;
- Undertaking a survey of small businesses regarding their key information needs and priorities.

0.II. DIRECTORY OF KEY PROJECT STAKEHOLDERS

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The opinions expressed in this Report are those of the authors and do not necessarily reflect the opinions of the European Union or any other organisation mentioned. As a result, these will be verified before implementation of any of the recommendations contained herein.



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ACRONYMS

Acronym/term	Meaning
AFI	Assessment of Fiscal Impact
AZTN	Agency for Protection of Market Competition
BIZimpact II	Improving Information to the Croatian Business Community – BIZimpact II
BTP	Business Test Panel
CBA	Cost Benefit Analysis
DG	Directorates General
DZS	State Office for Statistics
EB	Expert Bearer
EC	European Commission
EEN	Enterprise Europe Network
EIA	Economic Impact Assessment
EU	European Union
EUR	Euro
FINA	Financial Agency
GLO	Government Legislation Office
GoC	Government of Croatia
HAMAG INVEST	Croatian Agency for SMEs and investments
HGK	Croatian Chamber of Economy
HOK	Croatian Chamber of Trades and Crafts
HRK	Croatian Kuna
HSZ	Croatian Association of Cooperatives
HUP	Croatian Employers' Association
IA	Impact Assessment
IPA	Instrument for Pre-Accession Assistance
KE	Key Expert
MINGORP	former Ministry of Economy, Labour and Entrepreneurship
MINPO	Ministry of Entrepreneurship and Crafts
NACE	Statistical classification of economic activities in the European Community
NACMO	National Association of Cigarette Machine Operators (UK)
NGOs	Non-Governmental Organisations
OECD	Organisation for Economic Co-operation and Development
OG	Official Gazette
PC&A	Pohl Consulting and Associates



PPD	Public Private Dialogue
R&D	Research and Development
RF	Radio Frequency
RIA	Regulatory Impact Assessment
RoC	Republic of Croatia
SBA	Small Business Act
SCM	Standard Cost Model
SMART	Specific, Measurable, Achievable, Realistic, Time-dependent
SME	Small and Medium-sized Enterprise
SMIT	Small Firms Impact Test
ToR	Terms of Reference
UK	United Kingdom of Great Britain and Northern Ireland
VAT	Value Added Tax
WTA	Willing to Accept
WTP	Willing to Pay



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This Economic Impact Assessment for SMEs Manual has been prepared by the **Improving Information to the Croatian Business Community or BIZimpact II project** (www.bizimpact.hr) on behalf of the Ministry of Entrepreneurship and Crafts (MINPO).

It has been prepared to fill the gap between the general Regulatory Impact Assessment (RIA) guidelines produced by the Government Legislation Office (GLO), responsible for the overall RIA system in Croatia, and the hitherto lack of specific guidance in relation to the Economic Impact Assessment (EIA) for Small and Medium-sized Enterprises (SMEs).

The principal author is **Prof. Colin Kirkpatrick**, an internationally acknowledged expert in relation to RIA systems. He is a Key Expert in the BIZimpact II project and responsible for the preparation of most of the Manual.

The Consultation related content was prepared by **Dr. Ricardo Pinto**, the Team Leader and a Key Expert in the BIZimpact II project. He was also responsible for the overall strategic direction of the EIA for SME activities and Manual.

Finally, **Mr. Hrvoje Renka**, Researcher at the BIZimpact II project, provided detailed support in relation to translations, laws, regulations and much else.

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1. INTRODUCTION

1.1 Purpose of the Manual

The purpose of this Manual is to provide technical support and guidance to civil servants and decision makers in the Ministry of Entrepreneurship and Crafts who are involved in implementing Regulatory Impact Assessment (RIA).¹ In particular, the Manual provides practical advice on how to use economic impact assessment (EIA) as a tool for identifying the potential economic impacts of new proposals of regulation on the small and medium-sized enterprise (SME) sector.

The procedures and methods discussed in this Manual complement the guidance in the set of **RIA Guidelines** provided by the Government Legislative Office (GLO), which is responsible for the overall coordination of the RIA process.² The Manual builds on the earlier **Impact Assessment Manual** (2009), by focusing on economic impact assessment and the SME sector.³

The Manual is also intended to assist other Expert Bearers⁴ that need to assess the economic impacts of their regulation proposals; and to inform interested parties in the business community who wish to be aware of the procedures being used to assess the economic impacts on the SME sector as part of the overall RIA process. It should be used in conjunction with the Guidelines prepared by the Government Legislation Office.⁵

The Manual has been prepared as part of the EuropeAid project with the Ministry of Entrepreneurship and Crafts, **Improving Information to the Croatian Business Community**, BIZimpact II (www.bizimpact.hr).

1.2. Why is Economic Regulation Needed?

Regulations have the goal of increasing overall national welfare. In market economies, regulation is used in situations where the market mechanism produces outcomes that do not maximize national welfare.⁶ Regulation is intended to correct these market failures and thereby add to economic welfare.⁷ To achieve the objective of improving national welfare the benefits of regulation need to exceed the costs. But, in practice, proposed regulations do not always meet this condition. Regulations may not achieve their intended policy objectives, or may do so at unacceptable costs. Assessing the likely costs and benefits of a regulatory proposal therefore assists the policymaker in deciding whether the new regulation is likely to improve or reduce national welfare.

¹ In accordance with the **RIA Act** (Official Gazette 90/11) and the **Regulation for the Implementation of the RIA Process** (Official Gazette 66/12).

² **RIA Guidelines for the Civil Servants** (June 2012); **RIA Guidelines for the Civil Servants in the Government Legislative Office** (June 2012); **RIA Guidelines for the Stakeholders, Public and Interested Parties** (June 2012).

³ **Impact Assessment Manual**, BIZimpact, Ministry of Economy, Labour and Entrepreneurship (MINGORP), (July 2009).

⁴ Expert Bearers are all state administration bodies that have jurisdiction for drafting new regulations. Full list of Expert Bearers can be found in Annex 8.

⁵ **RIA Guidelines for the Civil Servants** (June 2012); **RIA Guidelines for the Stakeholders, Public and Interested Parties** (June 2012).

⁶ In economic theory, regulation is explained in terms of correcting market failures or imperfections, including externalities, missing or incomplete markets, information asymmetries and public good attributes.

⁷ Governments also intervene and regulate in cases where market transactions are perceived to lead to socially unacceptable income and wealth distributions, or where the market causes environmental damage.



1.3 What is Regulatory Impact Assessment (RIA)?

Regulatory Impact Assessment (RIA) is a tool for designing better policy. It involves an analysis of the likely costs and benefits of proposed policy measures (laws, regulations, etc.) and provides the policymaker with evidence on the probable consequences of introducing a new regulatory measure. RIA is used to develop alternative policy options and to select the measure that will meet the proposal's objective in the most effective and efficient manner. The choice of preferred option will be based on a comparison of the expected positive (benefits) and negative (costs) impacts of each option.

RIA also contributes to better governance. Consultation with stakeholders is a key element of the RIA process. It strengthens policy-makers' knowledge and understanding of the likely impacts of a proposal, and enables stakeholders to contribute to the development of the most cost-effective means of achieving government objectives. This communication between the policymakers and the public contributes to the accountability and transparency of the public administration.

The RIA methodology provides a logical framework for the consideration of public policy problems and legislative solutions. Each stage in the RIA methodology involves the analysis of a specific question:

- Stage 1: What problem is being considered?
- Stage 2: What options are being considered?
- Stage 3: What are the expected benefits and costs of each option?
- Stage 4: What is the preferred option and why?
- Stage 5: How will the preferred option be implemented?
- Stage 6: How will the impacts be monitored and evaluated after implementation?

The time and resources that need to be committed to completing each stage in the RIA methodology will vary, depending on the RIA regulations and on the importance of the problem being considered.⁸ However, all RIAs should follow the same broad structure.

The results of the RIA analysis (i.e. the answers to the six-stage questions) are presented in a RIA Report. In Croatia the name of that document is RIA Statement. Most countries have developed a RIA Report Template which allows for all RIA Reports to be prepared and presented in broadly the same format.

1.4 Structure of the Manual

There are seven chapters to the Manual:

- Chapter 1 provides a general overview of the role of regulation in a market economy and the contribution of regulatory impact assessment (RIA) to the design of effective regulatory proposals;
- Chapter 2 explains how economic impact assessment (EIA) can be used to estimate the **economic impacts** of a new regulation, and how EIA can be used to assess the economic impacts on **small and medium enterprises (SMEs)** in particular;
- Chapter 3 describes application of EIA for SMEs in the Ministry of Entrepreneurship and Crafts;
- Chapter 4 explains how consultation with stakeholders and other interested parties is an essential part of the RIA/EIA process.

The remaining three chapters provide case studies in the application of EIA for SMEs:

⁸ The 'proportionality principle' recommends that the resources committed to the RIA should be proportional to the significance of the problem.



- Chapter 5 illustrates how an Initial Assessment can be carried out in compliance with Croatia's RIA procedures, using the example of regulation of funeral services;
- Chapter 6 is based on a UK study of the likely economic benefits and costs of prohibiting the sale of cigarettes from vending machines;
- Chapter 7 shows how EIA for SMEs can be applied as part of the more general RIA process. This case study is based on a report prepared by the European Commission as part of the EC's Impact Assessment procedures. The case study shows how EIA for SMEs can be applied in situations where it is difficult to quantify the economic value of benefits and costs. The study also illustrates how the SME Test can be applied as part of the assessment.



2. ECONOMIC IMPACT ASSESSMENT (EIA) FOR SMEs

2.1 What is Economic Impact Assessment (EIA)?

Economic impact assessment (EIA) is a form of RIA which focuses on economic impacts and assists decision-makers in selecting regulations that will allow the market economy to work more efficiently and thereby improve economic welfare.⁹ Economic impact assessment can be used to assess economic impacts on the economy as a whole, or it can focus on the economic impacts on a particular segment of the economy, for example, the SME sector.

Where possible, economic impacts should be given a monetary value based on market prices and/or costs.¹⁰ Quantifying economic costs and benefits in monetary terms makes it possible to aggregate the benefits and costs and then rank alternative proposals in terms of net economic benefit (i.e. the difference between total economic benefits and total economic costs).¹¹ Decision-makers are then provided with a consistent basis on which to assess alternative proposals and are better informed about the implications of using scarce economic resources. In practice, however, it is sometimes impractical to value all benefits and costs in monetary terms, because of data or methodological limitations. It then becomes necessary to present the evidence on monetised and non-monetised economic impacts in the assessment.¹²

Economic benefits are gains in the economic welfare of society that result from the proposal's adoption. If the proposal results in an increase in output, the market value of the increase can be used as the measure of economic value. A saving in costs is equivalent to a gain in income and can also be used as a measure of benefit. However, not all economic benefits will have a market value. There are cases where a market does not exist or market prices are not directly observable. In these cases, the 'willingness to pay' value of benefits should be estimated, using the valuation techniques described in Annex 5.

Economic costs measure the use of scarce national resources. In a competitive market economy, market costs are used to calculate economic costs: for example, the wage costs of employees or the cost of purchasing raw materials.¹³ But there are cases where market prices cannot be used to estimate economic costs. For example, if the alternative to employment is unemployment, the economic cost of new jobs is less than the wages cost of new employment. Similarly, the market price of a natural resource may not include the full economic value of the environmental costs incurred. In these cases, it is necessary to estimate the opportunity cost of the missing values (see Annex 5).

Economic impact assessment should consider the stream of benefits and costs that arise over the life of the proposal. Since future benefits and costs are less certain than present day impacts, it is necessary to discount the value of future impacts. The technique for calculating discounted values (today's value, or present value, of future

⁹ Economic impact assessment differs from financial analysis which is limited to the direct financial costs and revenue for the agency or department that is proposing the regulation. Economic impact assessment also differs from fiscal analysis which assesses the changes in government revenues and expenditure that will occur if the proposal is adopted.

¹⁰ Prices provide a measure of 'willingness to pay' and willingness to pay is used as the measure of benefit ('utility') to the consumer. Market values are therefore equivalent to economic values.

¹¹ This is commonly known as Cost Benefit Analysis (CBA). CBA quantifies **all** benefits and costs in monetary terms.

¹² This is sometimes referred to as 'soft' CBA. There are a number of methods for presenting monetised and non-monetised benefits and costs, including cost-effectiveness analysis which compares the costs of alternative ways of producing the same outputs/benefits.

¹³ Economic theory assumes that costs reflect benefits foregone i.e. the benefits that would have been enjoyed if the scarce resources had been used elsewhere. This benefit foregone is known as opportunity cost.



benefits and costs) is explained in Annex 6. Where it is not possible to identify a finite life and final year for a proposal, it is good practice to assume a life of at least ten years.

2.2 EIA Methodology

The EIA methodology builds on the more general RIA methodology by focusing on the assessment of economic impacts. A widely used method for identifying the likely economic benefits and costs of proposals of regulations is to base the analysis on a set of key issues and questions that are of interest to policymakers. These key issues are:

- Description of the Affected Economic Activities;
- Economic Performance Indicators;
- Regulatory Cost Burden;
- Competitiveness.

2.2.1 Description of the Affected Economic Activities

The EIA should begin by identifying the sector or sectors, and industries within the sector(s) that are likely to be most affected by the regulation proposal. The aim is to provide an accurate and informed description of the sector which will provide the basis for the subsequent assessment of economic impacts. The regulation will often be directed towards a particular sector (chemicals, road transport, shipping etc.), but it is important to consider whether other industries may be indirectly affected by the regulation.

Having identified the affected sector(s)/industry, its main economic characteristics should be described. This evidence should be used in the impact assessment as a baseline or benchmark against which the impacts caused by the regulation can be estimated. The structure in terms of market concentration and share, distribution of output and employment between large, medium and small enterprises, geographical distribution, and ownership should also be described. The description of the affected sector(s) can usefully be developed by addressing the key questions shown in Box 1.

Box 1: Key Questions for Description of Affected Economic Activities

- Which sectors of the economy will be affected?
- Which industries will be affected?
- What is the market structure of the affected sector (competitive, concentrated, ease of entry, etc.)?
- What are the employment characteristics of the affected sectors?
- What is the recent/current economic performance of the affected sector (output, employment, investment, trade, etc.)?

2.2.2 Economic Performance Indicators

The EIA should assess the likely impact of the proposed regulation on economic performance of the affected sector(s). The key performance indicators to be considered include:

- Output;
- Employment;
- Investment;
- Productivity;

In each case, the impact should be estimated as the change which can be attributed to the introduction of the regulation. The impact should be estimated as the difference between the “policy-on” and “policy-off” performance over time. The key economic performance questions to be considered are given in Box 2.



Box 2: Key Questions for Economic Performance Indicators

- > What is the likely impact on employment?
- > What is the likely impact on output?
- > What is the likely impact on productivity?
- > What is the likely impact on investment?

2.2.3 Regulatory Cost Burden

One of the aims of RIA is to help reduce the burden of red tape on business and to ensure that regulations do not impose disproportionately heavy costs on enterprises or citizens. Regulatory burden arises from the costs of complying with regulation requirements. There are two components to regulatory costs. Administrative costs are the costs associated with fulfilling the information obligations stemming from the regulation. The second component is compliance costs which are the costs inherent in meeting the aims of the regulation. Thus, if a regulation is introduced to install new safety equipment in factories, the cost of communicating this requirement within a business and of reporting to the public administration on completion is the measure of administrative cost. The cost of replacing the old equipment, purchasing and installing new equipment and training staff in its use, would be the compliance costs. Together, administrative and compliance costs give a measure of total regulatory costs.

In estimating the potential regulatory costs (administrative and compliance) of new regulation, it is important to consult with the businesses that are likely to be affected. Business representatives such as HGK, HOK, HUP and HSZ are likely to be better informed on the potential regulatory costs burden than the government officials responsible for the proposal. The key regulatory costs burden questions to be considered are given in Box 3.

Box 3: Key Questions for Regulatory Costs Burden

- > What will be the impact on enterprise administrative costs?
- > What will be the impact on enterprise compliance costs?
- > What will be the impact on overall regulatory cost burden?

2.2.4 Competitiveness

The impact on competitiveness can be considered at the international and national level. Assessment of the impact on international competitiveness should follow a similar process to economic performance, by analysing the evidence and deriving quantitative/monetised indicators of changes in trade and international investment which can be attributed to the regulatory change. The impact on domestic market structure and competitiveness should begin by estimating the effect on market competition (will it be easier for new firms to enter the market? Will there be less choice for consumers?).

The impact on international and domestic competition should be quantified and expressed in monetary values, wherever possible. The key questions for assessing the impact on competitiveness are shown in Box 4.



Box 4: Key Questions for Competitiveness

- What will be the impact on exports and imports?
- What will be the impact on foreign investment inflows?
- What will be the impact on market entry and barriers to entry?

2.3 Including SMEs in EIA

The potentially damaging effects of poorly designed regulation on SME performance means that policymakers need to give special attention to improving the regulatory environment for small businesses. Since small businesses often face higher compliance costs (as a share of turnover) than do larger businesses, good practice RIA/EIA gives explicit attention to the potential benefits and costs of the proposed regulation for the SME sector. An increasing number of EU Member States include special provisions for assessing the likely effects of regulations on small businesses, particularly micro-enterprises, where the likely negative (and positive) impacts of a proposed regulation on the SME sector are shown separately from the overall assessment of benefits and costs. This is often referred to as a 'SME Test'.¹⁴

2.4 Methodology for EIA for SMEs

The 'SME Test' is incorporated into the EIA methodology by considering the same four issues and set of questions (Box 1–4) with respect to the SME sector(s) affected by the regulation. Typically, the SMEs will be part of the sector(s) analysed in the more general EIA, but there may be indirect impacts on SMEs in other sectors. Particular attention should be given to the likely effects on the micro-enterprises. The key questions for the SME Test are given in Box 5.

Box 5: Key Questions for the SME Test

Description of the SME Sector

- Will the SME sector be affected by the regulation?
- Which parts of the SME sector will be affected?
- What are the main economic characteristics of the affected parts of the SME sector?
- Will the micro-enterprise sub-sector be affected?

Impact on SME Economic Performance

- What is the likely impact on employment?
- What is the likely impact on output?
- What is the likely impact on productivity?
- What is the likely impact on investment?

Impact on SME Regulatory Costs Burden

- What is the likely impact on SME administrative costs?
- What is the likely impact on SME compliance costs?
- What is the likely impact on SME regulatory costs burden?

Impact on SME Competitiveness

- What is the likely impact on exports and imports?
- What is the likely impact on inflow of foreign investment?
- What is the likely impact on market entry and barriers to entry?

¹⁴ Annex 3 discusses the experience and practice of including lighter regulation for SMEs as an objective in RIA, in the UK, Estonia and the European Commission.



Impact on the Micro-enterprise sector

- > Will the exclusion of the micro-enterprise sector significantly reduce the benefits of the regulation?
- > Do the benefits of the regulation to the micro-enterprise sector justify the costs to micro-enterprises?

The results of the EIA for SMEs analysis are used to inform the designers of the regulation in a way that reduces or removes the regulatory cost burden of the proposed regulation on the SME sector, and particularly the micro-enterprise sector.



3. APPLICATION OF EIA FOR SMEs IN MINPO

3.1 RIA in Croatia

The RIA system in Croatia has a number of key features:

- The Government's Legislation Office (GLO) has responsibility for the overall RIA system;
- The Law on Impact Assessment (Official Gazette 90/2011) entered into force in 2012;
- The Regulation on Implementation of RIA (OG 66/12) also entered into force in 2012;
- The RIA Strategy and Action Plan were developed and approved (2012);
- Three RIA Guidelines were prepared for i) GLO ii) Ministries and iii) Stakeholders (2012);
- MINPO was established with specific responsibility for SMEs, including EIA for SMEs (2013).

The RIA Law (2011) and Regulation (2012) set the framework for the RIA system¹⁵, namely:

- RIA is mandatory for the one part of Government's Annual Plan of Normative Activities (defined in the Paragraph 1 of the Article 4 of the RIA Law);
- There are four types of impact assessment (IA): fiscal, economic, environmental and social;
- GLO co-ordinates the implementation of the RIA Law, Regulation, Strategy and Action Plan;
- GLO is responsible for capacity building of civil servants in relation to RIA;
- GLO oversees the whole RIA system (individual initial IAs, as well as the detailed IAs);
- Each of the Expert Bearers has appointed a RIA Co-ordinator;
- Expert Bearers may (but do not have to) establish a RIA Unit;
- The RIA Co-ordinator co-ordinates IAs with initiators of legislation;
- Regulatory Thesis includes a description of the problem and main way to solve it;
- The Initial Impact Assessment gives a more detailed insight into the problem, its main fiscal, economic, environmental and social impacts, as well as a proposal for the normative solution to the problem;
- RIA Statements include an analysis of the current situation, policy options (at least two regulatory and two non-regulatory options, one of them previously proposed in the Initial Assessment), positive and negative impacts and fiscal impact;
- Consultation on Draft of the Proposal of RIA Statement is required, including posting on Expert Bearers' web sites for a period of at least 30 days;
- Competent Bodies must provide opinions within 15 working days of receipt of feedback;
- Public discussions can last between 15 and 30 days, at least one presentation must be carried out (public presentation, round table, etc.);
- The results of consultation, public discussions and any other events must be published by the Expert Bearer (i.e. Expert Bearer must give feedback and publish it on its website);
- RIA Statements are final once the Competent Bodies give a positive opinion and GLO approves them;
- After positive opinions and GLO's approval, the Expert Bearer presents the Final RIA Statement and Proposal of the Regulation to the Government.

The Law, Regulation and Guidelines are not specific on Economic Impact Assessment (EIA) or any of the other prescribed forms of impact assessment. Responsibility for EIA is distributed among Expert Bearers:

- Ministry of Economy (MINGO): focus on EIA for the economy as a whole, including large and/or state owned enterprises;
- Ministry of Labour and Pension System (MRMS): focus on EIA for the labour market in general;
- Ministry of Entrepreneurship and Crafts (MINPO): focus on EIA for SMEs, Crafts and Cooperatives);

¹⁵ Legal frame for RIA Process, as well as legal frame for adoption of Regulation in regular procedure, and all regulations related to this area are shown in Annex 7. Workflows of all processes are defined in Annex 10.



➤ Agency for Protection of Market Competition (AZTN): focus on distortion of market competition.

3.2 Preparation of the Initial Assessment

The Expert Bearers (EB) are required to develop a **Proposal of the Plan of Normative Activities**¹⁶ which contains the proposals of regulations for the next budgetary year. The first step is to prepare a Regulatory Thesis for each proposal and an Initial Assessment is then also prepared for each proposal.

After the completion of the Initial Assessments, the EB prepares its draft Proposal of the Plan of Normative Activities. The draft Proposal of the Plan of Normative Activities is published on the web pages of the EB to inform the public, for a minimum period of 15 days during September. The RIA coordinator may publish contact details for response and invite comments from the public in that period. The draft Proposal of the Plan of Normative Activities may be revised after consideration of comments received from stakeholders. The revised Proposal of the Plan of Normative Activities is sent to the Government Legislation Office (GLO) for comment and approval. GLO analyses the Proposal of the Plan of Normative Activities and may refer the Proposal of the Plan of Normative Activities, Regulatory Thesis and Initial Assessments back to the EB for further development. GLO is responsible for combining the Proposals of the Plan of Normative Activities into the Annual Plan of Normative Activities, a document which merges Proposals of the Plans of Normative Activities of all EBs. This document is then submitted for Government approval.

Each Expert Bearer (EB) is required to prepare an Initial Assessment for each proposal of regulation, by completing the Regulatory Thesis and Initial Assessment Form (see Annex 1). Upon completion of the Regulatory Thesis and Initial Assessment, the EB is required to make a decision on whether the proposal should proceed to the second stage of the RIA process (detailed RIA - i.e. preparation of a RIA Statement). If the Initial Assessment shows that the proposed regulation will have significant impacts, the EB should propose that the regulation proceeds to the detailed RIA (i.e. drafting of the RIA Statement should begin). The proposal is judged to have significant impacts when two or more questions in the Initial Impact Assessment Form (Annex 1) have a positive answer ('Yes'). An exception to this rule is an economic impact. If the initial assessment shows significant economic impact, this impact is a sufficient reason for requiring a detailed RIA (i.e. drafting of the RIA Statement).

Chapter 5 provides a case study showing how the Initial Impact Assessment Form should be prepared for submission to GLO.

3.3 Preparation of the RIA Statement

RIA is implemented for the regulation proposals in the Annual Plan where the Initial Assessment found that the potential impacts were significant and therefore required further analysis. This involves the preparation of a RIA Statement using the RIA Statement Form (Annex 2).

The EB is responsible for preparing a draft RIA Statement. This draft is then made available for public consultation (minimum of 30 days). After the consultation period the EB revises the draft RIA Statement and sends it for the

¹⁶ Definitions of all expressions relevant to RIA process are given in Annexes 8 and 9. Workflows of all processes are defined in Annex 10.
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opinion of the Competent Bodies (CBs). The Competent Bodies are central bodies of the state administration competent for the following areas: economy, health and social care, environmental protection and finance.¹⁷

After receiving comments from the CBs, the EB drafts the Regulation and Statement Proposal which are again made available for public consultation (for a minimum 15 days and up to 30 days). The final Regulation and RIA Statement are then submitted to the GLO. On receiving GLO's approval, the EB submits the Regulation and RIA Statement to the Government of Croatia session. The Regulation Proposal is then sent for adoption by the Croatian Parliament.

3.4 RIA and SME Sector in Croatia

In Croatia, SMEs employ 64.2 per cent of the total labour force and generate 54.6 per cent of total value added.¹⁸ In contrast, there are less than 600 large enterprises, although these account for 35.8 per cent of employment and 45.4 per cent of value added. Micro enterprises are the dominant form of enterprise, accounting for 91 per cent of all SMEs, 38 per cent of SME employment and 31 per cent of SME value added. The National SME Development Strategy for 2013 to 2020 aims to enhance the competitiveness of Croatian SMEs through the implementation of five strategic goals, including the improvement of the business environment.¹⁹

Public policy aimed at improving the business environment for SMEs is focused particularly on reducing the burden of regulations. SMEs are likely to face disproportionately high costs in complying with regulations and it is important to give particular attention to the potential burden that new regulation may place on SME enterprises.²⁰

It is important to apply RIA in such a way that takes into account the likely effects of regulation proposals on small businesses, particularly micro-enterprises. This can be done by the inclusion of a 'SME Test' which rigorously assesses the costs to the SME sector and takes the results into account when drafting the legislation, by introducing lighter compliance requirements for the SMEs and providing exemptions for micro-enterprises.

3.5 Ministry of Entrepreneurship and Crafts (MINPO) and the RIA Process

The Ministry of Entrepreneurship and Crafts is involved in the RIA process in the following ways:

- Preparation of **Regulatory Thesis**
- Preparation of **Initial Assessments** which form part of the Ministry's annual Regulation Plan of activities for the following year;

¹⁷ The Ministry of Social Policy and Youth gives its opinion on the assessment of the social impacts; the Ministry of Environmental Protection and Nature Protection gives its opinion on the assessment of environmental impacts; the Ministry of Finance gives its opinion on the assessment of the financial impact on the statement budget; the Ministry of Economy gives its opinion on the assessment of economic impacts, including financial impacts. In addition, where the Ministry of Economy considers it to be appropriate, it may seek the views of another body with competence in an individual area of the economy: Ministry of Entrepreneurship and Crafts and Ministry of Labour and Pension System.

¹⁸ These data relate to 2011. Source: Improvement of Administrative Efficiency on National Level Project, The Croatian SME Observatory Report, 2013.

¹⁹ The other components of the Strategy are: improvement of economic performance (through investments in R&D, higher degree of innovation, increasing exports, enhancing business networks and associations); improvement of access to finance (broadening the spectrum of financial instruments); promotion of entrepreneurship (support to start-ups, enhancing capacities of business support institutions and geographical distribution to contribute to balanced regional development); improvement of entrepreneurial skills (improvement of management capacities, promotion of lifelong learning of employees and inclusion of more highly educated employees).

²⁰ The regulation burden on SMEs in Croatia is examined in annex 4.



- Preparation of **RIA Statements** for proposals where the Initial Assessment indicated the need for a detailed assessment;
- Providing **Competent Body Opinions** on the likely impacts, particularly on the SME sector, of RIA Statements prepared by other Ministries (Expert Bearers).

In carrying out these RIA responsibilities, MINPO follows the **Regulatory Impact Assessment Guidelines for Civil Servants** (June 2012), prepared by the twinning project implemented in 2012 in GLO. In applying these general guidelines, MINPO²¹ will pay particular attention to:

- Assessment of economic impacts;
- Assessment of impact on SME sector, for forgetting the micro sector.

3.5.1 Preparation of Regulatory Thesis

The Regulatory Thesis is a short, one page statement of the objective of the regulation proposal. It explains the problem that the regulation is intended to solve and describes the expected results of the regulation. The Thesis provides the basis for the Initial Assessment.

3.5.2 Completing the Initial Assessment Form with a Focus on EIA for SMEs

The Initial Assessment is used to support the proposal made in the Regulatory Thesis. The purpose of the Initial Assessment is to establish the reason why the regulation is needed and what kinds of impacts are expected. The GLO Guidelines provide a standard template for presenting the Initial Assessment that is a part of the Regulation on the Implementation of the Regulatory Impact Assessment Process (Official Gazette, No 66/12)²². The Initial Assessment Form is to be found in Annex 1.

In preparing the Initial Assessment, MINPO should give particular attention to showing the economic impacts on the enterprise sector in general, and SMEs in particular. *Section 7 of the Initial Assessment Form should be used to summarise the overall economic impacts and the impacts on the SME sector.*²³ Box 6 provides a format for MINPO to use in completing Section 7 of the Initial Assessment Form.

The information that MINPO provides in Section 7 should explain the ‘yes’ or ‘no’ answer that is given to each question.

Box 6: Format for Use by MINPO in Completing Section 7 of the Initial Assessment Form

Box 6: Format for Use by MINPO in Completing Section 7 of the Initial Assessment Form			
Question 7		YES	NO
7.	7.1 Will the regulation have an effect on the economy and particular economic sectors?		
	7.2 Will the regulation affect the sector’s economic performance (e.g. output, employment, productivity, investment, etc.)?		
	7.3 Will the regulation impose additional regulatory costs on the sector?		
	7.4 Will the regulation affect the sector’s competitiveness?		

²¹ i.e. Thesis, Initial Assessments, RIA Statements and Opinions.

²² http://narodne-novine.nn.hr/clanci/sluzbeni/2012_06_66_1554.html

²³ This is consistent with the **Regulation on the Implementation of the Regulatory Impact Assessment Process**, 1554 (14th June 2012). Article 4 of the Regulation is entitled ‘Expected impacts on the specific economic area and the economy in total’. Article 4 also stipulates that the expected economic impacts should be considered for micro, small, medium and large economic entities.



7.5 Will the SME sector’s economic performance be affected by the regulation?		
7.6 Will the regulation impose additional regulatory costs on SMEs?		
7.7 Will the regulation affect SMEs’ competitiveness?		
7.8 Will the regulation have a significant impact on micro-enterprises?		

3.5.3 Completing the RIA Statement Form with a Focus on EIA for SMEs

If the Initial Assessment establishes that the proposed regulation will cause significant economic impacts or if the answer to at least two other questions is ‘yes’ (significant fiscal, social and/or environmental impact), the proposal will proceed to the second stage of the RIA process, which involves the preparation of a RIA Statement.

The application of EIA at the RIA Statement stage involves assessing the economic benefits and costs of different options (i.e. different ways of fulfilling the objective of the regulation) and the results for each option need to be presented. Economic benefits and costs should be shown separately for the four main economic impact indicators: output, employment, investment and productivity.

The level of detail and quantification in the RIA Statement will be greater than in the Initial Assessment. The resources committed to the analysis should be related to the importance of the problem that the regulation is intended to solve, but the RIA Statement must provide sufficient information and evidence to allow the policymaker to make a decision of whether the proposal is ‘fit for purpose’.

The results of the EIA for SMEs analysis should be presented in Section 4 of the RIA Statement Form which is a part of the Regulation on the Implementation of the Regulatory Impact Assessment Process.²⁴

Box 7 gives the format for MINPO to use in completing Section 4 of the RIA Statement Form

Box 7: Format for Use by MINPO in Completing Section 4 of the RIA Statement Form
Option 1
<p>Description of Affected Sector(s)</p> <ul style="list-style-type: none"> > Sector/industry affected > Market structure > Employment > Recent/current economic performance <p>Impact on Economic Performance of the Affected Sector(s)</p> <ul style="list-style-type: none"> > Output impact > Employment impact > Investment impact > Productivity impact <p>Impact on Regulatory Costs Burden in Affected Sector(s)</p> <ul style="list-style-type: none"> > Impact on enterprise administrative costs

²⁴ Section 4 also requires information on likely environmental and social impacts which are not covered by the EIA for SMEs analysis.
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<ul style="list-style-type: none">> Impact on enterprise compliance costs> Impact on overall regulatory cost burden <p>Impact on Competitiveness in Affected Sector</p> <ul style="list-style-type: none">> Impact on exports and imports> Impact on inflow of foreign investment> Impact on domestic market competition <p>Impact on SMEs</p> <ul style="list-style-type: none">> Description of Affected SME Sector> Economic Performance> Regulatory Burden> Competitiveness> Micro-enterprise sub-sector
Option 2
The same format as Option 1 should be used for Option 2.
Option 3
The same format as Option 1 should be used for Option 3.

3.5.4 Competent Body Opinion

MINPO is the Competent Body for providing an opinion on RIA Statements prepared by other Expert Bearers, where the RIA Statement contains potential impacts on the SME sector. In commenting on the RIA Statements sent to it as a Competent Body, MINPO should structure their comments around the following topics:

- > Impact on the SME sector's economic performance;
- > Impact on the SME sector's regulatory costs;
- > Impact on the SME sector's competitiveness;
- > Impact on the micro-enterprise sub-sector.



4. CONSULTATION ON EIA FOR SMEs

The assessment of economic benefits and costs involves the gathering, analysis and presentation of relevant quantitative and qualitative evidence. An important source of information will be the results of a consultation process with stakeholders and other interested parties, all of whom can provide useful information and views on the potential impact of the regulation under discussion. This process is known as the Consultation Process.²⁵

4.1 Consultation and RIA

A review of RIA systems throughout the world demonstrates that consultation is part and parcel of an effective RIA system. The reasons are not hard to establish. The process of consultation is essential in developing confidence about the workability of regulatory proposals, combined with ensuring that the various options have been properly considered not just by EBs and CBs, but by those that are typically involved and affected by the issues of concern.

A number of suggestions are typically made in RIA guidelines, as far as consultation is concerned:

- It is a RIA necessity that public bodies proposing new laws and regulations are required to demonstrate that consultation has been carried out with stakeholders / affected parties on the problem definition, the feasible options and the likely impacts of the those options;
- The magnitude of the proposals, in terms of the parties likely to be affected, typically determines who and how to consult. In other words, the consultation process is expected to be more comprehensive if the proposals are significant and likely to have far-reaching impacts;
- It is a requirement for the consultation process to begin as early as possible. This implies that if there is a two-stage RIA system (e.g. Initial and Detailed Assessment), both will require consultation processes;
- In order to obtain quality feedback during the consultation process, it is important to ensure that the consultation is clear, concise and widely accessible;
- Consultation is fundamentally about asking for comments, views and feedback, however, a key part of the process is the necessity for public authorities to respond (i.e. provide feedback) regarding the responses received and how the consultation process may or may not have influenced the law / regulation;
- A critical factor in the whole process is to ensure that there is sufficient time for the stakeholders to discuss and respond to the proposals. The European Union recommends that this should last 12 weeks but at the very least 8 weeks;
- It is widely acknowledged that the consultation part of the RIA process takes time to bed down. It is, therefore, important for Expert Bearers to establish a dedicated RIA Co-ordinator to be in charge of the process across all RIA consultations and to monitor, evaluate and improve the effectiveness of RIA consultation over time.

The above represents a set of general principles in relation to consultation and RIA systems, which combine with other principles, such as those of the European Commission (EC) in relation to RIA, as illustrated in the Box below.

²⁵A second source of evidence will be empirical and statistical data on the general characteristics and performance of the sector(s) that are likely to be affected by the regulation. In this context the BIZimpact II project will provide an EIA for SMEs database with the most relevant and recent data available for Croatia. It will often also be possible to gather useful information from examining the experience of other countries that have faced the same problem.



Box 8: EC RIA Minimum Consultation Standards

Application of the minimum consultation standards advised by the EC:

- Provide consultation documents that are clear, consistent and include all necessary information;
- Consult all relevant target groups;
- Ensure sufficient publicity and choose tools adapted to the target group(s);
- Leave sufficient time for participation [at least 8 to 12 weeks for open consultations and 20 days for meetings];
- Provide — collective or individual — acknowledgement of responses and feedback [on Internet within 15 working days].

Source: EC, Annex III: Annexes to Impact Assessment Guidelines, 2009, pp.14-15)

In this context, the Impact Assessment Manual (2009) produced by the BIZimpact I project is as relevant today in relation to the issue of consultation as it was when first published. The Box below illustrates the Key Principles for an Effective Consultation Process, updated for the latest developments and principles (see “Review of Public Private Dialogue and Recommendations” and “Consultation Arrangements for Economic Impact Assessment for SMEs, BIZimpact II, 2014).

Box 9: Key principles for an effective consultation process

1. **Prepare well** before starting the process.
 - What methods of consultation will be used? How will the stakeholders to be consulted be identified? What resources are required? How will time schedule for consultations be linked to the policy-making / regulatory impact assessment cycle?
2. **Start early** in the policy development process to allow the general public and stakeholders to discuss and examine the preliminary ideas and give early feedback on the plans for the impact assessment.
3. Consultation is not a one-off event, but a **dynamic process involving several steps**. There is no one-size-fits-all solution for consultation processes, but certain minimum standards need to be applied consistently.
4. **Identify and engage with a range of stakeholders**.
 - The term stakeholder refers to an organisation, company or individual who has an interest (or 'stake') in an issue or a decision being taken. Consulting rarely involves a uniform group (as the term 'the general public' implies), but a variety of people/organisations that will have a range of different views and interests.
 - It is important to identify relevant interested parties and those whom the policy will be likely to affect. These groups should be contacted and engaged in discussion as early as possible in the policy development process.
 - Where possible, informal consultation with these stakeholders should be conducted prior to the written consultation process. Not only does this lead to a more informed consultation exercise but it also ensures that stakeholders are engaged early and have a better understanding of the policy.
5. **Publicise the consultation effectively**, making sure that all stakeholders are given **sufficient time** to contribute to the consultation.
6. Select the most **appropriate methods of consultation**.
 - Consultative committees/Expert Groups/Workshops/Roundtables/ad hoc meetings, etc.;
 - Written consultations;
 - Open Hearings/ Public Meetings /Regional Roadshows;
 - Electronic consultation methods;
 - Questionnaires / focus group discussions, etc.
7. Be **clear about the policy proposal** on which you are seeking views.
8. Set a **deadline for written responses** but provide sufficient time for the stakeholders to respond.
9. **Analyse responses carefully and open-mindedly**, distinguishing between evidence and opinions, as well as being careful in drawing conclusions from a small number of responses or narrow range of interests.
 - Particular attention may need to be given to representative bodies, such as business associations, trade unions, voluntary and consumer groups and other organisations representing groups especially affected.
 - In order to ensure that responses are analysed correctly, it is important to understand whom different bodies represent and the methods used to gain members' input into the response.
10. **Acknowledge the responses received and give prompt and comprehensive feedback**. Make sure your stakeholders have access to individual and/or summary of responses report. Provide details of how, who and what was consulted. In the feedback report present



the different positions expressed and if/how these have been taken into account.
Source: based on the Impact Assessment Manual, BIZimpact I, 2009.

4.2 Consultation in the Croatian RIA System

Even before the RIA Law and Regulation were introduced in Croatia, it was widely understood that one of the key goals of the RIA system is to increase transparency by opening RIA process to the stakeholders, interested public and public in general. This is illustrated by the activities of the BIZimpact I project and the Impact Assessment Manual published in 2009 (see Box below).

Box 10: Consultation and RIA

Consultation is a key part of policy-making as well as of Impact Assessment. It involves collecting the views and opinions of relevant and interested parties outside and inside government on policy proposals [...] Effective consultation is a key part of the evidence-based policy-making process. It helps in making better policy decisions since it provides information and evidence on the potential impacts of the policy options. It also contributes to more open government by improving the transparency and accountability of government. More specifically, consultation can:

- Provide wider sources of information, perspectives and potential solutions, and improve the quality of decisions reached;
- Alert policy makers to any concerns and issues that may not be picked up through existing evidence;
- Help to monitor the performance of current policies and whether there is need for change;
- Foster working partnerships between stakeholder groups and the Government in addressing issues and seeking solutions;
- Symbolise the Government's commitment to listening to the public and stakeholder groups when developing policy;
- Help to build public trust in government and the legitimacy of decisions reached.

Source: MINGORP, Impact Assessment Manual, 2009

The "RIA Guidelines for Stakeholders, Public and Interested Parties" was prepared especially by the Government Legislation Office (GLO, 2012) to cover the issue of consultation. It stresses that:

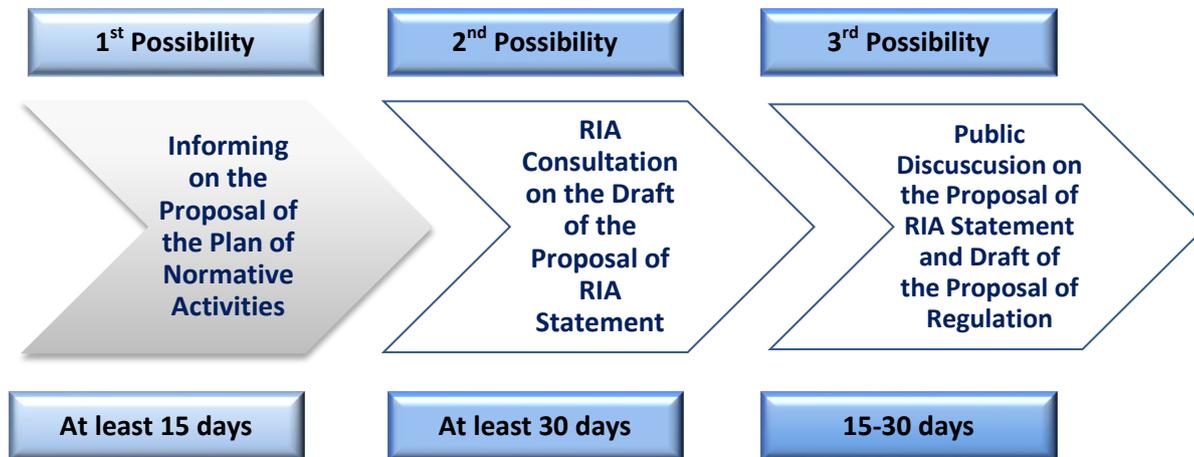
"One of the goals of RIA is to increase transparency by opening the RIA process to the stakeholders, interested public and public in general. Parties that are not state administration and are affected by regulations should have the right to participate in the process of adopting regulations."

The GLO Guidelines for the Stakeholders, Public and Interested Parties (2012) and the GLO Guidelines for the Public Servants (2012) represent the principal sources of guidance for MINPO and its stakeholders. It covers the following themes:

- What is RIA;
- The Legislative Framework for RIA;
- How to get Involved in the RIA Process;
- How to Participate in the RIA Process;
- How to Increase your Influence in the RIA Process.

The GLO Consultation Guidance (2012) highlights three possibilities for the public to participate in the RIA process, as illustrated by the Figure below.

Figure 1: Possibilities for Public Participation in the RIA Process



It is thus evident that consultation is embedded within the Croatian RIA system. Guidance is given for the three main stages, including the recommended number of days that might be involved but it is important to note that the number of days is not the maximum allowed; it is merely guidance on the minimum number of days, however, each Expert Bearer can exceed these, if appropriate. Furthermore, the RIA system is clearly in the early stages of implementation. While the three opportunities for public engagement Croatian RIA system foreseen by the RIA Guidance for Stakeholders are a good basis for further development, some issues are worth noting:

Firstly, a number of issues concern the **Proposal of the Plan of Normative Activities**, which is meant to last a minimum of **15 days during the period of 01-30 September** and to be posted on the relevant Expert Bearers' websites. At this point it is evident from GLO's website²⁶ that 24 Expert Bearers planned legislative changes during the next year. Out of these, 16 of them actually posted the Proposal of the Plan of Normative Activities after GLO's deadline. Expert Bearers are only obliged to publish the title of the regulation, trimester in which they plan to work on the regulation and separate all planned regulations into two lists, namely, the RIA and non-RIA list. Furthermore, since this step is defined as "in order to inform" (RIA Act), Expert Bearers are not obliged to publish contact details for feedback and, should they decide to publish such information, do not have to accept any feedback received or to indeed to respond to such feedback. This Manual therefore provides more specific guidance to MINPO on the above matters, as far as EIA for SMEs is concerned.

Secondly, the fact that the Consultation Guidance (2012) is silent on the Initial IAs is a major weakness. Good practice suggests that **consultation should occur throughout the RIA process**. Indeed, the evidence is the most effective use of consultation when it begins before the initial IA is drafted (i.e. when all the options are still on the table), rather than when the proposed solution exists (i.e. Initial IA) or when the detailed RIA Statement has been prepared (i.e. when the process is approaching the finishing line and the law has been drafted). This Manual provides guidance on this issue, as far as EIA for SMEs is concerned.

Thirdly, each Expert Bearer is free to undertake exercises relating to RIA consultation which are **"over and above" the minimum recommended by the GLO** through the RIA Law and Guidance, but this is currently not the practice. It would appear that all Expert Bearers will need to increase the last two of the three opportunities for consultation to at least 30 days in order to comply with the Law on the Right of Access to Information (25/13). Furthermore, this could theoretically be extended to 8-12 weeks to comply with the EU guidance on consultations (see EC, 2012). This Manual provides guidance on this issue, as far as EIA for SMEs is concerned.

²⁶ http://www.vlada.hr/hr/uredi/ured_za_zakonodavstvo/novosti_i_dogadjanja/prijedlozi_plana_propisa_za_2014_godinu



Fourthly, a significant amount of legislation appears to not be covered by the RIA system and the consultation process at present. In other words, since they are carried out under the **Accelerated or Emergency Procedure** (e.g. in past normally connected to the EU accession process), only the Thesis and Initial IA are drafted but consultation is not carried out. This Manual provides guidance on this issue, as far as EIA for SMEs is concerned.

Fifthly, the GLO Consultation Guidance discusses two additional processes, namely in relation to the consultation on the **Draft of the Proposal of RIA Statement (30 days)** and **public discussions** on Proposal of RIA Statement and Draft of the Proposal of Regulation (**min. 15 to 30 days**). Since MINPO has not carried out any detailed assessments (i.e. has not yet prepared any RIA Statements) and the GLO Consultation Guidance is vague on these matters, this Manual provides guidance on this issue, as far as EIA for SMEs is concerned.

The conclusion is that there is a need to provide more specific guidance on five inter-related themes:

- Procedure for the drafting of **Regulatory Thesis, Initial IA and Proposal of the Plan of Normative Activities**;
- Procedure for Acts involving the **Regular (non-RIA) Procedure**;
- Procedures for **Draft of the Proposal of RIA Statement**;
- Procedures for **Proposal of RIA Statement and Draft of the Proposal of Regulation**;
- **Emergency / Accelerated Procedure** (including EU Directives).

Prior to addressing each of the above, the next section discusses the key consultation tools available to be deployed as part of the EIA for SMEs process.

4.3 Consultation Tools for the SME Sector

MINPO has developed a variety of electronic and other tools for consultation in relation to the SME sector, all of which can be deployed for the EIA for SMEs process. Each of these key tools is discussed below and the links to the EIA for SMEs process are set out.

4.3.1 e-Consultation

The MINPO website includes an e-Consultation page, which is a tool for obtaining feedback from the SME community. The e-Consultation is wider in its reach than the RIA process and its value is particularly noticeable as part of the EIA for SMEs process. It covers all initiatives that affect the SME sector including the following:

- New regulations and legislation (RIA – Initial IA, RIA Statement, etc.);
- New SME policies, strategies, action plans, programmes, projects, etc.

The e-Consultation tool is open to all, such as members of the public, businesses, business associations, NGOs, etc. The e-Consultation tool shows which consultations are open at any point in time, who is responsible for the consultation, the downloadable documents, the deadlines for submission of feedback, the methods for providing feedback, how the feedback will be processed, etc.

Anyone who has an opinion to give in relation to open consultations is free to submit comments, suggestions, alternatives, etc. as long as they register via a simple procedure. There is also the possibility to agree or disagree with the comments made by registered users.

After the deadline for feedback, comments received are acknowledged. Following a pre-determined time (15 days), the policy officer responsible for the consultation responds with individual and group responses.



All MINPO responses on the consultations are highlighted in the website. All closed consultations are also available for viewing, including the feedback received from past consultations.

The e-Consultation process is used for the Proposal of the Plan of Normative Activities, Regulatory Thesis and Initial IA, as well as the RIA Statement stage of the EIA for SMEs process.

4.3.2 Business Test Panel

Unlike the e-Consultation tool, the Business Test Panel (BTP) is exclusively for businesses. This is because the general e-Consultation process often does not attract sufficient feedback from individual enterprises themselves.

The BTP comprises SMEs which agree to provide MINPO with feedback on consultation processes. Only registered SMEs can participate in the BTP and SMEs can deregister at any time, since the process is entirely voluntary.

The value of the BTP lies in the fact that the consultation process can reach all registered SMEs or a targeted subset of registered SMEs directly and obtain feedback of the following nature:

- > Usefulness of the proposal;
- > Costs of the proposal;
- > Benefits of the proposal, etc.

The BTP can be used for both the Initial IA and the RIA Statement stage of the EIA for SMEs process. The feedback obtained is faster and cheaper than using standard methods such as quantitative / qualitative surveys. However, it should be noted that the BTP (just like qualitative methods) is not a statistically representative sample of all SMEs in the country; this is inevitable since it is based on a voluntary process of registration and participation, rather than being based on a statistically representative sample of SMEs.

4.3.3 SME Forum

Following analysis and recommendations by the BIZimpact II (Review of Public Private Dialogue and Recommendations”, BIZimpact II Project, 2013) MINPO is in the process of considering the possibility of establishing a PPD mechanism provisionally called the SME Forum. Although the decision has not yet been made, this development reflects a policy gap in the SME development area, namely that there is currently a lack of dedicated tools for public private dialogue.

Should the SME Forum be established, it would initially focus on national policy, strategy and regulations as far as the SME sector is concerned. It would meet regularly (quarterly basis), prioritise the needs of the SME sector annually and work through working groups coordinated by a Secretariat, to achieve progress on behalf of the SME Sector.

The SME Forum would thus be ideally suited to the consultation aspects of EIA for SMEs.



4.3.4 Enterprise Europe Network

A further consultation tool to be used, especially in the context of EU-related matters such as EU Directives and DG Enterprise initiatives, is the Enterprise Europe Network (EEN), which is designed to assist SMEs to make the most of the European marketplace. Working through a network of 600 member organisations across the EU and beyond, the EEN assists SMEs to develop business in new markets, source new technologies and access EU finance and EU funding. The EEN covers some 50 countries and includes chambers of commerce and industry, technology centres, universities and development agencies. In the case of Croatia, HGK coordinates a network covering Osijek, Rijeka, Split, Varaždin and Zagreb (3 branches).

In the context of new laws and regulations, including stakeholder feedback, the EEN seeks to assist SMEs facing problems doing business in other EU country, finding it difficult to comply with EU law, etc. but its focus is principally external, rather than internal to the country concerned. The European Commission aims to improve its legislation in respect to SMEs by seeking feedback on what impact its legislative proposals and initiatives are having on small businesses.

When drafting laws affecting SMEs, the EC uses the EEN to consult SMEs on cutting red tape and helping them make the most of opportunities in the single market using the following tools:

- **SME Envoy:** seeks to establish a close, direct link between the European Commission, SMEs and their representatives. SME interests and needs can be better identified at an early stage and highlighted to the relevant points of contact, thus ensuring that concerns are taken into consideration and that adequate and efficient measures are implemented and overall the EU and national policy is more SME friendly, with a particular focus on the crafts sector, small businesses and sole traders;
- **SME panels:** these are organised to consult SMEs about forthcoming EU legislation and policies. The EEN partners select suitable SME participants, run the SME panels and provide the EC with the results, which are then used for preparing new legislative or policy proposals;
- **SME feedback mechanism:** allows the EEN partners to collect the views and feedback from SMEs on a broad range of EU policy initiatives, actions, legislation or programmes related to the internal market. Policy areas include the environment, sustainability, employment and social affairs, innovation support, taxation and customs and better regulation and simplification.

4.3.5 Other Forms of Consultation

The use of variety of other forms of consultation, usually physical in nature, is part and parcel of the RIA process. This is both unavoidable since every consultation process needs to be customised to the specificities of its stakeholders. A combination of the following is typically used:

- **Meetings / workshops / roundtables / stakeholder hearings / expert groups / consultative committees / ad hoc meetings / brainstorming:** individuals or groups of stakeholders may be invited to present their views in relation to a particular initiative. These are likely to be used particularly at the initial stage, when the full range of policy options is still being discussed, as it is important to test options and possible costs and benefits, prior to investing time and other resources in finalising the Regulatory Thesis and Initial IA;
- **Working Groups:** these may be set-up, involving public administration and relevant stakeholders representing the SME sector. These may happen as part of the Initial IA but are usually associated with the Proposal of RIA Statement and Draft of the Proposal of Regulation;
- **Public meetings / open hearings / conferences / regional roadshows:** these may be held as part of the process of consulting more widely, possibly connected with regional roadshows to ensure that different parts of the country have the opportunity to present their views on proposals of national importance;



- **Quantitative methods:** these may be undertaken, especially where the impacts are likely to be significant in nature and where the BTP may not be sufficiently statistically robust to be used on its own. These are likely to be associated with the RIA Statement;
- **Qualitative methods:** it is conceivable that other forms of consultation may take place, such as the use of techniques such as focus group discussions. The use of qualitative tools will depend on the specificities of the legislative initiative, resources available, timeframe, etc. These are also likely to be associated with the RIA Statement.

The above is not a comprehensive list of all possible consultation methods but it does highlight a range of options. Since there is no one-size-fits-all solution to the issue of consultation, the range of tools used has to be selected and planned for on a case-by-case basis.

The remainder of this section focuses on providing guidance, in the context of EIA for SMEs, on five inter-related themes:

- Procedure for the drafting of **Regulatory Thesis, Initial IA and Proposal of the Plan of Normative Activities**;
- Procedure for Acts involving the **Regular (non-RIA) Procedure**;
- Procedures for **Draft of the Proposal of RIA Statement**;
- Procedures for **Proposal of RIA Statement and Draft of the Proposal of Regulation**;
- **Emergency / Accelerated Procedure** (including EU Directives).

4.4 Procedures for the Regulatory Thesis and Initial IA

Current Guidelines

The Consultation Guidelines (GLO, 2012) note the following issues in relation to the first opportunity for consultation at the Initial IA and Regulatory Thesis stage:

- The public is to be informed of the **Proposal of the Plan of Normative Activities** by the Expert Bearers to enable the public to understand the planned legislative activities in the forthcoming year;
- The Expert Bearer is obliged to publish only the Proposal but not necessarily any additional documentation (i.e. Regulatory Thesis and Initial IA);
- The Proposal of the Plan of Normative Activities is to be put on the **web pages** of the Expert Bearers;
- **One document with two tables** is put to be up by the Expert Bearers: i) Table of **regulations for which RIA is anticipated** and ii) Table of regulations for which **RIA is not anticipated**;
- The public may submit constructive **proposals, opinions and suggestions** in relation to the list of proposals that Expert Bearers intend to implement, including feedback to the Expert Bearer if a particular regulation is not in the list for RIA and which the public believes that there will be a significant impact in a particular area/sector; however, it is not an obligation for the Expert Bearers to ask for feedback;
- The duration of the consultation is at least **15 days during 01-30th September** of current year for proposals concerning the forthcoming year.

EIA for SMEs Guidelines

The above represents the minimum recommended activity. The preceding analysis (see 4.2 Consultation in the Croatian RIA System) has set out the gaps that currently exist and the need for more specific guidance. As far as the EIA for SMEs process is concerned, the following is the **recommended procedure** for future consultation:



1. Preliminary Meetings/Workshops with Key Stakeholders/Experts (Jan-Aug of preceding year)

Once the MINPO has a clear idea of the problem that needs to be addressed and prior to drafting the Regulatory Thesis or the Initial IA, it will hold either individual meetings or group workshops with the identified key stakeholders/experts. The focus of the meetings/workshops is to:

- Assess the range of possible regulatory and non-regulatory options;
- Assess the likely pros and cons of each of the possible options;
- Assess the level of support among key stakeholders for the possible options;
- Assess the possible costs and benefits of the possible options.

Further meetings/workshops may be held, prior to the drafting and finalising:

- The individual **Regulatory Thesis**;
- The individual **Initial IAs**;
- The **Proposal of the Plan of Normative Activities**;

This will help MINPO be confident that what is being proposed is appropriate and feasible. The key stakeholders/experts will benefit from having been involved at an early stage, prior to policy options being closed-off from further consideration.

MINPO may supplement the above process through the use of the BTP to sound-out the likely costs and benefits of the proposed regulatory or non-regulatory options, prior to the finalisation of the Thesis and Initial IA.

2. Regulatory Thesis and Initial IA (01-30 Sep of the preceding year)

In order to prepare the Initial IA, MINPO will use the **Initial IA template**, modified for the purposes of EIA for SMEs. This will enable the specificity of the SME sector to be considered, as per the guidance provided in Chapter 3 of this Manual.

The Ministry will post the Proposal of the Plan of Normative Activities, which includes the table of regulations for which RIA is not foreseen and the table of regulations for which RIA is foreseen by the 1st September of the preceding year. For all proposed legislation, MINPO will also publish i) the Regulatory Thesis and ii) Initial IA.

In all cases, the following additional information will be posted:

- Period of consultation: minimum of **30 days**, starting on 1st September;
- Deadline: last day of September;
- Contact: name of the consultation coordinator for each consultation, telephone, fax and email address;
- Explanation: overview of what the consultation is about and the specific feedback sought from the consultation;
- Acknowledgement: method of acknowledging feedback received;
- Feedback: nature of individual/group feedback to be sent by the Ministry within **15 days** of the consultation being closed.

Furthermore, MINPO will **inform by email the key relevant stakeholders of the nature, start and end date of the consultation process for each of the topics** covered by the Proposal of the Regulation Plan. This is to overcome the problem that stakeholders may not be aware of the existence of a consultation process.

3. Responding to the Consultation (01-15 Oct of the preceding year)

The MINPO will consider all relevant feedback received, including:



- Whether to change the options / emphasis of the Regulatory Thesis and Initial IA;
- Whether the non-RIA list needs to be revised;
- Whether to add news items / delete items from the Proposal of the Plan of Normative Activities.

Once this process is completed, MINPO will send the required documents to GLO for processing, including the revised Proposal of the Plan of Normative Activities which will be included in GLO's Annual Plan of Normative Activities. Since, the deadline for submission of the Proposal of the Plan of Normative Activities to GLO is 31st October (RIA Guidelines for Civil Servants), MINPO will have a period of two weeks to liaise with GLO and align with GLO's suggestions and requests, if any. Once this is approved and added to GLO's merged Annual Plan of Normative Activities, MINPO will plan the RIA process for the regulations that fall into the RIA list (see GLO, 2012).

4.5 Procedure for Draft of the Proposal of RIA Statement

Current Guidelines

Turning the attention back to the list of regulations for which RIA is required, the Consultation Guidelines (GLO, 2012) note the following in relation to second opportunity for consultation at the RIA Statement stage:

- The Expert Bearer plans the **RIA process** for the regulations that fall into the RIA list in the forthcoming year;
- The second opportunity for public consultation is when the **Draft of the Proposal of RIA Statement** is prepared by the Expert Bearer for each of the regulations for which RIA is required;
- It is **mandatory to publish the Draft of the Proposal of RIA Statement** on the website, including information on implementation of consultation, legal sources, direct and other stakeholders and manner of participation in the consultation process;
- During the consultation, the Expert Bearer is **obliged to conduct at least one public discussion** on the subject of the consultation (e.g. round tables, public presentations, focus groups, etc.);
- The consultation lasts a **minimum of 30 days** but the **Expert Bearer can extend the duration** of consultation, depending on the complexity of the issue being consulted;
- There is an **obligation to publish information on the opinions, proposals and comments** received during the consultation and public discussion processes on the website. It is possible to include other forms of dissemination of information, such as publications, newsletters, etc.

To be clear, no draft Act exists at this second stage of consultation. This is a RIA process concerning the regulations for which RIA is required. According to the RIA Act (2011) it is **mandatory** for the Expert Bearer to create **Draft of the Proposal of RIA Statement, conduct e-consultation and at least one public discussions** (as a minimum), **request feedback over a 30 day period** and **publish the feedback** received during e-consultation and other organised events (public discussion, round tables, etc.). It is also a requirement that Expert Bearer **consult all Competent Bodies** (Finance, Economy, SMEs, Labour and Pension System, Environment and AZTN). This must be done after they update the Draft of the Proposal of RIA Statement. These institutions must submit their opinion within 15 days of receiving all documents. Other stakeholders do not need to be consulted in this process.

EIA for SME Guidelines

However, this general guidance needs to be supplemented in the case of EIA for SMEs as highlighted below.

1. Preparation of the Draft of the Proposal of RIA Statement

In order to prepare the Draft of the Proposal of RIA Statement, MINPO will use the RIA Statement template, modified for the purposes of EIA for SMEs. This allows the specificity of the SME sector to be considered, as per the guidance provided in Chapter 3 of this Manual.



MINPO should consult the main stakeholders and draft the possible options with them. In completing the RIA Statement template adjusted for the SME sector, it is unavoidable to assess the likely costs and benefits of each possible policy option, prior to making a decision about which to proceed with, as per the discussion in Chapter 3 of this Manual. Use of the following is foreseen:

- Business Test Panel: obtain likely costs and benefits information directly from SMEs. These data can be cross-referenced with the EIA Database information, which is more generic in nature;
- Meetings/workshops/focus groups/surveys: to add information and analysis.

2. Consultation of the Draft of the Proposal of RIA Statement

Once the draft RIA Statement has been prepared, highlighting the various possible options, as well as the proposed solution, it is to be put on the MINPO website for consultation:

- E-Consultation: to consult widely using the MINPO website for a minimum of 30 days. The key stakeholders will be informed of the nature, start and deadline of the consultation process, including acknowledgment and feedback.
- Incorporation of the feedback: the MINPO decides what, if anything, requires change, including the possibility that an alternative solution / emphasis may be pursued.

4.6 Procedure for Proposal of RIA Statement and Draft of the Proposal of Regulation

It is only when the Draft of the Proposal of RIA Statement has been prepared, consultation carried out and the feedback incorporated, that the draft becomes the Proposal of RIA Statement and the actual drafting of the Proposal of Regulation begins.

EIA for SME Guidelines

1. Preparation of the Proposal of RIA Statement and Draft of the Proposal of Regulation

This process follows the procedure laid out below, as discussed in the “Consultation Procedure for Acts involving the Regular (non-RIA) Procedure” section, namely:

- Working Groups: to develop the legislation;
- Business Test Panel: to determine possible costs and benefits;
- Meetings/workshops/focus groups/surveys, etc.: to fine tune the Draft of the Proposal of Regulation / Proposal of RIA Statement.

The Proposal of RIA Statement and Draft of the Proposal of Regulation are then sent to the consultation process.

2. Consultation on the Proposal of RIA Statement and Draft of the Proposal of Regulation

- e-Consultation: this will be a minimum of **30 days for simple regulations**. In the case of **complex legislation with significant impacts, this will last a period of 8-12 weeks**, as recommended by the EC. The key stakeholders will be informed of the nature, start and deadline of the consultation process, including acknowledgment and feedback.
- Workshops/conferences/roadshows: the e-Consultation process will need to be supplemented with **public events (20 days’ notice)** such as workshops and conferences so as to ensure wide involvement of stakeholders and allow opportunity for face-to-face contact between the MINPO and stakeholders. Where the draft Act is national in nature and involves significant changes, the assumption is that the MINPO will undertake regional roadshows to ensure awareness and geographical reach.

3. Finalisation of the Proposal of RIA Statement and Draft of the Proposal of Regulation



After the public discussion has been carried out and both documents have been up-dated, they are sent for the opinion to the Competent Bodies (ministries in charge of finance, economy, SMEs, labour and pension system and environment, as well as AZTN) and for GLO approval, in line with the provisions of the RIA Act. Before this step has been done, it is necessary to ensure that the structure and quality of the Proposal of the RIA Statement are free of deficiencies in order to obtain GLO approval. The Control List in the RIA Statement template is included in Annex 7.8 of the GLO Guidelines for Public Servants (2012).

After receipt of positive opinions and approvals, not least those of GLO, the two documents become final; the Final Proposal of the Regulation and the Final RIA Statement.

The Final RIA Statement and the Final Proposal of the Regulation are then sent to the Government's adoption procedure; that is, they are submitted to the sessions of the Government's working bodies.

4.7 Procedure for Acts involving the Regular (non-RIA) Procedure

EIA for SME Guidelines

A certain number of the legislative activities which form part of the non-RIA list of regulations will drop out of the RIA process, but this does not mean that they also drop out of the necessity to consult with stakeholders. The following elements of consultation are anticipated in relation to the draft Acts prepared, regardless of whether the RIA process is followed or not:

- Working Groups to develop the legislation: such working groups should be established as a matter of routine where the legislation / regulation involves significant changes.
- The Working Groups will comprise of i) the MINPO ii) other relevant Ministries iii) relevant stakeholder institutions, which are likely to include HGK, HUP, HOK, HSZ, etc. The exact configuration will depend on the specific nature of the legislation.
- The above will ensure that consultation is built into the process of developing the draft Acts, however, this is not sufficient in terms of the necessary consultation. The above process would be enhanced through other elements, which will vary according to the specificities of the Act in question:
 - Business Test Panel: to determine possible costs and benefits of the policy options.
 - Meetings/workshops/focus groups/surveys: to add information and analysis.

Once the draft is ready, the following must be undertaken:

- E-Consultation: this will be a minimum of **30 days for simple regulations and 8 to 12 weeks for significant regulations**. The key stakeholders will be informed of the nature, start and deadline of the consultation process, including acknowledgment and feedback.
- Workshops/conferences/roadshows: the e-Consultation process will need to be supplemented with **public events (20 days' notice)** such as workshops and conferences so as to ensure as wide an involvement of stakeholders as possible, allowing the opportunity for face-to-face contact between the MINPO and stakeholders. Where the draft Act is national in nature and involves significant changes, the assumption is that the MINPO will undertake regional roadshows to ensure awareness and geographical reach.

4.8 Emergency / Accelerated Procedure (including EU Directives)

The RIA Act also covers the issue of urgent or accelerated procedures; EC Directives typically tend to fall under this category. In particular, the RIA Act refers to this scenario:

- **Regulation not subject to RIA procedures:** "In the case of a regulation proposed for adoption in an urgent procedure, which is not subject to regulatory impact assessment under Article 11, paragraph 1, of this Act nor paragraph 2, subparagraph 1 of this Article, *it is obligatory to prepare an initial assessment in accordance with*



the stipulated form. The initial assessment shall be enclosed with the draft proposal of the regulation which is also the final proposal of the regulation. This provision shall apply except in the case of urgent adoption of regulations for immediate elimination of the threat of damage.” (2012, Article 13, 4).

It is clear from the above, that an Initial IA must be carried out, even in the case of regulations prepared under the urgent or accelerated procedures. The only exception to this provision is the case of urgent adoption of regulations for immediate elimination of the threat of damage. The Box below illustrates the general principles involved in applying RIA to EC Directives.

Box 11: Applying RIA to EC Directives

EU Regulations: EU Regulations differ from Directives and other EU legislation in that they apply directly in all Member States and supersede any conflicting national laws. The RIA for a Regulation, therefore, need not examine alternative options. It should, however, assess the impacts of introducing the legislation, so that Ministries and other stakeholders are fully aware of them, and can take any necessary action to prepare for the change.

Minimum Requirements of EU legislation: For all other EU legislation it is important to identify the minimum requirements. Implementation options which go beyond these minimum requirements would not normally be chosen unless there are exceptional circumstances, in which case they should be justified by a cost-benefit analysis and extensive consultation with stakeholders.

Flexibility in implementation: Many EU Directives contain both prescriptive elements and aspects giving flexibility. The RIA should identify what degree of flexibility exists, and how this relates to Croatian policy goals. The impact assessment should work out an optimum solution which achieves the objectives of the Directive in a way which is the most consistent with government objectives and the least burdensome for stakeholders.

Clarity of meaning: If the meaning of a Directive is not clear this should be pointed out in the RIA. A choice will have to be made between leaving the wording ambiguous or elaborating on it. If the provisions of a Directive are ambiguous, leaving the wording unchanged reduces the risk of legal challenges. However, this can merely serve to transfer the risk to business. Where there is doubt about the precise legal obligation, the RIA should assess the risks, costs and benefits of each option, covering their economic, social, environmental and legal aspects. The solution chosen should be the best option consistent with the need to minimise the burdens on stakeholders, allowing for associated risks.

Streamlining existing legislation: European legislation often covers the same ground as existing national legislation, often in different ways and to a varying extent. This creates the danger of overlaps and contradictions. To avoid this, the RIA may need to examine carefully the whole area of legislation in the area covered by the Directive. EU legislation should not be regarded as an add-on, but as an opportunity to streamline the existing legislation and create a single coherent regulatory regime that is up-to-date and consistent with EU norms. This may entail repealing or revoking the existing legislation and its administrative structures, and starting afresh with a new regime. When the existing legislation and administrative structures have become highly complex through their evolution over time, fundamental reform can be highly beneficial in terms of both cost saving and effectiveness. The RIA should assess the potential costs and benefits of taking this approach.

Using RIAs by EC and other countries: Most EU Directives issued since 2002 will have had an RIA under the EC’s own RIA procedures. This will have examined impacts more generally at the EU level, but is likely to include information that is relevant to Croatia. RIAs carried out by Member States in transposing the legislation may also contain useful ideas and information. It may also be valuable to contact counterparts in Member States and other candidate countries to find out how they have dealt with the issues. Particularly useful guidance may be obtained from the Network of EU Environmental Lawyers and the Network of Heads of European Environment Protection Agencies.

Source: UK (2007) Department for Business, Enterprise and Regulatory Reform (BERR) Transposition Guide: how to implement European directives effectively

EIA for SME Guidelines

The European Commission’s consultation process is not normally limited to national governments. It typically involves individuals / experts / firms /organisations, etc., although submissions covering all 28 Member States



inevitably carry most weight. Nevertheless, it may be appropriate, indeed critical, for MINPO to consult with relevant SME stakeholders, thus developing a Croatian perspective or position in relation to particular EU regulations (as well as programmes, initiatives, etc.).

The Enterprise Europe Network (EEN) is the starting point, since it deploys a variety of consultation tools that focus on the SME sector and which are designed to influence EC processes:

- SME Envoy: seeks to establish a close, direct link between the European Commission, SMEs and their representatives. SME interests and needs can be better identified at an early stage and highlighted to the relevant points of contact, thus ensuring that concerns are taken into consideration and that adequate and efficient measures are implemented and overall the EU and national policy is more SME friendly, with a particular focus on the crafts sector, small businesses and sole traders;
- SME panels: these are organised to consult SMEs about forthcoming EU legislation and policies. The EEN partners select suitable SME participants, run the SME panels and provide the EC with the results, which are then used for preparing new legislative or policy proposals;
- SME feedback mechanism: allows the EEN partners to collect the views and feedback from SMEs on a broad range of EU policy initiatives, actions, legislation or programmes related to the internal market. Policy areas include the environment, sustainability, employment and social affairs, innovation support, taxation and customs and better regulation and simplification.

The Croatian Chamber of Economy (HGK) is responsible for the EEN in Croatia and its network covers the following locations: Osijek, Rijeka, Split, Varaždin and Zagreb (3 branches).



5. CASE STUDY 1: INITIAL ASSESSMENT FOR PROVISION OF FUNERAL SERVICES IN CROATIA

5.1 Introduction to the Case Study

The aim of this case study is to show how an Expert Bearer responsible for drafting regulations should complete the Initial Assessment for a regulation proposal. The case study is intended particularly for MINPO staff, and focuses on the use of the EIA for SMEs methodology discussed in chapter 3. The case study uses the format of the Initial Assessment template.

5.2 Instructions for MINPO Staff for Preparing the Initial Impact Assessment Form

The **Economic Impact Assessment (EIA) for Small and Medium Enterprises (SMEs) Manual (BIZimpact, 2014)** provides detailed guidance on how to apply economic impact assessment as part of the general RIA process, and in particular, how to use EIA to assess the impacts on the SME sector.

The Initial Assessment is used to support the proposal made in the Regulatory Thesis. The purpose of the Initial Assessment is to establish the reason why the regulation is needed and what kinds of impacts are expected. It should give a description of the problem and provide at least two possible solutions – to change the situation with a non-normative solution (i.e. without changes in legislation) and a normative solution (i.e. change in the law or regulation).

The GLO Guidelines provide a standard template for presenting the Initial Assessment (**GOC Regulation on the Implementation of the Regulatory Impact Assessment Process**, 1554, June 2012, Annex 1).

In preparing the Initial Assessment, MINPO should give particular attention to showing the economic impacts on the enterprise sector in general, and SMEs in particular. *Section 7 of the Initial Assessment Form should be used to summarise the overall economic impacts and the impacts on the SME sector.* The format for MINPO to use in completing Section 7 of the Initial Assessment Form is shown below. The information that MINPO provides in Section 7 should provide an explanation for the ‘yes’ or ‘no’ answers that are given to the questions.

Format for Use by MINPO in Completing Section 7 of the Initial Assessment Form			
Question 7		YES	NO
7.	7.1 Will the regulation have an effect on the economy and particular economic sectors?		
	7.2 Will the regulation affect the sector’s economic performance (e.g. output, employment, productivity, investment)?		
	7.3 Will the regulation impose additional regulatory costs on the sector?		
	7.4 Will the regulation affect the sector’s competitiveness?		
	7.5 Will the SME sector’s economic performance be affected by the regulation?		
	7.6 Will the regulation impose additional regulatory costs on SMEs?		
	7.7 Will the regulation affect the SMEs’ competitiveness?		



	7.8 Will the regulation have a significant impact on micro enterprises?		
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According to the GLO Guidelines, if the answer given to question 7 or at least two other questions (8-12) in the Initial Assessment Form is 'YES', the Expert Bearer should proceed with the preparation of the RIA Statement.

5.3 Initial Assessment Form for Provision of Funeral Services

THE INITIAL ASSESSMENT FORM

MINISTRY OF ENTREPRENEURSHIP AND CRAFTS

INITIAL ASSESSMENT FOR ACT ON FUNERAL SERVICES

[Location, date]

This Form is to be used during the process of preparing the Initial Assessment to establish the needs for the realisation of the regulatory impact assessment (RIA) process. If the answer to question 7 is YES, a RIA is required. If the answers to questions 8-12 include at least two YES responses, a RIA is also required.

Number	Please answer the questions briefly, clearly and concisely:
1.	<p>Describe briefly the problem which is planned to be solved by the normative solution (this should be part of the Regulatory thesis):</p> <p>The growth of the private market for supply of funeral services as an economic activity is constrained by the requirement to obtain a concession or contract from the local administration to transport the deceased from the place of death to the morgue at the cemetery or crematorium. The concession granted to a private enterprise is defined in terms of transportation within, into and out of the boundaries of the local administration that grants the concession.</p> <p>Description of the Problem</p> <p>Communal services are defined in Law on the Communal Economy (Official Gazette 36/95, 21/96, 70/97, 128/99, 57/2000, 129/2000, 59/01, 150/02, 26/03, 82/04, 178/04, 38/09, 79/09, 49/11, 144/12) as (1) maintenance of cemeteries and crematoriums and (2) transport of deceased (Article 3). Transportation of deceased is defined as collection of deceased from point of death to the morgue at the cemetery or crematorium.</p> <p>Article 4 states that communal services can be provided by: (1) companies established by the local administration (2) public institution established by a unit of the local administration (3) separate plant established by local administration (4) legal and physical person on the basis of concession (5) legal or physical person on the basis of contract for providing communal activities.</p> <p><i>Funeral services</i> can be defined as an economic activity to include all activities involved in the organisation of a funeral, including arranging for the burial or cremation, the preparation of deceased person and transport of the body to the morgue at the cemetery or crematorium.</p>



Private sector funeral services are provided by private enterprises and by physical persons (crafts). An enterprise wishing to supply funeral services would be required to register in a Court Register. This involves registering a unique company name, indicating the company's business activity, giving the company's office address, and listing the names of persons representing the company. The company's business activity is entered in a court register with an activity code as specified in the National Classification of Economic Activities (for funeral services the NACE code is 96.03). An application for company registration must also be accompanied by certificates from the Tax Administration, Croatian Pension Insurance Institute and Croatian Institute for Health Insurance evidencing that the company founder has no overdue liabilities.

A physical person ('craftsperson') wishing to supply funeral services would be required to register with the respective County Office or the City of Zagreb Office. Any craftsman whose annual revenue exceeds HRK 2,000,000 may be entered in the court register as a sole trader. A craftsman whose yearly revenue exceeds HRK 15 million is required to apply for entry into a court register as a sole trader. The Register of Crafts is held in MINPO; HOK also has a register, the Book of Crafts.

Legal or physical persons that have registered to perform funeral services as an economic activity must also obtain a local authority concession if they wish to include transport of the deceased in the funeral services they offer to customers. To qualify for a concession the private enterprise must meet various criteria: registration certificate, good character, price list for services to be offered, ownership or leasing of hearse(s), financial capacity, provision of 24 hour service, installation of cooling room in funeral room premises, compliance with health, safety and environment regulations. Concessions can be granted for up to 30 years, but most concessions are for 5 - 10 years. Concessions (which are related to the transport of the deceased) are limited to the geographical area covered by the local administration that grants the concession.

Under the current definition of communal services, local administrations can also provide the full range of funeral services, including transport of the deceased from the place of death to the morgue at the cemetery or crematorium, in addition to the maintenance of cemeteries and crematoria. Local administrations do not require a concession to perform funeral services and they can provide transportation services throughout Croatia. Local authorities performing funeral services are not required to comply with the criteria applied to private sector enterprises that apply for a concession.

The use of concessions to regulate the market of funeral services acts a constraint on market competition and growth:

- The need to obtain a concession and the limited time duration of the concession awarded create uncertainty which discourages investment by existing firms and deters new enterprises from entering the market;
- Delays or refusal to grant concessions and limits in the number of concessions awarded create uncertainty and constrain the development of the market;
- There is a conflict of interest where Local Administrations award concession contracts to private enterprises and also own companies that provide competing funeral services;
- The geographical limitation in concessions given to the private enterprises restricts competition and prevents development of a national market;
- Lack of transparency in the costing of local authority owned enterprises creates the potential for



	cross subsidisation and below full cost pricing for funeral services.
2.	Describe briefly what is the goal which is to be achieved by the normative solution (this should be part of the Regulatory thesis):
	The goal (objective) is to remove the existing distortions in the market for funeral services caused by the need for private enterprises to obtain a concession for transporting the deceased from the place of death to the morgue at the cemetery or crematorium. This requires a new definition of funeral services as an economic activity that includes transport of the deceased.
3.	List the target group(s) currently affected by this problem, as well as potential target groups that might be affected by this problem in the future. (For example: economic subjects, civil society organisations, consumers, charities, retired people, young people, socially sensitive groups and similar).
	<ul style="list-style-type: none"> ➤ Association of Local Administrations; ➤ Croatian Association of Undertakers; ➤ Consumer Interest Group; ➤ Competition Commission; ➤ Croatian Agency for Small Enterprise and Investment (HAMAG INVEST) ; ➤ Croatian Chamber of Economy (HGK); ➤ Croatian Chamber of Trade and Crafts (HOK); ➤ Croatian Association of Employers (HUP), etc.
4.	Explain briefly the normative solution (this should be part of the Regulatory thesis) and establish one non-normative solution which could also achieve the goal. (Examples of non-normative solutions: education and information, agreements between associations, industries, voluntary codes of associations and other interest groups, voluntary agreements of market representatives, standards, and similar).

a) Description of the Sector

Funeral services are major, if infrequent, item of consumer expenditure. The average cost of a funeral in Croatia is in excess of HRK 10,000, which is equivalent to two months average net salary in 2011. With around 51,000 deaths occurring each year, the gross sales value of funeral services can be estimated to be HGK 510m.

The majority of private funeral service providers are registered as crafts, and with the exception of large crafts with an annual turnover in excess of HRK 220.000, are not included in FINA data. The FINA data for registered companies show 83 enterprises registered for the provision of funeral services, almost all of which are micro enterprises employing less than ten persons. The average size of micro enterprises in this sector is 2.5 employees.

There are only 17 state-owned funeral services companies recorded in FINA data for 2012. This suggests that the majority of local administrations provide funeral services through an internal division or unit rather than establishing a registered company. As a result, their financial accounts are subsumed within the local administration's general accounts

b) Proposed solutions

1. **Introduce a new Law on Funeral Services** (Normative)
2. **Voluntary Agreement by Local Authorities to remove geographical restrictions from concessions** (Non-Normative)

Preliminary Assessment of Options and Selection of Preferred Option



1. Introduce a new Law on Funeral Services

It is proposed that the funeral services be defined as an economic activity that includes the transport of the deceased to the morgue at the cemetery or crematorium. The new Law on Funeral Services would allow funeral services to be provided by any legal entity or physical person that is registered with a Court or Crafts Register and has obtained a licence to perform funeral services. Local Authorities providing funeral services would also be required to obtain a licence to perform funeral services.

2. Voluntary Agreement by Local Authorities to remove geographical restrictions from concessions

The main benefit of this option would be to allow private suppliers of funeral services who hold a concession, to offer services throughout Croatia (in the same way as the local authority companies can operate without having a concession). This would increase the competitive pressure on private and local enterprises and provide consumers with greater choice.

The other economic costs of the concession scheme would remain if this option was adopted. The implementation of this option would require the agreement of all 556 town and municipalities to grant recognition to every other authority's concession granted to a private funeral services enterprise.

5.	<p>Define the timeframe for the solution to the problem and achievement of the defined goal and briefly explain possible the obstacles and the risks in the solution of the problem. (For example: required financial resources, available resources, coordination of the relevant bodies in the implementation stage, alternatives proposed by different target group(s) to solving the regulation problems , stakeholders, lack of stakeholders' support, lack of harmonisation in the legislation, additional administrative procedures, IT support and similar)</p>
	<p>The time required for a solution to the problem will be determined by the date of enactment of the proposal legislative change. Subject to GLO approval, the proposal will be adopted as part of the Annual Plan for the next budgetary year. Possible risks and obstacles are that the economies of scale to existing providers and continuation of subsidising of state owned funeral parlours will prevent significant new market entrance.</p>

Please answer with »YES« or »NO« to the following questions. Answers must be written concisely.		YES	NO
6.	<p>Does the normative solution (this should be part of the Regulatory thesis) require a change in the current legislation? If »YES«, list current legislation which will have to be changed which is directly related to the goal, including subordinate legislation. If an obligation to harmonize the Croatian legislation with the EU legislation exists in that area or if an obligation to implementation an international contract for the Republic of Croatia exists, list the regulation which must be adopted.</p>		NO
	<p>The normative solution does not require a change in the current legislation. The proposed solution requires the introduction of a new Law on Funeral Services. The principle of <i>lex specialis</i> (i.e. more specific law overrides more general law) would apply to the new law and there would be no need to change existing Act on Communal Economy (or any other regulation).</p>		
7.	<p>Will the listed normative solution have a significant economic impact in at least one sector/area and, if so, which? Does it affect marker competition? Briefly list the kinds of economic impacts are expected. (For example: greater financial burden for economic subjects caused by costs of compliance with the legislation and standards, higher operational costs, barriers to accessing credit, etc.)</p>	YES	



7.1 Will the regulation have an effect on the economy and particular economic sectors?

The regulation will have an impact on the funeral services sector. The removal of the requirement for private enterprises to have a local authority concession for the transport of the deceased will allow private enterprises to compete in the national market. This will increase market competition and will attract new investment and innovation in the sector. Existing private enterprises and public authority enterprises will face increased competition from new market entrants. Consumers are likely to gain from a wider choice of service providers, improvements in the quality of service provided and competitive pricing.

7.2 Will the normative solution affect the sector's economic performance (output, employment, productivity, investment)?

The output of the funeral services sector is determined by the annual number of deaths in Croatia. The normative solution therefore will not affect the level of *output* of funeral services. However, the creation of a national market in which enterprises compete under the same conditions, will allow enterprises to expand and benefit from economies of scale. This will result in *productivity* gains. New firms entering the market will allow investment and innovation to grow. Existing enterprises will increase *investment* in upgrading their technical equipment and facilities in response to growing competitive pressure. Funeral services are predominately a personal service and *employment* in the sector is unlikely to be significantly affected.

7.3 Will the normative solution impose additional regulatory costs on the sector?

The removal of the need to obtain a concession is likely to have an impact on private enterprises' administrative costs burden since they will not have concession costs. Local administration companies will incur the additional costs associated with special requirements.

7.4 Will the normative solution affect the sector's competitiveness?

Market competition will increase as a result of the removal of concessions. Greater market competition will induce business competitiveness which will benefit consumers in the prices and quality of services offered.

7.5 Will the SME sector's economic performance be affected by the normative solution?

SMEs will face increased competition from new market entrants. At the same time, they will be in a stronger position to compete in the local market with local authority enterprises. Over time, there may be an increase in average size of enterprise, as existing SMEs increase their market share through merger and acquisitions.

7.6 Will the normative solution impose additional regulatory costs on SMEs?

SMEs are expected to benefit from a small reduction in their administrative costs as a result of the removal of the requirement to acquire a concession.

7.7 Will the regulation affect the SMEs' competitiveness?

SMEs will face increased competition after the removal of concessions. This will require SMEs to increase their competitiveness.



	7.8 Will the regulation have a significant impact on micro-enterprises? The regulation will have a significant positive impact on micro-enterprises		
8.	Will the listed normative solution have an impact on the state budget, local and regional self-governments' budgets? Briefly list what kinds of impacts are expected. (For example: need for additional resources in the budgets for implementation of the regulation, resources for training and educating officials in relation to new competences / jurisdictions, assurance of transfers, assurance of grants, resources for new administrative procedures and similar)	YES	
	There will be a positive impact on local authority budgets in the savings in salary costs that were incurred in administering the award of concessions for funeral transportation services and negative impacts incurred by termination of concessions.		
9.	Will the listed normative solution have a significant impact on socially sensitive groups, social status of citizens, interest groups in society or society as a whole? Briefly list what kinds of impacts are expected. (For example: social rights of citizens, change in fees, purchasing power, social inclusion, protection of special groups, gender equality and similar)		NO
	Listed normative solution will not have a significant impact on socially sensitive groups, social status of citizens, interest groups in society or society as a whole.		
10.	Will the listed normative solution have a significant impact on the environment, sustainable development and to people's health? Briefly list what kinds of impacts are expected. (For example: impact on emission of glasshouse gases, forests, waste management, flora and fauna, water protection, soil protection, cultural heritage and similar)		NO
	These potential impacts are covered by existing regulations for funeral services (as a part of the Act on Communal Economy).		
11.	Will the listed normative solution require implementation of administrative procedures in relation to the target groups and with which goal? Will the listed solution increase administrative burdens of doing business? Briefly list what kinds of impacts are expected. (For example: authorisations; definition of rights and/or commitments by special administrative document; administrative/inspection monitoring; licences, decisions, approvals; increase or implementation of new administrative tariffs; changes in administrative procedures and similar)		NO
	The removal of concessions will simplify administrative procedures and will reduce the administrative costs incurred by local administrations. The existing administrative costs of issuing permits and licences for funeral services (including transportation) will not be affected by the adoption of the normative solution. The existing costs of inspection and enforcement will not be affected by the adoption of the normative solution. The adoption of the normative solution is expected to result in a reduction in administrative cost burden on private enterprises, and SMEs in particular.		
12.	To achieve the goal, will there be a need to connect the work of one or more national state bodies, as well as bodies of local and regional self-government? Briefly list the bodies which are expected to be connected to achieve the goal.		NO
	County Offices will have the additional work associated with the issue of licences. At the same time,		



	local administration offices will have a reduction in administrative work (i.e. task will only be reallocated from one body to another).		
13.	<p>Did the same problem exist in EU or other countries and how was it solved in their legislation? (For example: promotion of SMEs; different solutions for disposal of packaging flexible labour legislation; part time work; simplification of administrative procedures; solution to transportation of risky materials; reduction of people suffering from malignant diseases; juvenile delinquency and similar)</p>	YES	
	<p>The proposed normative solution would be similar to UK practice for regulation of the supply of funeral services. Any registered enterprise is allowed to supply funeral services, provided it has obtained the necessary permits relating to physical premises, health and safety and environmental regulations. There is legislation on the registration of deaths and on burial and cremation procedures. The Ministry of Justice has issued guidelines for undertakers on compliance with the regulations on burial and cremation.</p> <p>The conduct and professionalism of the sector is self-regulated. The majority of funeral service companies belong to the National Association of Funeral Directors (NAFD). Members of the NAFD adhere to a voluntary code of conduct and comply with a complaints and compensation procedure administered by the NAFD.</p>		



6. CASE STUDY 2: IMPACT ASSESSMENT OF THE PROHIBITION OF SALE OF TOBACCO FROM VENDING MACHINES (UK)

6.1 Introduction to the Case Study

The purpose of this case study is to show how economic impact assessment (EIA) can be applied as part of the more general RIA process, giving particular attention to the impact on the small and medium enterprise (SME) sector. The case study is based on a RIA prepared by the UK Department of Health.

The case study shows:

- How to estimate economic values for impacts that do not have a market price (for example, the impact on people's health);
- How to apply discounting and calculate net present value;
- How to assess the impact on SMEs.

6.2 What is the problem under consideration? Why is government intervention necessary?

A significant proportion of young smokers buy cigarettes from vending machines. While, for under-age smokers, this is illegal, it is difficult to enforce the restriction. Government intervention is necessary to prevent the access that young people under the legal age of sale of 18 have to tobacco from this source. The current voluntary code of practice on the siting of cigarette vending machines to prevent underage access has proved to be insufficiently effective in restricting the access young people have to this source of tobacco consumption.

6.3 What are the policy objectives and the intended effects?

The primary policy objective is to reduce smoking uptake, prevalence and/or cigarettes smoked by people under the age of 18, to generate public health benefits.

The policy will also create a more supportive environment for adults who are trying to quit.

6.4 Background

Cigarette vending machines account for 1% of the UK market for tobacco sales. It is illegal to sell tobacco products to those under the age of 18. However, because of their automated and often unsupervised nature, vending machines continue to present a means for under – 18s to purchase tobacco products.

Information from the National Association of Cigarette Machine Operators (NACMO) suggests that 78% of machines are located in public houses, with 10% being located in clubs, 7% in hotels and restaurants, 3% in shops, 1% in bingo halls and 1% elsewhere.

In reflection of the often easy access that young people have to tobacco from vending machines the Government worked with NACMO to develop a code of practice defining the siting arrangements of vending machines. The NACMO code of practice said that a machine should be sited in a monitored, supervised area so that staff can be sure of preventing its use by young people.

Nonetheless, National Statistics survey evidence suggests that vending machines remain a source of tobacco for those aged 11 to 15 despite being comparatively more expensive than cigarettes from retail outlets. The



importance of vending machines as a source of cigarettes for young people has decreased in recent years and they are less common than other sources of tobacco such as purchases from shops and friends.

The other common sources to tobacco for young people are being addressed by other measures such as raising the age of sale, strengthening sanctions against retailers who sell to people under age, increased activity to reduce the availability of illicit tobacco, enforcement activity by local authorities and through effective media communications campaigns.

Tackling tobacco use is a public health priority for the Government. Tobacco smoking is proven to cause serious harm to the health of the smoker. It also poses significant externalities to the rest of society. Smoking prevalence is higher among routine and manual groups. Treating smoking related diseases is estimated to cost the National Health Service £2.7bn per annum. In 2008/09, nearly half a million hospital admissions in England among adults over 35 were attributable to smoking (5% of all hospital admissions).

Young people are uniquely vulnerable consumers, as they do not always have the capacity to make informed decisions, and society generally recognises this by providing greater protection to children than to adults. The National Statistics Household Survey estimates that around two-thirds of smokers started smoking before turning 18. In England, an estimate 200,000 young people aged 11-15 regularly smoke.

Government intervention is justified to prevent young people from accessing tobacco. The Government believes that children can far too easily access tobacco from vending machines, and that action is necessary to prevent this. After being in place for over ten years, the current voluntary code of practice on the siting of tobacco machines to prevent underage access has proved insufficiently effective in restricting the access young people have to this source of tobacco.

Data collected from local authorities on test purchasing from vending machines shows that illegal sales to under 18s were made at the majority (58%) of vending machines tested across England. The survey also found that 26% of vending machines were located in unsupervised areas.

6.5 Policy Options

Option 1: Do Nothing, maintaining the voluntary code of practice on the siting of vending machines.

Option 2: Prohibit the sale of tobacco from vending machines.

Option 3: Strengthen the voluntary code of practice on the siting of vending machines.

6.5.1 Option 2: Impacts, costs and benefits of prohibiting the sale of tobacco from vending machines

6.5.1.1 Costs

The one-off cost of option 2 to vending machine companies is calculated as the total value of the machines currently in use in England. The rationale is that the value of an asset is equivalent to the expected future profit stream of that asset. There are an estimated 58,000 machines in England. A search of the market for second hand vending machines and research on the internet provided evidence that the value of second hand machines was £375. Based on this information, a one-of cost of £21.7m is estimated.



Additionally, the cost of disposal of cigarette vending machines will be incurred. The cost of disposal of a vending machine is estimated to be £27. Therefore, a total one-off cost of £23 million is estimated.

Although they represent a small proportion of tobacco sales, if purchases from cigarette vending machines are not fully offset by an increase in cigarette sales elsewhere, this will result in a revenue loss to the Exchequer. Duty revenue is a transfer of benefit from tobacco consumers to the community (the Exchequer). However, as consumers are assumed to buy less tobacco as a result of the removal of vending machines, lost revenue is treated as an economic cost in this assessment. There is uncertainty over how much demand will be diverted to other sources, so a range of estimates consistent with the benefits calculation is presented here. Assuming that 25% to 75% of vending machine sales are not offset elsewhere, the impact on the Exchequer as a result of this policy option is £19m per annum to £57m per annum (undiscounted).

This option would result in lost utility to legitimate cigarette machine users since cigarette vending machines are a convenience for which some consumers are willing to pay. The total number of packs consumed by adults from vending machines equated to 22m. It is difficult to place a monetary value on the loss of utility since there is no market evidence on the scale of this loss. It is assumed that £1 is a reasonable additional payment that smokers would, on average, not regret paying for access to cigarettes from a vending machine over and above the purchase price; this additional payment would represent lost utility (willingness to pay). Using £1 per packet as a proxy for the lost consumer surplus gives an annual cost to adult consumers of £22m per annum (undiscounted).

Overall, the costs of option 2 include a one-off cost of £23million plus the annual tax revenue loss (£19m-£57m) plus the consumer surplus loss (£22m). This gives a total cost (in year 0) of between £64m and £102m with a central estimate of 83m (Table 5.1)²⁷.

Table 6.1: Total Costs (£m, year 0)

	Minimum	Central	Maximum
Tax Revenue Loss	19	38	57
Consumer Surplus Loss	22	22	22
One Off Costs	23	23	23
Total	64	83	102

The annual costs are then discounted over 10 years using the standard discount rate of 3.5%. This gives a discounted total cost estimate of between £369 million and £687 million (central estimate £528 million).²⁸

²⁷ The minimum, central and maximum estimates are based on the minimum, central and maximum number of cigarettes not replaced elsewhere.

²⁸ The lower, central and upper estimate are defined by the maximum, central and maximum number of cigarettes sales *not* replaced elsewhere (e.g. 25% sales are not replaced so 75% occur elsewhere instead, resulting in minimum possible reduction in tax revenue). The rationale for these replacement rate percentages is explained in the health benefit section for each group (children and adult quitters respectively). These are based on discounting the estimated duty losses over the 10 year period, then adding to the one-off costs of the legislation and discounted consumer surplus costs.



6.5.1.2 Benefits

Benefits generated by a reduction in smoking by young people

The health benefits of policy option 2, through preventing children from smoking and reducing the number of cigarettes smoked by adults, can be estimated and monetised. This impact assessment aims to estimate the effects of prohibition of vending machines on successive cohorts of 17 year olds and adults.

The following sections explain the methodology for estimating the monetised benefit of smoking one fewer cigarette per day, this is then applied to a possible range of outcomes for the effectiveness of the option in terms of reducing child and adult smoking.

The mortality impact of smoking increases linearly (from zero) for each cigarette smoked per day. It is possible to calculate the number of life-years saved by smoking one fewer cigarette per day from a young age, given that the individual may quit in the future.

The standard £60,000 value per life-year is applied to each²⁹. The results are as follows:

- smoking one fewer cigarette per day from a young age: 0.11 life years gained (£6,600)
- smoking one fewer cigarette per day (average adult): 0.09 life years gained (£5,400).

The best estimate available of current smoking prevalence among 17 year olds is 18%. A 17 year old person is estimated to smoke 10 cigarettes per day. Removal of vending machines as a source of supply is estimated to lead to a reduction of 0.3 cigarettes per day. This average reduction in daily cigarette consumption, if it persists throughout a cohort's life, results in 0.033 life years (0.3 X 0.11) saved per person. Using a birth cohort size of 650,000, 117,000 smokers per year would be affected by the proposed policy. This would result in a saving of 3,861 life years per annum (assuming all young people smoking from vending machines is stopped).

Using the standard quality adjusted life-year value of £60,000 gives an estimated monetised undiscounted annual benefit estimate of £231,660,000 (3861 X £60,000).

Uncertainty about the number of children who will reduce their consumption of tobacco as a result of the removal of vending machines is allowed for by making minimum, maximum and central estimates of benefits. Three estimates are made, based on 25%, 50% and 0% rates of replacement of cigarettes purchased. This gives the estimated annual benefits shown in Table 5.2.

Table 6.2: Benefits to Children (£m, year 0)

	Minimum	Central	Maximum
Benefits to Children	58	116	231

The annual benefits to children are then discounted over 10 years using the standard discount rate of 3.5%. This gives a discounted total benefit estimate of between £460 million and £1378 million (central estimate £918 million).

²⁹ The standard value for life-year is estimated by Government Economic Service.



Benefits generated by a reduction in smoking by adults

Policy option 2 is likely to have a positive impact on adults and it is appropriate to quantify health benefits to those adults who were assisted in their efforts to quit or reduce their consumption. Assuming 50% of adult smokers who use vending machines will not seek a replacement source of cigarettes, there will be a reduction of 0.05 cigarettes smoked by day. Applying the same methodology as used for children, gives an annual undiscounted benefit to adult smokers of between £28m and £84m. (Table 5.3).

Table 6.3: Benefits to Adults (£m, year 0)

	Minimum	Central	Maximum
Benefits to Adults	28	42	83

The annual benefits to adults are then discounted over 10 years using the standard discount rate of 3.5%. This gives a discounted total benefit estimate of between £232m and £696m (central estimate £464m).

Total Benefits to children and adults generated by a reduction in smoking by adults

The total benefits to adults and children for this option over the discounted ten year period of between £691m and £2,074m with the central estimate of £1,383m (i.e. £464m for adults and £919m for children). The central estimates are given in Table 5.4.

Table 6.4: Total Benefits (Present Value, £m)

	Central Estimate
Benefits to Children	918
Benefits to Adults	464
Total Benefits	1 382

Total Net Benefits (Net Present Value)

Table 5.5 summarises the economic benefits and costs and gives estimated net economic benefits of banning cigarette vending machines.

Table 6.5: Net Present Value of Ban on Cigarette Vending Machines

	Benefits (£m)	Costs (£m)	Net Benefits (£m)
Option 2	1,382	528	854

Assumptions and Risks

- Sensitivity analysis shows that even if 90% of young people and adults are successful in finding an alternative source of cigarettes for those originally sourced through vending machines, option 2 will still offer a net benefit over the ten year discounted period;
- Enforcement is assumed to be fully effective;
- Option 1 assumes that the existing levels of smoking by adults and children would not change over the future ten year period.



6.5.2 Option 3: Strengthen the voluntary code of practice on the siting of vending machines

The National Association of Cigarette Vending Machines Operators has proposed a radio frequency control system as a means of providing a greater level of control. In order to operate the machine, the customer would be required to provide proof of age to the premises' staff. Given the failure to fully implement the existing voluntary code, there is no reason to believe that enforcement would be improved by the introduction of the radio frequency control system

6.5.3 Impact on the SME Sector

Consultation

The proposed option will impact upon small businesses as there are costs in complying with the option. The Government has engaged with, and received information and estimates from, representatives of small businesses, including the National Association of Cigarette Machine Operators, which represents small vending machine operators. It has also received consultation responses from them and from individual vending machine operators. A summary of this evidence and information submitted by the National Association of Cigarette Machine Operators is given in section 6.6 below.

There are 60 companies which manufacture and operate tobacco vending machines in the UK. Around 40% of the vending machine operations market is controlled by one company which is a wholly owned subsidiary of Imperial Tobacco, one the world's four largest tobacco companies. The other 60% of the market is divided between around 200 small and medium companies employing less than 600 people. The industry has an annual turnover of £285 million. Tobacco vending machines are manufactured and imported from a small number of companies in Spain and Germany, so losses in profits to vending machine producers are out of scope of the Impact Assessment.

The direct costs on the SME sector include:

- Loss of asset value of vending machines;
- Cost of bringing forward the disposal of these machines;
- Loss to the market for tobacco vending machine operators and producers, in terms of the lost stream of profits and loss of non re-deployment capital (to producers).

The loss of asset value is estimated at £21.7m. This is calculated by multiplying the estimated 57,934 machines by the upper estimate of the value of a second hand machine of £375.

The cost of bringing forward the disposal of these machines is estimated at £27.6 per machine multiplied by 57,934 (total number of vending machines) to give a total cost of £1.8m. The cost of disposal for a vending machine is estimated to be £100. Since the existing machine would be disposed of at some point in the future even if they remained in operation (five years is taken as the average life expectancy of the stock of vending machines), the impact of the ban is restricted to bringing forward these costs. The difference between incurring a cost of £100 now or in five years' time, at a 5% real cost of capital, is £27.6 per machine.

The combined costs are £23m. Annualised over ten years and discounted at 3.5% gives an estimated net present value of £3.0m.

The loss of market for tobacco vending machine operators and producers is estimated by calculating the profit margin on vending machine sales. Revenue can be calculated as the price less customs duty paid to the



Exchequer. On the basis of revenue per pack after duty of £3.03 and sales of 22.5m packs, total annual revenue available to be shared by tobacco companies and vending machine operators is estimate at £68.2m.

Total revenues to the private sector relating to the 60% of the market controlled by independent vending machine operators (SMEs) are given by 60% of £68.2, or £40.9m. From their £40.9m revenue, independent SME vending machine operators must cover the payments to cigarette suppliers, payments to owners of premises where vending machines are sited, and the costs of stocking the vending machines.

After allowing for these costs, the total lost profits to the vending machine operators are estimated to be £68.4 over 10years. Discounting these profits at 3.5% over 10years gives a net present value estimate of 6.8m, Together with the previous figure of £3m for loss of vending machines, the total cost to the SME vending machine operators from the ban on sales of tobacco from vending machines is £9.8 million.

6.6 Summary of Evidence and Information submitted by National Association of Cigarette Machine Operators

"NACMO represents companies who manufacture and operate tobacco vending machines. We have 60 members in the UK. The industry supports 550 jobs and an estimated turnover of £285 million per annum. Our evidence submission refers to proposed power to prohibit or restrict sales from vending machines contained in Clauses 21 and 22 in Chapter 3 of the Bill.

Tobacco Vending Machines account for only 1% of the overall UK market in tobacco sales. NACMO understands that this market share has now if fact dropped to 0.8%. In addition, the Department of Health's own research shows that number of 11 - 15 year old smokers who say that tobacco vending machines are their usual source of cigarettes has declined in recent years, from 24% in 2004 to 17% in 2006. Therefore, the measures proposed in this Bill will proportionally only affect a small part of the smoking population compared to what can be achieved from targeting other sources of tobacco for young people including, and most importantly, the illicit distribution and sale of contraband and counterfeit tobacco, proxy purchasing on behalf of young people, and sales by irresponsible retailers.

The estimated annual benefits of a prohibition on vending machines both fail to assess the number of underage smokers who would successfully find an alternative source of tobacco. Restriction or prohibition will simply drive underage smokers away from the regulated tobacco trade towards the illicit market which does not care who it sells to, what it sells them, and underage smokers will be funding organised crime.

We oppose option 2 in the Impact Assessment: Prohibit the sale of tobacco from vending machines. The Department of Health "*Consultation on the future of tobacco control*" paper, in the regulatory impact investigation, states that the total cost of a ban on tobacco vending machines was an immediate one off cost of £375 per machine (which NACMO believes to be an exceptionally low valuation) followed by an annual cost to the Exchequer for the loss in tobacco duty and associated VAT of £20.9 million. The annual estimated cost to micro and small organisations would be £85,000 each (again being a figure which NACMO believes to be clearly insufficient to compensate those businesses which are forced to close as a result of the Bill being enacted in its present form).



We do not accept that loss of manufacturers profits from reduced tobacco sales would be offset by increased expenditure elsewhere in the economy, as if the regulated vending machine market is prohibited then smokers, especially underage smokers, are as likely to revert to the illicit market which will fail to combat underage smoking, deprive the Exchequer of revenue, and instead help to finance organised crime including smuggling.

The sale of illicit, smuggled and counterfeit tobacco is a significant problem, which is acknowledged by enforcement agencies. While accurate figures as to the volume of illicit sales are difficult to obtain, NACMO, through its members, understands that there continues to be a rise in counterfeit and smuggled tobacco across the UK. HM Revenue & Customs estimates that in 2006/07 the illicit share of the UK tobacco market was between 9% and 17% (mid-point 13%), and the revenue loss associated with the mid-point was £1.7 billion.

We would ultimately prefer the retention of the status quo for the reasons outlined above.

We believe that the most secure form of age restriction mechanism is the use of radio frequency control devices (RF Control) to activate a tobacco vending machine. Given that 99% of cigarette vending machines are located in licensed premises, we envisage that in order to operate the machine, the customer would be required to provide or produce proof of age to the premises' staff.

Providing that the customer's age has been verified as being over the legal age to purchase tobacco, the staff would then use a RF Control system to send a radio frequency signal to the machine, which would activate it and permit a single vend to take place, before the vending machine automatically reverts back to an inactive state. The radio frequency used by the premises and the machine would be a modulating frequency, and therefore not capable of being intercepted or scanned. In recent trials we have found the system works well and is seen by site owners and their customers as helping to bring age verification to the fore in their pub helping them to comply with the law, demonstrating that age verification cigarette vending machines are a safer means of selling cigarettes than over the counter retail sales.

Conclusions:

Tobacco vending machines account for only 0.8% of total tobacco sales and studies have shown that as little as 7.5% of young people state vending machines are their possible source of cigarettes. The cost of cigarettes from vending machines is 36% higher than the shop retail price, and substantially more than the price of illicit tobacco. Young people who simply cannot afford to use cigarette vending machines as their primary source of tobacco. Proxy purchasing, sales by irresponsible retailers, and the sale of contraband or counterfeit tobacco all constitute proportionally greater part of tobacco supply to young people. The proposals in the Bill, in its present form, are, in our opinion, disproportionate to the potential reductions that are assumed to be achievable. However, we believe our proposal for an RF Controlled system for cigarette vending machine would be the most sensible and viable way of proceeding to try to achieve the aim of preventing young people from obtaining tobacco from vending machines. We believe that prohibition of vending machines will inflict disproportionate damage on our industry, and that there is insufficient detail on the financial implications of the Bill on this option."



7. CASE STUDY 3: IMPACT ASSESSMENT OF REGULATION OF USE OF PHOSPHATES IN HOUSEHOLD LAUNDRY DETERGENTS (EC)

7.1 Introduction to the Case Study

The purpose of this case study is to show how EIA for SMEs can be applied as part of the more general RIA process. This case study is based on a report prepared by the European Commission as part of the EC's Impact Assessment procedures. The case study shows how EIA for SMEs can be applied in situations where it is difficult to quantify the economic value of benefits and costs. The study also illustrates how the SME Test can be applied as part of the assessment.

7.2 Background

Phosphates are used in detergents to combat water hardness in order to allow efficient cleaning. Sodium tripolyphosphate (STPP) is the most commonly used phosphate. In conjunction with surfactants, STPP allows detergents to perform efficiently in all washing conditions.

Phosphates from detergents can contribute to certain adverse effects in the aquatic environment. They act as nutrients which, in excess, cause an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms, a phenomenon called eutrophication. Alternative water-softening ingredients are available, but with various performance limitations, particularly for the more demanding cleaning tasks.

Regulation (EC) No 648/2004 on detergents harmonises the placing on the market of detergents, but only with respect to the labelling of detergents and the biodegradability of the surfactants they contain. Nevertheless, in view of concerns about eutrophication, Article 16 of the Regulation also required the Commission to "evaluate, submit a report on and, where justified, present a legislative proposal on the use of phosphates with a view to their gradual phase-out or restriction to specific applications". The Commission presented the report in 2007 and concluded that the state of knowledge concerning the contribution of phosphates in detergents to eutrophication was still incomplete, but was developing rapidly. Further work conducted thereafter has been the basis for this impact assessment report, which analyses a number of policy options to address the use of phosphates in detergents.

7.3 Problem Definition

The use of phosphates

The four main sources of phosphates in the environment are: fertilisers, metabolic waste from humans and livestock (urine + faeces), and detergents. Within the EU-25, the major use of phosphates is in fertilisers with an estimated consumption of around 3.5 million tonnes P₂O₅/year (equivalent to around 1.5 million t of phosphorous (P)/year). In comparison, about 1.8 million tonnes of phosphates-based detergents were used in 2006 in the EU-25. The relative importance of each source varies from Member State to Member State and from one water catchment area to another but, overall, phosphorous from STPP based detergents represents less than 10% of the phosphorous used in fertilisers. However, all detergent phosphates are discharged into waste water, and therefore potentially contribute to eutrophication, whereas most fertiliser phosphates remain in agricultural soils and only a minor fraction is washed out of the soil into surface waters. Human inputs via urine and faeces



dominate domestic loads of phosphorus to sewer, with main contributions arising from the metabolism of dairy products, meat and cereals. Laundry detergents contribute with approximately 18%. Including phosphorus from dishwashing detergents increases the overall loads from detergents to 25%.

The use of phosphates in the different categories of detergents products can be broken down as follows:

(i) Laundry detergents

Laundry detergents accounted for 60% of the total STPP use in the EU in 2007. However, during the last decade, the STPP consumption for household laundry products has significantly decreased as a result of legislative actions or voluntary agreements to phase out phosphates in a number of EU Member States. A further reduction of the use of phosphates in laundry detergents is triggered by the growing market share of phosphate-free liquid laundry detergents. Nevertheless, phosphate-based laundry detergents are still common in Eastern European countries.

(ii) Dishwashing detergents

Dishwashing detergents are still mainly phosphate-based and account for 30% of the STPP use in the EU. The consumption of phosphates for this application has been stable between 2004 and 2007. With the introduction of phosphate-free laundry detergents, the contribution of dishwashing detergents to the total detergent phosphates release has risen to about 25%.

(iii) I&I detergents

I&I detergents account for 8% of the STPP use in the EU-25. According to the European Detergent Formulator Association (Association for Soaps, Detergents and Maintenance Products (A.I.S.E.)), this specific use of phosphates is more process- rather than product-driven. Therefore, if in a given process STPP is necessary, 100% of the products used in this process are STPP-based and if not applicable or not necessary, no STPP are used.

Contribution of detergent phosphorous to eutrophication

There are no concerns over adverse effects on human health associated with the use of STPP in detergents. Due to their physico-chemical properties, STPP are not distributed or transported to the atmosphere, therefore no environmental risk related to STPP use in detergents is indicated in soil or air compartments. The prime environmental concern over the use of phosphate in detergents is that they can lead to an excess of nutrients in the aquatic environment which, in turn, can contribute to problems of eutrophication. Elevated phosphate levels tend to pose a threat to the biodiversity of surface waters. The effects of phosphates on local ecology can be dramatic, particularly in smaller surface water bodies where there is less prospect of dilution. Similarly, releases of phosphates to lakes and rivers can result in increased plant growth and an over-abundance of algae. Various species of algae produce potent toxins which can poison fish thereby influencing the fishery production, but also pets and humans.

There is no EU legislation that limits the use of phosphates in detergents. Detergents are discharged to the aquatic compartment via sewage systems which nowadays are increasingly connected to waste water treatment plants, following the implementation of the Urban Waste Water Treatment Directive (UWWTD). The proportion of STPP from detergents that enter the aquatic environment (rivers, lakes, and eventually the maritime environment) varies considerably across the Member States depending on the degree of tertiary treatment of waste water. Tertiary treatment removes phosphates but is costly and is not a legal requirement for all sewage discharges (in particular smaller settlements are exempted and lack such treatment).



Although it has not been possible to quantify with confidence the contribution of phosphates from detergents to eutrophication, the available evidence suggests that they do contribute to eutrophication to some extent. For some sensitive regions, the contribution of detergent phosphates to eutrophication has been reliably quantified and found significant. The use of phosphates in detergents, therefore results in a negative externality (eutrophication) the costs of which are born by society in general, rather than by detergent formulators, who have no incentive to design detergents that reduce the risk of eutrophication.

Phosphates from detergents in waste water lead to significant operating costs for existing tertiary waste water treatment. At current removal rates (taking into account connection rates to WWTP with tertiary treatment), operational costs are estimated between €10 and €693 million per year. Costs for full removal would be significantly higher, as investments into construction of tertiary treatment for 100% removal of phosphates from all wastewater would lead to very high capital costs and higher operational costs. Detergent phosphates thus constitute a negative externality not only with respect to the environment where tertiary waste water treatment is not in place, but also on the running costs of tertiary waste water treatment plants where they exist. It should be noted that tertiary waste water treatment is required only for centres of population above 10,000. Detergent phosphate discharges in rural areas would therefore continue to contribute to eutrophication even after when all WWTP are equipped with tertiary treatment.

Both, the costs caused by eutrophication and the ones incurred by waste water treatment companies for removing phosphates are borne by society at large. Detergent producers have, therefore, no economic incentive to replace phosphates with alternatives in detergent formulations.

7.4 Objectives

General Objective

The general objective is to ensure a high level of protection of the environment from the potential adverse effects of phosphates in detergents and to ensure a well functioning internal market for detergents.

Specific objectives

- To reduce the adverse environmental effects from eutrophication in surface waters, in particular due to the cross-boundary flow of waters containing phosphates from detergents.
- To contribute to a cost-effective solution to the reduction of phosphate discharges into surface waters.
- To improve the functioning of the internal market for detergents through a reduction of the divergence of existing rules concerning the content of phosphates in detergents, which create barriers to trade.
- To avoid possible future burdens for public administrations for developing and justifying national measures in the absence of harmonised Community measures.

7.5 Consultation

Consultation of Industry and NGOs

The meetings of the Detergents WG were also attended by the relevant industry associations. The European Phosphates Producer Industry (CEEP) opposes restrictions on phosphates in detergents at EU level, claiming that the sector would be adversely affected to a significant extent. The International Association for Soaps, Detergents and Maintenance Products (A.I.S.E.) would welcome an EU-wide ban on phosphates in laundry detergents, but not in formulations for dishwasher and Industrial and Institutional (I&I) detergents where the European Zeolites Producers Association (EUZEP) confirmed that phosphate-free formulations have been developed by detergent



formulators. The European Policy office of WWF attended some of the Detergents WG meetings without making any interventions on a preferred policy option. DG Enterprise and Industry also contacted the European Consumers' Organisation (BEUC), who did, however, not convey a position with regard to possible restrictions on the use of phosphates in detergents.

Consultation of SMEs

Between July and September 2009, the Commission consulted small and medium size detergent formulators via the Enterprise Europe Network on their current use of phosphates and alternatives, and the impacts of potential restrictions of phosphates on the companies. Given the rather technical nature of the problem and the limited number of actors affected, an internet-based public consultation was not conducted.

Replies were received from 107 companies located in 11 Member States. 63% were located in Southern Europe and most of those (70%) produced Industrial and Institutional (I&I) products, while about 40% also produced laundry and dishwasher detergents. The majority of companies (58%) claimed that replacing phosphates with alternative substances would reduce cleaning performance, in particular for Industrial and Institutional (I&I) products, and a minority (20%) expected adverse economic impacts such as higher production costs, decreased sales, loss of market share, or need for new investments.

7.6 Policy Options

Option-1: No action at EU level, leaving the responsibility to act to the Member States (baseline option)

This would mean that the status quo would continue, i.e. no EU legislation concerning the use of phosphates in detergents would be introduced. Member States could maintain existing restrictions or take action as appropriate and justified under the circumstances in their territories, or in the context of regional cooperation.

Option-2: Voluntary action by industry

A voluntary EU-wide commitment for a phase-out and the substitution of STPP by zeolites or other substances would be made by detergents formulators. The commitment could be recognised by the public authorities and the results achieved would have to be assessed at regular intervals.

Option-3: Total ban of phosphates in detergents

This option would establish a ban of phosphates in all detergents at EU level.

Option-4: Restriction of phosphates in laundry detergents

This option would restrict the use of STPP in laundry detergents, which is the most common category of detergents used by consumers, while allowing further use in dishwasher detergents and I&I detergents. With regard to the possible legislation to be used, the same comments as for option 3 apply.

Option-5: Setting limit values for the content of phosphates in detergents

The content of STPP would be limited at one or several concentration levels in the various detergent formulations (laundry, dishwashing and I&I). With regard to the possible legislation to be used, the same comments as for option 3 apply.



7.7 Analysis of Options

The analysis of the impacts of the various policy options has been conducted taking into consideration results of the scientific analysis of the contribution of phosphates in detergents to eutrophication risks in the EU, as well as the criteria of effectiveness and efficiency (including practicality, socio-economic impacts, and monitorability). The marketing data and estimated costs refer to the latest information available to the Commission at the time of writing this impact assessment from discussions with all stakeholders at meetings of the Detergents Working Group and through further consultation of stakeholders.

Option-1: No action at EU level, leaving the responsibility to act to the Member States (baseline option)

If no legislative action will be taken at EU level, the current situation and trends would remain unchanged. The use of phosphates in detergents would continue to decline over time, due to the ongoing trend of phosphate replacement by detergents manufacturers and actions taken by Member States. Member States having already measures in place could continue to maintain them and could proceed with the adoption of further national measures to replace phosphate-based detergents where this can be justified on environmental grounds. Current experiences from Member States have indicated that measures at national level, such as restrictions of STPP in detergents via legislative actions or voluntary agreement (or a combination of both) can effectively tackle eutrophication when trans-boundary flows are not the issue.

If no action is taken at EU level, the existence of different rules in the Member States would continue to constitute a failure in the establishment of a functioning internal market for detergents. This causes compliance costs for companies operating in several Member States, although they could decide to produce only phosphate-free detergents. Furthermore, current market trends show increasing shares for liquid laundry detergents, which do not contain phosphates. Fragmentation of the internal market would be an advantage for SMEs working only on national markets.

To summarise, the policy option “no EU action” is effective for tackling the eutrophication risk at national level. However, it does not seem to be effective to address the problem at short term at regional level, where co-ordinated action of several Member States involving considerable resources in each of them which could be more burdensome than single Community action.

Option 2: Voluntary action by industry

In a number of EU Member States voluntary action by detergent formulators have been successful in tackling the problems caused by phosphates in detergents, but there have also been failures. Voluntary commitments face the risk of free-riding when one or more companies do not adhere to them. This can easily occur when the number of actors is high, and liability is collective rather than individual. Therefore, the effectiveness of any non-statutory controls such as voluntary commitments or marketing/advertising initiatives is reliant on support from all stakeholders.

A formalised voluntary commitment at EU level, agreeing on the necessary standards, ensuring participation by all actors concerned and guaranteeing monitoring of compliance by all EU companies could be feasible and would in principle be capable of achieving all the intended objectives. However, the main actor required – International Association for Soaps, Detergents and Maintenance Products (A.I.S.E.) – is unwilling to do so. Furthermore, it would be rather complicated and may create a significant burden to companies and associations to ensure full



market coverage, in particular also all small and medium-sized detergent formulators, and to the monitoring authorities.

Option-3: Total ban of phosphates in all detergent products

A total ban of phosphates in detergents throughout the EU is the option with the greatest potential to achieve the intended objectives within a short period of time. However, technical feasibility, potential environmental impacts of alternatives and socio-economic impacts on the industry need to be examined.

Benefits of reduced eutrophication

A benefit associated with a move to phosphate free detergents is a reduction in eutrophication through a reduction in the phosphate discharges into the aquatic environment. However, the benefit is difficult to quantify or monetise. The costs of eutrophication are difficult to monetise because of, on the one hand, the complexity of the phenomenon and the number of different impacts it can cause, and on the other hand because these are non-market impacts for which prices cannot be attributed. Environmental impacts include, for example, reductions in the fish population due to algae toxicity, which can lead to a reduction in income for fishermen. Other impacts, such as reductions in attractiveness as tourism destinations, recreational value (for instance impacts on bathing due to algae bloom or increase in jelly fish populations) or impacts on species variety (biodiversity) are more difficult to express in monetary terms. Available methodologies to infer values for non-market impacts are revealed or stated preferences, which try to derive the willingness to pay (or willingness to accept) a particular outcome. A number of studies have been undertaken to value reductions in eutrophication, for instance by directly asking individuals whether they would be willing to pay a certain amount to finance an improvement in the situation. However, the scenarios and parameters evaluated in the studies differ, which limits comparability of the results. Even where the same unit of measurement is used, values cover huge ranges (from for example 29 Euros per year and household to 727 Euros per year and adult in two different studies). There is therefore no generally accepted value for the valuation of the environmental damage caused by eutrophication or for the valuation of the benefit of reducing eutrophication. Given these very significant uncertainties, the present impact assessment does not try to monetise the benefits of reduced eutrophication.

In conclusion, although the benefits of a total ban of phosphates in detergents from reduced eutrophication can be assessed qualitatively, they cannot be satisfactorily quantified and will vary strongly across the EU. In the light of current market trends, the benefits of avoided eutrophication from a ban will decline, albeit only slowly, but will materialise much faster compared to option 1.

Benefits for Waste Water Treatment

Removal of phosphates from detergents has significant cost saving benefits. At current treatment conditions, a ban of phosphates in detergents would save operators of existing WWTP between €10 million to €693 million annually in operating costs. The future development of these benefits is somewhat difficult to forecast: on the one hand, the (slow) decreasing trend in phosphate use in detergents (about 50% over the past 25 years i.e. 2% per year) will reduce benefits of a ban over time, whereas, on the other hand, it is expected that connection rates to WWTP with tertiary treatment will increase in the coming years which will increase the benefits in terms of avoided treatment costs. Overall benefits of a ban will, therefore, likely see a peak around 2015, and thereafter are expected to diminish over time. However, compared to option 1, benefits will materialise much faster through the implementation of this option.



Costs of a ban of phosphates in detergents

There are now 7 STPP producing plants in Europe which would be affected in the event of a ban of phosphates in detergents. A total ban of STPP in all detergents could be expected to lead to a total of 3 000 – 5 000 job losses in the EU. Closures of STPP production will have knock-on effects leading to overall plant and site restructuring and closures, while other phosphates based products (e.g. in the food industry) will also be affected as they use common intermediates such as purified phosphoric acid.

Without the use in detergents, it is probable that the production of phosphoric acid and its purification would no longer be economically viable in Europe, so that the EU would become dependent on imports (in particular from North Africa and other phosphates-rock producing areas). In 2007 around 190,000 t of STPP were exported from the EU leading to a contribution to the EU balance of payments at slightly over €100 million. The loss of the European laundry STPP markets would thus imply the loss of this export economy.

It can be expected that larger detergent formulators operating in several or all Member States would find it relatively easy to substitute detergents containing phosphates with comparable alternative formulations as they normally already offer phosphate-free detergents in those Member States where phosphates have already been phased out. There might still be some marginal costs associated with re-branding.

The situation becomes more complex for smaller formulators (in particular SMEs) serving only their domestic markets with detergents based on phosphates. The SME consultation yielded information on product reformulation. SME detergent formulators informed that they reformulate their products on average every 3.5 years with an average cost of about €5,600. The one-off reformulation costs for replacing phosphates were estimated to be on average at about €10,800. The large majority of SMEs also claimed that possible modifications to their production lines would be required in case of STPP substitution. Moreover, 25% of the SMEs informed of expected adverse economic impacts to their companies from a potential EU ban of STPP in all detergent products such as: 10-20% economic loss (e.g. higher cost of production due to use of more alternatives to achieve a similar cleaning performance), decreased sales, loss of market share, need for new investments, loss of clients etc. The large majority of SMEs (60%) also claimed that possible modifications to their production lines would be required in case of STPP substitution. Change in formulation may well place SME formulators at a disadvantage leading to a loss of their market share to the large international companies.

Adequate performance of alternative builders to phosphates is important for both private consumers and professional users. In order to achieve complete phosphates-free ADW detergents that will have the current level of cleaning performance, further innovation and significant additional investments will be required. A clear majority of the SMEs consulted reported that they expected less efficient washing and reduced cleaning performance as the main adverse effects of replacing phosphates. It should be noted that switching to alternatives may not only require full reformulation but may also entail process changes, especially in the I&I sector, with related additional costs.

Conclusion

A total ban of detergent phosphate would be the most effective policy option for reducing the eutrophication risk throughout the EU and would in particular also address transboundary flows of phosphates in river basins or marine waters shared by several Member States – quantification or monetisation of the benefits of this reduced risk is not feasible. In the light of current market trends, the benefits of avoided eutrophication from a ban will



decline, albeit only slowly, but will materialise much faster than in option 1.

Elimination of all phosphates in detergents would reduce operational costs for WWTP under current conditions in the order of €10 million to €693 million per year. Due to the (slow) decreasing trend in phosphate use and increasing connection rates to WWTP with tertiary treatment the benefits in terms of avoided treatment costs will likely see a peak around 2015, and thereafter are expected to diminish over time. However, compared to option 1, benefits will materialise much faster through the implementation of this option. This option would ensure a fully harmonised internal market for detergents, thus eliminating any additional costs for industry and administrations due to the current fragmentation and avoiding potential new costs from the requirements for mutual recognition. The option would also be more efficient than individual action by all Member States concerned, where regional co-operation is required.

A ban of phosphates in the entire EU would cause adverse economic impacts on SME formulators (the majority of which mainly formulate I&I products) leading to a loss of their market share to the large international companies. Total reformulation costs (one-off) are estimated in a range of €20 – €142 million. When comparing the lower estimates of reformulation costs and benefits in avoided waste water treatment costs, net benefits would accrue after 2 years, whereas using the higher estimates would lead to net benefits within one year already. However, currently no technically feasible alternatives exist for I&I products. The actual costs for replacing phosphates in ADW and I&I would therefore be much higher as additional significant investments in research and innovation would be necessary. A ban of phosphates despite the lack of alternatives for ADW and I&I detergents would also have negative consequences for consumers and professional users of detergents.

Phosphates producers would suffer from plant closures and job losses of 3000-5000, which would not be offset by additional production or jobs for zeolite producers. Producers of other alternatives might see such economic benefits, but no quantitative information is available.

Option 4: Restriction of phosphates in laundry detergents

This option is similar to option 3, but as it would affect only laundry detergents and not ADW or I & I detergents, the magnitudes of benefits and costs will be different.

About 60% of STPP in the EU is currently used in laundry detergents according to CEEP. Their elimination will reduce the risks of eutrophication similar to option 3, albeit to a smaller extent. As in option 3, these benefits cannot be quantified or monetised. In the light of current market trends, they will decline, albeit only slowly, but will materialise much faster compared to option 1.

The benefits to WWTP are accordingly 60% of those of option 3, namely between €6 million to €415 million annually for the operating costs. Due to the (slow) decreasing trend in phosphate use and increasing connection rates to WWTP with tertiary treatment the benefits in terms of avoided treatment costs will likely see a peak around 2015, and thereafter are expected to diminish over time. However, compared to option 1, benefits would materialise much faster through the implementation of this option.

The majority of EU STPP production goes into domestic laundry detergents, whereas the dishwasher detergent STPP market alone does not offer the demand necessary to absorb excess production in the case of an EU ban of phosphates in laundry detergents. In addition, industrial and food phosphates involve considerably lower volumes



and different qualities of product, and could not take up excess detergent STPP production. Therefore, a laundry detergent phosphate ban would lead to closures of some STPP production units, and could lead to a total of 1000 – 1650 job losses in the EU. CEEP also considers that given that the zeolite industry currently faces over-capacity, and the significant STPP export markets which would be lost, it is improbable that these job losses would be compensated by job creation elsewhere.

From the consultation of SMEs formulators of laundry detergents concerning the impact of potential STPP restrictions, it emerged that replacement of phosphates in laundry detergents is in principle possible (feasibility of alternatives is explained in option 3) but some companies assert that the zeolite based products will have a lower performance and there will be problems with laundry powder in the clothes after washing.

Conclusion

A ban of phosphates in laundry detergents would reduce the eutrophication risk throughout the EU and would in particular also address trans-boundary flows of phosphates in river basins or marine waters shared by several Member States – albeit to a somewhat lesser extent than option 3. A quantification or monetisation of the benefits of this reduced risk is not feasible. Benefits will decline over time in the light of market trends, albeit only slowly, but will materialise much faster compared to option 1.

Elimination of phosphates in laundry detergents would reduce operational costs for WWTP under current conditions in the order of €6 million to €415 million per year. Compared to option 1, benefits would materialise much faster through the implementation of this option.

Total reformulation costs (one-off) for laundry detergent formulators are estimated at €13.2 million, but there would not be any significant problems with regard to technical or economic feasibility otherwise. Neither private consumers nor professional users of detergents will be adversely affected. When comparing the reformulation costs and benefits in avoided waste water treatment costs, using the lower estimates for avoided costs in waste water treatment would lead to net benefits within 3 years, whereas using the higher estimates would lead to net benefits within one year already.

Option-5: Setting limit values for the content of phosphates in all detergents

In general, the cost and benefit estimations as indicated in the analysis of options 3 and 4 are also valid for this option, as the existing limits mainly impact the deliberate use of phosphates in detergents. Impacts on companies from the adoption of this policy option at EU level would be similar to those of a total ban, because extensive reformulation would be necessary. The benefits for eutrophication and for the reduced cost of waste water treatment would be intermediate between options 3 and 4.

7.8 Comparing the Options

A comparison of the examined policy options in terms of effectiveness, efficiency, environmental impacts, and economic cost/benefit estimations is given in the Table 7.1 below.

Option 4 (restriction of phosphates in laundry detergents) would be an effective and proportionate measure to reduce the eutrophication risk throughout the EU. It addresses the cross-boundary flow of phosphates from the main detergent source in river basins or marine waters shared by several Member States more effectively than



Member States can do alone or in regional agreements. It would create a fully harmonised internal market for laundry detergents. Costs for industry and administrations due to the current fragmentation and the requirement for mutual recognition would be eliminated. This option would be easily accepted by Member States and detergent formulators.

The measure would be proportionate as technical and economically feasible alternatives for phosphates in laundry detergents are available (contrary to ADW and I&I detergents). Neither consumers nor professional users would be adversely affected. Detergent formulators would need to spend about €13 million on reformulation as a one-off cost, which would be largely offset by reduced costs for removal of phosphates in WWTP of the order of €6 to €415 million per year. Comparing the reformulation costs and benefits in avoided waste water treatment costs and using the lower estimates, net benefits would accrue within 3 years, whereas using the higher estimates would lead to net benefits within one year already. Removal of phosphates from laundry detergents appears thus to be a more cost-efficient measure for nutrient elimination in waste water than waste water treatment. In addition, compared to option 1, benefits would materialise much faster through the implementation of this option. To accommodate the reformulation into their normal product development cycle, SMEs would need several years to adapt their whole range of products.

The most significant negative impacts would be on phosphate producers who would lose part of their market with closure of some plants and expected job losses of 1000 - 1650. However, it has to be noted that use of phosphates in detergents has already declined significantly in the past and phosphates producers would have to adapt to this trend in any case. Option 3 would generate high benefits when only comparing direct reformulation and waste water treatment costs. However, there are currently no technically feasible alternatives for I&I products, while issues of technical performance have not been completely resolved for ADW products. This would require significant additional efforts in research and innovation. A number of EU SMEs may be adversely affected. In addition, option 3 would result in 2000- 3000 additional job losses compared with option 4. Option 4 would allow reaping significant net benefits without raising problems regarding performance or availability.

Option 4 was favoured by the majority of Member States, as indicated during the meeting of the Detergents WG in November 2009 and by written statements sent to the Commission.

The policy option could be implemented in a number of ways: by amending Regulation (EC) No 648/2004 on detergents, by an ad hoc regulation, or by imposing restrictions under Regulation (EC) No 1907/2006 (REACH), although the latter would mean that the procedures foreseen in REACH will have to be followed, which would lead to further delays in adopting the envisaged restrictions.

There would be no impact on the EU budget.

No significant impacts on administrative burden for enterprises are expected.

SME impacts have been assessed and the SME sector was consulted.

7.9 Monitoring and Evaluation

Monitoring the implementation of a ban of the use of phosphates in detergents should be relatively straightforward, given that suitable systems have been established either under the Detergents Regulation or under other legislative frameworks that impose restrictions of chemicals (e.g. monitoring mechanisms under the REACH Regulation). Monitoring restrictions of phosphates in detergents will only be a marginal addition to



obligations to monitor an existing range of restrictions on chemical substances already being monitored.

Additional efforts might be required by customs services (or other authorities in the Member States in charge of monitoring imports), but again, the necessary structures and practices should already be in place with regard to a number of other substances which are already restricted and have to be monitored.



TABLE 7.1: COMPARISON OF THE EXAMINED POLICY OPTIONS

OPTION	EFFECTIVENESS	EFFICIENCY	ENVIRONMENTAL IMPACTS	COST/BENEFITS
<p><u>Option-1:</u> No action at EU level, leaving the responsibility to act to the Member States (baseline option)</p>	<p>Neutral: Current trends would continue, eutrophication risk maybe be effectively tackled only at national level, overall use of phosphates in detergents would gradually decrease.</p>	<p>Neutral: This option would not improve the functioning of the Internal Market (MS could still adopt diverging rules) nor would it reduce the administrative burdens to administrations and industry linked to mutual recognition.</p>	<p>Neutral: not sufficient to combat eutrophication at regional level, where coordinated action of several Member States would require considerable resources from each of them, but gradual decrease expected in the light of decreasing phosphates use.</p>	<p>Neutral: total costs in waste water treatment plants with tertiary treatment for phosphate removal would amount to €10-693 million per year (only for chemical treatment), maximum expected around 2015 due to increasing connectivity to WWTP but thereafter gradual decrease due to slowly decreasing phosphates use.</p>
<p><u>Option-2:</u> Voluntary action by industry</p>	<p>(+) A formalised voluntary commitment at EU level, agreeing on the necessary standards, ensuring participation by all actors concerned could be, in theory feasible and effective.</p>	<p>(-) Considering the current unwillingness of the relevant industry to organise such voluntary action, the measure does not appear to be feasible.</p>	<p>(+) In theory, it could reduce the eutrophication risk throughout the EU.</p>	<p>(-) Administrative costs for industry and local supervising bodies for setting up, enforcing and monitoring voluntary commitments can be significant.</p>



<p>Option-3: Total ban of phosphates in detergents</p>	<p>(++) It would be an effective policy option in reducing the eutrophication risk throughout the EU.</p>	<p>(++) This option would improve the functioning of the Internal Market and would reduce the administrative burdens to administrations and industry linked to mutual recognition. A single action at EU level would be more efficient than multiple actions by Member States.</p>	<p>(++) The option would yield the greatest benefits in terms of reduced eutrophication risks. It would reduce cross-boundary flow of phosphates in river basins or marine waters shared by several Member States. Benefits would decrease slowly over time due to decreasing trend in phosphates use, but would materialise much faster than in option 1.</p>	<p>(--) Total reformulation costs for SMEs are roughly estimated in a range of €20 – 142 million (one-off). Total savings in waste water treatment plants with tertiary treatment for phosphate removal would amount to €10 to €693 million per year. Due to the (slow) decreasing trend in phosphate use and increasing connection rates to WWTP with tertiary treatment the benefits in terms of avoided treatment costs will likely see a peak around 2015, and thereafter are expected to diminish over time. However, compared to option 1, benefits would materialise much faster through the implementation of this option. When comparing the lower estimates of reformulation costs and benefits in avoided waste water treatment costs, net benefits would accrue after 2 years, whereas using the higher estimates would lead to net benefits within one year already. However, there are currently no technically feasible alternatives exist for I&I products, while issues of technical performance have not been completely</p>
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				resolved for ADW products. This would lead do significant costs for research and innovation. Consumers and professional users would be adversely affected. Job losses of 3000-5000 are expected by P-industry, which will only be partly offset by gains in the production of alternatives.
<u>Option-4:</u> Restriction of phosphates in laundry detergents	(+) It would be an effective policy option in reducing the eutrophication risk throughout the EU considering that 60% of STPP is used in laundry detergents.	(+) It would ensure a fully harmonised internal market for laundry detergents, thus eliminating any additional costs for industry and administrations due to market fragmentation and the requirement for mutual recognition. A single action at EU level would be more efficient than multiple actions by Member States.	(+) The option would lead to benefits in terms of reduced eutrophication risks, albeit somewhat lower than option 3. It would be effective to reduce cross-boundary flow of phosphates in river basins or marine waters shared by several Member States. Benefits would decrease slowly over time due to decreasing trend in phosphates use but would materialise much faster	(++) Total reformulation costs for SMEs are roughly estimated in a range of €13 million and SMEs. Total savings in waste water treatment plants with tertiary treatment for phosphate removal would amount to between €6 and €415 million. Due to the (slow) decreasing trend in phosphate use and increasing connection rates to WWTP with tertiary treatment the benefits in terms of avoided treatment costs will likely see a peak around 2015, and thereafter are expected to diminish over time. However, compared to option 1, benefits would materialise much faster through the implementation of this option. Comparing the reformulation costs and benefits in avoided waste water treatment costs, when using the lower



			than in option 1.	estimates net benefits would accrue within 3 years, whereas using the higher estimate would lead to net benefits within one year already Technically and economically feasible alternatives exist. Job losses of 1000-1650 are expected by P-industry, which will only be partly offset by gains in the production of alternatives.
<u>Option-5:</u> Setting limit values for the content of phosphates in detergents	(+) Similar to Option 3.	(-) It would not be easy to agree on common EU limits that would be feasible, in particular for I&I and ADW detergents.	(+) Impacts somewhere between options 3 and 4.	(--) Impacts on companies would be somewhere between those of option-3 or 4 (dependent on the restriction limit) Significant administrative burden are expected for MS, that would submit requests under Article 114 of the Treaty to be authorised to maintain their current legislation.



ANNEXES

Annex 1: Initial Assessment Form

THE INITIAL ASSESSMENT FORM
[NAME OF THE EXPERT BEARER]
INITIAL ASSESSMENT FOR

[TITLE OF THE REGULATION (AS DEFINED IN THE THESIS)]
[Location, date]

This Form is to be used during the process of preparing the Initial Assessment to establish the needs for the realisation of the regulatory impact assessment (RIA) process. If the answer to question 7 is YES, a RIA is required. If the answers to questions 8-12 include at least two YES responses, a RIA is also required.

Number	Please answer the questions briefly, clearly and concisely:
1.	Describe briefly the problem which is planned to be solved by the normative solution (this should be part of the Regulatory thesis):
2.	Describe briefly what is the goal which is to be achieved by the normative solution (this should be part of the Regulatory thesis):
3.	List the target group(s) currently affected by this problem, as well as potential target groups that might be affected by this problem in the future. (For example: economic subjects, civil society organisations, consumers, charities, retired people, young people, socially sensitive groups and similar).
4.	Explain briefly the normative solution (this should be part of the Regulatory thesis) and establish one non-normative solution which could also achieve the goal. (Examples of non-normative solutions: education and information, agreements between associations, industries, voluntary codes of associations and other interest groups, voluntary agreements of market representatives, standards, and similar).
	Normative solution (this should be part of the Regulatory thesis): Non-normative solution:
5.	Define the timeframe for the solution to the problem and achievement of the defined goal and briefly explain possible the obstacles and the risks in the solution of the problem. (For example: required financial resources, available resources, coordination of the relevant bodies in the implementation stage, alternatives proposed by different target group(s) to solving the regulation problems, stakeholders, lack of stakeholders' support, lack of harmonisation in the legislation, additional administrative procedures, IT support and similar)

Please answer with »YES« or »NO« to the following questions. Answers must be written concisely.		YES	NO
6.	Does the normative solution (this should be part of the Regulatory thesis) require a change in the current legislation? If »YES«, list current legislation which will have to be changed which is directly related to the goal, including subordinate legislation. If an obligation to harmonize the Croatian legislation with the EU legislation exists in that area or if an obligation to implementation an international contract for the Republic of Croatia exists, list the regulation which must be		



	adopted.		
7.	Will the listed normative solution have a significant economic impact in at least one sector/area and, if so, which? Does it affect market competition? Briefly list the kinds of economic impacts are expected. (For example: greater financial burden for economic subjects caused by costs of compliance with the legislation and standards, higher operational costs, barriers to accessing credit, etc.)		
8.	Will the listed normative solution have an impact on the state budget, local and regional self-governments' budgets? Briefly list what kinds of impacts are expected (For example: need for additional resources in the budgets for implementation of the regulation, resources for training and educating officials in relation to new competences / jurisdictions, assurance of transfers, assurance of grants, resources for new administrative procedures and similar)		
9.	Will the listed normative solution have a significant impact on socially sensitive groups, social status of citizens, interest groups in society or society as a whole? Briefly list what kinds of impacts are expected (For example: social rights of citizens, change in fees, purchasing power, social inclusion, protection of special groups, gender equality and similar)		
10.	Will the listed normative solution have a significant impact on the environment, sustainable development and to people's health? Briefly list what kinds of impacts are expected (For example: impact on emission of glasshouse gases, forests, waste management, flora and fauna, water protection, soil protection, cultural heritage and similar)		
11.	Will the listed normative solution require implementation of administrative procedures in relation to the target groups and with which goal? Will the listed solution increase administrative burdens of doing business? Briefly list what kinds of impacts are expected (For example: authorisations; definition of rights and/or commitments by special administrative document; administrative/inspection monitoring; licences, decisions, approvals; increase or implementation of new administrative tariffs; changes in administrative procedures and similar)		
12.	To achieve the goal, will there be a need to connect the work of one or more national state bodies, as well as bodies of local and regional self-government? Briefly list the bodies which are expected to be connected to achieve the goal.		
13.	Did the same problem exist in EU or other countries and how was it solved in their legislation. (For example: promotion of SMEs; different solutions for disposal of packaging flexible labour legislation; part time work; simplification of administrative procedures; solution to transportation of risky materials; reduction of people suffering from malignant diseases; juvenile delinquency and similar)		

Instruction: It is compulsory to submit this form as well as the regulatory thesis.

Source: GLO website: **Regulation on the Implementation of the Regulatory Impact Assessment Process**, 07 January 2014.



Annex 2: RIA Statement Form

REGULATORY IMPACT ASSESSMENT STATEMENT FORM

[NAME OF THE EXPERT BEARER]

REGULATORY IMPACT ASSESSMENT STATEMENT FOR [PROPOSAL OF THE ACT ...]

Location, date

INSTRUCTION: Text in italics must be deleted after filling the form.

1. PROBLEM

[Briefly present the results of the analysis of the current situation in the area targeted by this regulation. In the analysis of the current situation, please use the relevant information and results of monitoring of the implementation of regulation, if similar regulations exist in this area and are part of current Croatian legislation. While establishing the problems, consider the previously prepared Initial Assessment Form that relates to the problem statement.]

Instructions for description of the problem.

Briefly describe the nature of the problem with support of relevant statistical trends or other data sources; list causes of the problem, that is, define the cause of the problem; define extent of the problem, wherever possible using numerical values; identify the most affected target groups (which segment of the population, which sector/area of economy, which area of environmental protection, etc.)]

2. GOALS

[Based on the described problem, briefly list goal(s) which you are trying to achieve in order to solve the problem, that is, impact on the solution of the problem. While determining the goal(s), it is important to consider SMART criteria, namely:

Specific,

Measurable,

Achievable,

Realistic, and

Time-dependent.]

While establishing the goal(s), inspect part of the Initial Assessment Form related to the goal.]

3. POSSIBLE OPTIONS

[While determining possible options for solution of the problem and achievement of the goal, draft at least two proposals related to the non-regulatory solution and at least two proposals of possible regulatory solutions which can lead to the defined goal.]

While determining the non-normative solution, it is compulsory to add the "do nothing" possibility. By so doing, you are defining a situation which will, according to the trends, continue in the future without intervention by the expert bearer. In the case of the current Regulation, the "do nothing" option includes analysis of the current situation, which should cover the time period from the moment when regulation was adopted.]

The second proposal of the non-regulative solution is related to the possibility of solving a problem which does not involve the adoption of a new regulation/amendment of existing legislation. This type of non-regulatory solution includes, for example, the way to voluntarily solve a problem of vocational organisations and other interest associations. Other non-regulatory solutions include campaigns, projects and similar activities which can ultimately lead to achievement of the defined goal, without recourse to legislation.]

The two proposals of the regulatory solutions include proposals for solution of the problem and achievement of goals by legislation. You must describe the proposal for the regulatory solution defined in the Initial Assessment,



that is, one of the proposals of regulatory solution must be the proposal defined in the Regulatory Thesis. The second regulatory solution is related to some other manner for solving the problem by adoption of new regulation/change of the current legislation.]

- 3.1. OPTION 1 – to do nothing (non-regulatory solution)
- 3.2. OPTION 2: – (non-regulatory solution)
- 3.3. OPTION 3: – (regulatory solution)
- 3.4. OPTION 4: – (regulatory solution)

4. COMPARISON OF THE OPTIONS

[Analysis of significant benefits and costs based on available information, analysis, reports and informal consultations for each proposed option must be added above the costs and benefits table. Each claim must be supported by information, facts and other available official/statistical data. Analysis of each cost and benefit can be presented quantitatively and qualitatively. If numerical indicators for the presented claims exist, they must be added and data sources must be quoted. If it is not possible to numerically support the claims, please support the claims descriptively, in a concise and clear form, quoting data sources (if available), trends or case studies.

During the analysis of the impacts concisely:

define economic (financial) and social benefits and costs, and the benefits and costs of environmental protection, define and individually assess specific impacts (such as administrative costs, impact on the business entities in the sector/area, impact on market competition; impact on the social status of citizens, protection of the environment at the local level and similar).

For the fiscal impacts, briefly and concisely, define the expected fiscal impacts on the state budget. These impacts will additionally be explained in AFI form (AFI – Assessment of the fiscal impact) in line with the special regulation.

In the table below clearly and concisely define the main costs and benefits of all the proposed options.

In the table below clearly and concisely define the costs and benefits of each option and if needed, add detailed analysis in Annex.]

Options	Benefits	Costs
Option 1: to do nothing		
Option 2: (non-regulatory solution)		
Option 3: (regulatory solution)		
Option 4: (regulatory solution)		

INSTRUCTION:

This part of the Statement is filled when the Draft of the Proposal of RIA Statement is being updated (after implementation of the consultation process). It has to be updated again after public discussion during the preparation of the Proposal of RIA Statement.

5. CONSULTATION

[The consultation period should last 30 days. If needed and depending on the complexity of the matter, the consultation period can be even longer, which should be announced on the website. One or more public presentations on the subject of the consultation must occur during the consultation period. The public presentation must include direct contact with the stakeholders through organisation of round tables and similar methods.

A summary of the consultation process must be presented in a clear manner, with the exact dates of the start and end of the consultation period, as well as dates when the roundtable(s) and similar was conducted. The total number of received opinions, remarks and suggestions which came in written form during the consultation and the number of accepted comments on the Proposal of the Statement/Proposal of Regulation must be presented.



The total number of received opinions, remarks and proposals must also be presented. Everything defined above will also be appropriately applied to the public discussion(s).]

6. PROPOSED OPTION

[Briefly and concisely present the overall results of the RIA procedure. Briefly summarise the cost-benefit analysis for all options, taking into consideration the results of the analysis and the consultation. On the basis of all materials presented during the RIA procedure, concisely recommend the option which leads to the solution of problem in the manner that brings the most benefits in comparison with the total costs of the option.]

PROPOSED OPTION:

A basic criterion for the approval of the option is that the total net benefits exceed the total net costs. The proposed option must be based on the implemented analysis and collected information.]

7. MONITORING OF THE IMPLEMENTATION AND EVALUATION

[Concisely present the implementation procedure and establish the main indicators for the evaluation of the implementation of the recommended option. If no data were available i.e. data were incomplete or were collected incorrectly; it is possible to establish the main indicators while monitoring implementation of the recommended option and, on that basis, collection of information will start. Concisely describe how the recommended option will be implemented and define the bodies and/or institutions that should implement the recommended option. A key issue is to define who, in which manner and in which time period, will implement the recommended option. Clearly and concisely define the implementation deadlines and the main results of implementation in order to enable continuous monitoring of implementation, as well as ex-post assessment of implementation.]

8. ANNEXES

[Attach the most important documents in Annexes if their analysis and results are useful for decision makers. If these documents are very comprehensive, please submit summaries and quote the sources. Documents created during the regulatory impact assessment procedure may also be added to the annexes. All annexes must be numbered. Please, add a list of all annexes in this box.]

Source: GOC Regulation on the Implementation of the Regulatory Impact Assessment Process, 07 January 2014.



Annex 3: Country Case Studies in Use of SME Test

Introduction

The small and medium enterprise (SME) sector represents a key component of the European economy, accounting for more than two thirds of private sector employment and almost 60 percent of total value added. Between 2002 and 2010, 85 per cent of new jobs in the EU were created by SMEs. Micro-enterprises, defined as those with fewer than ten employees, account for 92 per cent of all SMEs.

In order to realise the full potential of the SME sector's contribution to economic growth and development, it is important to provide a supportive and enabling business environment. Public policy aimed at improving the business environment for SMEs is focused particularly on reducing the burden of regulation. Badly designed regulation imposes costs on businesses which impede start-ups, investment, innovation, employment, growth and ultimately weakens national economic performance.

SMEs are likely to face disproportionately high costs in complying with regulations. There are limited opportunities for economies of scale which can spread out the fixed and recurrent costs of compliance; knowledge and expertise in meeting regulatory obligations is often in short supply, and high costs can be incurred in acquiring the equipment and infrastructure for meeting the regulatory compliance requirements. The potentially negative impact of regulation on the SME sector highlights the need for careful scrutiny of new regulatory proposals.

Since the adoption of the Small Business Act for Europe in June 2008, reducing the regulatory burden on SMEs has been firmly embedded in the European Commission's work, and most Member States have followed the Commission in giving explicit attention to the impact of regulation on the SME sector.

Regulatory Impact Assessment (RIA) is used by most Member States, including Croatia, as a tool for assessing the potential impacts of regulatory proposals. A growing number of Member States have incorporated a 'SME Test' into the RIA methodology. The purpose of the 'SME Test' is to give explicit attention to the impact of new regulation on the SME sector in general, and the micro-enterprise sub-sector in particular.

SME Test

How can the SME sector be protected from the negative impacts of a new regulation? Two complementary approaches can be used:

- Application of lighter regulation regimes to SMEs;
- Application of exemptions to Micro-Enterprises.

Application of Lighter Regulation Regime to SMEs

Regulation is intended to contribute to society's welfare. Good regulation is expected to generate significant net benefits for society as a whole.³⁰ Where a regulation covers fundamental public policy objectives, for example, product safety standards, public and workplace health and safety, food or environmental protection, SMEs should be subject to the same regulatory compliance requirements as all other businesses. In these cases, the negative repercussions for the economy/society as a whole of exempting small enterprises from the regulation would

³⁰ In other words, the total benefits will be greater than the total costs.



outweigh the benefits of exemption to the SME sector. The same situation arises where the benefits to the SME sector outweigh the potential costs.

However, even where it is not possible to exempt small businesses for the regulation, it may be possible to introduce less onerous compliance requirements on the SME sector, as compared to large firms, without significantly reducing the benefits. For example, lower fees could be applied to SMEs, the information and reporting requirements could be less for SMEs, inspection periods could be less frequent and less intensive, the period for compliance could be extended to allow small businesses more time to adapt to the regulation. Measures such as these would have the effect of reducing the regulatory costs of the new regulation on SMEs.

Application of Exemptions to Micro-Enterprises

An alternative approach is to apply a 'reversal of proof' test whereby SMEs (or a sub-section of the sector) are exempt from the regulation unless it can be shown that a large part of the intended benefits of the proposed regulation cannot be achieved without including the SMEs in the regulation. This approach has been adopted in the European Commission and a number of Member States, including the UK, and applied to the micro-enterprise sector. In practice, this means that the RIA should analyse whether exempting micro-enterprises from the regulation would significantly reduce the benefits of the proposed regulation. The application of the micro-enterprise 'reversal of proof' test in the UK and the European Commission is described in detail below.

European Commission SME Test

Since the adoption of the Small Business Act for Europe in June 2008,³¹ reducing the regulatory burden on SMEs has been firmly embedded in the European Commission's work. The Commission Communication on 'Minimising regulatory burden for SMEs – Adapting EU regulation to the needs of micro-enterprises' in 2011 has taken this work a step further. It builds on the 'Think Small First' principle set out in the SBA which requires that impacts on SMEs be taken into account when designing legislation and that the existing regulatory environment be simplified. It also establishes the possibility for the exemption of micro-enterprises from regulation when justified and for lighter regulatory regimes for SMEs.³² The Commission has recently confirmed its commitment to the application of the 'Think Small First' principle in future EC legislation and has invited Member States to also ensure that legislative measures minimise the regulatory burden on SMEs.³³

This commitment to the support of the SME sector is reflected in the EC's Impact Assessment Guidelines that require the Impact Assessment Report to include an assessment of the impacts on the SME sector. Detailed guidance on how to take assess the impact on SMEs is provided in the **Guideline Annexes**.³⁴

Following its November 2011 report on minimising the regulatory burden for SMEs,³⁵ the Commission's preparation of all legislative proposals is based on the premise that **micro-enterprises** should *a priori* be excluded from the scope of the proposed legislation unless the necessity and proportionality of their being covered can be demonstrated. This is commonly referred to as 'reversed burden of proof'. This reversal of burden of proof criterion for micro-enterprises is applied at each stage of the impact assessment process:

³¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0394:FIN:EN:PDF>.

³² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0803:FIN:EN:PDF>.

³³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0122:FIN:EN:PDF>.

³⁴ http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf.

³⁵ Minimising regulatory burden for SMEs, Adapting EU Regulation to the Needs of Micro-Enterprises COM (2011) 803 final



- The Roadmap (i.e. planning) stage should either explain that micro-enterprises are to be excluded from the scope of the initiative, or state that they are expected to fall under the scope of the initiative. In the latter case, the roadmap should explain why this is the case, state that the possibility of applying adapted solutions will be considered during the impact assessment process, and give an idea of possible proportionate ways in which the regulation might concern them;
- At the Impact Assessment stage the case has to be made for including micro-enterprises in the scope of the proposed legislation.³⁶ The impact assessment report should present the evidence supporting whatever decision is reached with regard to micro-enterprises;
- Consultation procedures should ensure that the needs and interests of micro-enterprises are presented. Consultation with the SME sector is used to collect their views concerning their preferred options in terms of being exempted, to gather any available statistics on micro-enterprises that would be affected and to estimate the potential positive and negative impact on micro-enterprises.
- On the basis of the evidence gathered, including the consultation results, the IA Report is required to come to a definite view on whether micro-enterprises need to be included in the scope of the legislation in order for its objectives to be achieved.

UK SME Test

RIA was formally adopted into UK legislative procedures in 1997/8.³⁷ The RIA report should be produced by departments for all forms of government intervention, including primary and secondary legislation and codes of practice or guidance. This includes implementation of EU measures.

The IA Guidelines³⁸ require that the IA Report includes an assessment of the impacts on small businesses. Up until 2010, when the proposal imposed or reduced costs to business, there was a requirement to apply a **Small Firms Impact Test (SMIT)**. The SMIT required an assessment of the impact of new proposals on small business. It also involved an examination of whether small businesses (those with fewer than 50 employees) could be given a complete or partial exemption from new rules, as part of the Government's commitment to target new regulation only where it is needed.

In 2011, the new Coalition government introduced a **micro business moratorium** applied to new regulations affecting micro businesses (with less than 10 full-time equivalent employees) and start-up firms. This requires Departments to exempt those firms from new regulations until April 2014. If a Department wishes to include micro-enterprises in the regulation, it must show that the objectives of the legislation would not be achieved if micro-enterprises or start-up firms were excluded. The moratorium will be continued after 2014 and will be extended to include small businesses (up to 49 employees). The intention is that small businesses will be exempted from the regulation unless departments can demonstrate that a large part of the intended benefits of the proposal cannot be achieved without including them.

Departments are also required to consider a range of mitigating strategies, for example:

- Simplifying record-keeping requirements for smaller businesses, meaning that those with less staff have to spend less time filling in forms and keeping records compared to larger business;
- Tailoring advice and guidance so that smaller businesses can quickly find out what regulatory changes mean for them in practice;

³⁶ The following principles are used in deciding whether to include micro enterprises: (i) If there is clear evidence that excluding them would mean that the initiative would not be able to achieve its goals (ii) If there is clear evidence that it is in their interests to be included in the scope of the proposal.

³⁷ RIA is now referred to as Impact Assessment (IA) in the UK.

³⁸ HM Government, **IA Toolkit: How to do an Impact Assessment**, August 2011.



- Varying regulatory requirements such as inspection frequencies or licensing requirements by size of business, to ensure a proportionate regulatory approach.

Estonia SME Test

Estonia was a forerunner among the new members of the European Union in adopting RIA, having amended the Rules for Draft Legislation to include a regulatory impact assessment in the process of law making in 1993. The Rules of Draft Legislation (2001) set out the procedure for passing a legal act in the Parliament whereby apart from explaining the reasons for the legislation, there is a requirement for an explanatory note which must include an assessment of the likely impacts of the Act. In addition, there is a requirement to provide a separate fiscal assessment.

In 2005, political commitment to RIA was strengthened by the signing of a 'Coalition Agreement' contains further refinements of the RIA process, and in particular, developing the assessment of economic impacts. The economic RIA relies heavily on the assessment of administrative burdens on enterprises, based on the Dutch Standard Cost Model (SCM). The 2005 amendments highlight the importance of simplified regulatory procedures which are expected to have a significant impact on starting up businesses.

Public consultation is seen as a critical part of the RIA process in Estonia with the State Chancellery playing an important role in checking the quality of the consultation process and reporting of consultation findings. At the end of 2011, the government approved new Good Engagement Practices, with the aim of putting more specific guidelines in place for planning and implementing engagement, as well as harmonising the principles, which will enable the public sector institutions and non-profit organisations to proceed in involving the public and any other third parties in decision-making.

The RIA procedures in Estonia do not include a separate SME Test. However, further developments of the RIA process were introduced in 2012 when the new Government Regulation 'Rules for Good Legislative Drafting and Technical Rules for Drafts of Legislation Acts' came into force. These include a set of 'control questions for economic impact assessment' which include a question on the potential impact on small enterprises and start-up companies. This 'control question' asks:

"Does the draft affect especially small enterprises, the activities of start-up businesses or other economically disadvantaged enterprises, including the self-employed?"



Annex 4: Evidence on the Regulatory Burden on SMEs in Croatia

Introduction

Small businesses are widely believed to suffer disproportionately from regulation. The evidence on the impact of regulation on the SME sector can be categorised into two types: survey data and estimates of the costs incurred in complying with regulatory requirements.³⁹ Regulatory burden studies are based on business owners' perceptions or rankings of regulation (or particular types of regulation) as a 'burden' in relation to business performance. In general, perceptions of the constraining impact of regulation are inversely related to business size. The focus of regulatory burden estimates is on the costs of regulation, and the benefits that regulation can confer on businesses are generally ignored.

Compliance cost studies attempt to quantify the costs that businesses incur in complying with regulations. Methods of calculating compliance costs differ but usually involve imputing monetary costs to labour-time estimates relating to administering regulations.⁴⁰ Most of these costs are fixed irrespective of the size of the enterprise and small businesses are unable to spread the costs across large-scale operations.

Studies that link the evidence on regulatory burden and compliance costs to economic performance are sparse, especially for the SME sector. However, the evidence that does exist seems to confirm that poorly designed regulation can stifle economic activities and ultimately reduce economic growth.⁴¹ For example, recent research on job creation in eleven new EU Member States has shown that industries with heavy business restrictions and regulations, recorded lower employment growth in the period 2002-2008. In quantitative terms, a one unit improvement in firms' perception of their business environment was associated positively with job creation by approximately 1.1 percentage points.⁴²

The Standard Cost Model (SCM) has been used in a number of EU Member States to estimate the administrative costs to business caused by the manner in which regulations are applied. The SCM does not measure the non-administrative costs imposed by a legal measure. For example, if a regulation was made to ban the use of a particular chemical in a manufacturing process the costs of understanding and communicating the requirement within a business and of reporting to the public administration on completion would be included in the but not the cost of replacing or adapting the equipment used in the manufacturing process.

The SCM is applied by combining information on:

- The administrative tasks required by the legislation
- The administrative costs (wages and other costs) needed to complete these tasks. These administrative costs may first be estimated in terms of the time required to carry out the administrative tasks and then applying a (hourly) wage cost to the time estimates

³⁹ For a detailed evaluation of the evidence, see J. Kitching 'A burden on business? Reviewing the evidence base on regulation and small business performance' **Environment and Planning C: Government and Policy**, volume 24, 2006, pp799-814.

⁴⁰ There are a number of different definitions of regulatory burden. The administrative costs measure covers the costs stemming from (non-voluntary) information costs, in particular the costs of filling in forms and sending them to administrative bodies and the connected costs of collecting, processing and storing information. Administrative costs will understate the total regulatory burden since they exclude the other costs incurred - time spent in understanding the rules and dealing with the public authorities, costs of training staff, costs of installing new equipment to comply with the regulation.

⁴¹ C. Kirkpatrick and D. Parker 'The Economic Impact of Regulation Policy: A Literature Review of Quantitative Evidence' **OECD Expert Paper no. 3**, August 2012. OECD: Paris

⁴² H. Oberhofer and G.A. Vinzelette 'Determinants of Job Creation in Eleven New EU Member States: Evidence from Firm Level Data' **Policy Research Working Paper 6533**. World Bank, July 2013.



- The administrative cost figure is then multiplied by the number of times each year that the cost would be incurred by a business subject to the regulation
- The resulting figure is then multiplied by the best estimate available of the number of businesses that are covered by the regulation to give an estimate of the total administrative burden.

Regulatory Burden and SMEs in Croatia

In Croatia, SMEs employ 64.2 per cent of the total labour force and generate 54.6 per cent of total value added.⁴³ In contrast, there are less than 600 large enterprises, although these account for 35.8 per cent of employment and 45.4 per cent of value added. Micro enterprises are the dominant form of enterprise, accounting for 91 per cent of all SMEs, 38 per cent of SME employment and 31 per cent of SME value added. Average employment in micro enterprise subsector is 2.1 persons. In terms of economic activities, the sector that contains the greatest number of SMEs is the wholesale and retail trade (22.7%), followed by manufacturing (12.1%), construction (11.9%), professional, scientific and technological activities (10.6%) and accommodation and food services (10%). These five sectors contain two thirds (67.3%) of all SMEs in Croatia.

The European Commission's Small Business Act (SBA) Fact Sheets are produced by DG Enterprise as part of the SME Performance Review which is the main vehicle providing economic analysis of SME issues. The annual Fact Sheets provide information to facilitate SME policy assessments and to monitor SME growth and development trends. The Fact Sheets provide country rankings of 'Think Small First' administrative burden performance, based on a scale of 1 to 7 where 1=burdensome and 7=not burdensome. For 2012, Croatia has a rank of 2.2 compared to the average EU value of 3.09, implying that the regulatory burden on SMEs in Croatia exceeds the all-members average burden.

The European Commission DG for Enterprise and Industry report on licensing burden on SMEs in Member States provides comparative data for Croatia on the complexity of SME licensing procedures.⁴⁴ An index of licensing complexity is developed based on the direct costs (i.e. monetary costs related to fees, duties and number of person days required to apply for licenses) and indirect costs (i.e. monetary costs related to external support such as consultants, lawyers and 'out-of market' costs estimated as the time waiting to obtain the required license. The index is estimated for five model enterprises (hotel with restaurant, plumbing company, wholesale or retail distributor, manufacturer of steel products, manufacturer of small IT devices).

Countries are ranked on a scale of licensing complexity, from 1 for lowest level of complexity to 26 for the highest level. Croatia is found to have one of the most complex licensing procedures, with a rank of 21.8. Only three other countries have a higher ranking (Austria, Spain and Serbia). Based on these results, the report concludes that 'Croatia demonstrated a very high level of complexity due to the high costs involved (towards public and private sector). On the other hand, the time required to obtain all licenses is considered to be satisfactory according to respondents'.

Additional evidence on administrative obstacles to SMEs is provided in a 2013 survey conducted as part of the **Improvement to Administrative Efficiency on National Level** project with the Ministry of Entrepreneurship and Crafts.⁴⁵ The survey covered the experience of a sample of 1050 SMEs with administrative barriers in six areas.⁴⁶

⁴³ These data relate to 2011. Source: Improvement of Administrative Efficiency on National Level Project, **The Croatian SME Observatory Report, 2013.**

⁴⁴ European Commission, Enterprise and Industry, **Business Dynamics: Start-Ups, Business Transfers and Bankruptcy**, January 2011

⁴⁵ EU IPA Programme for Croatia, **Improvement of Administrative Efficiency on National Level: Administrative Barriers Report**, July 2013



The results show that 43% of the SMEs in the survey experienced administrative obstacles or delays caused by public authority requirements in the previous three years.⁴⁷ The two most frequent sources of regulatory burden are the amount of time which it takes to comply with the administrative requirements and the time and financial costs of preparing the necessary documentation for submission to the authorities.

The Survey also conducted face-to-face interviews with 30 SME owners to obtain information on the costs of complying with regulatory measures.⁴⁸ The total number of working hours that companies have invested in meeting administrative requirements varies significantly. For the SMEs which provided information, the average number of hours was 155. However, a significant number of enterprises spent significantly fewer hours in total, and two enterprises indicated an extremely high number of hours, which significantly increased the average value. Taking into account that some enterprises experienced more than one administrative barrier, the average time spent per barrier is lower. For all interviewed enterprises, an average of 79 hours was spent per administrative barrier. Excluding the two extreme cases, the average falls to 53 hours per annum per regulatory requirement.

Depending on the wage costs of the member of staff involved and the extent to which external professional services are used, the administrative cost burden on an individual enterprise will vary. The average cost per regulatory barrier is estimated to be HRK 6,836. Combining the information obtained from the SME survey on administrative barriers and the face-to-face interview information on administrative costs incurred by SMEs, it is possible to estimate the overall administrative burden on SMEs in Croatia. These costs are estimated to be between HRK225M and 303M per annum.⁴⁹

Given the small interview sample size and the large variations in responses, it is difficult to reach firm conclusions as to the overall regulatory burden on SMEs in Croatia. Nevertheless, the results of the survey indicate that the administrative costs burden on SMEs in Croatia is not insignificant.

⁴⁶ Acquisition of land; recruitment and firing of workers; health and safety of workforce; environmental protection; participation in public procurement tenders; access to public utility services.

⁴⁷ In other words, 57 per cent of the surveyed enterprises had experienced no administrative difficulties over the previous three years. Furthermore, of majority of firms that had experienced administrative barriers over the same period had experienced only one problem.

⁴⁸ Information on costs incurred was obtained from 20 enterprises.

⁴⁹ 225M assumes each SME is subject to one administrative barrier; 303M assumes SMEs are subject to the same administrative barriers as in the sample enterprises.



Annex 5: Economic Valuation Techniques

There is a range of economic valuation techniques. The choice of technique will depend on the particular impact under consideration and on the availability of data. In some instances, it may be possible to apply several techniques to the valuation of the impact, which can provide a useful cross-check on the reliability of the estimates obtained. Many 'missing' market values occur in the environmental benefits and costs, and the remainder of this annex discusses the use of valuation techniques in relation to environmental impacts.

There are three main methods for calculating economic values:

1. **Using market prices;**
2. **Using information on individuals' preferences;**
3. **Benefit transfer.**

1. Valuation using market prices

Change in productivity

This method values environmental change by observing physical changes in the environment and estimating what difference they will make to the value of marketed goods and services. This approach is applicable in calculating direct and indirect use value. Water pollution can reduce fish catches, and air pollution can affect the growth of crops. In both instances, the environmental impact reduces marketed output, which may be valued using market prices.

Human capital cost valuation

This method may be used to value the impact of environmental hazards on human health. Environmental 'bads' such as air and water pollution or the use of pesticides reduce the quality of the human capital stock, and therefore lower the economy's productive capacity. To apply the human capital cost method it is first necessary to determine the relation between the hazard and human health, by expressing the health impact in terms of premature death, sickness or absenteeism. Sickness can then be valued using medical and health care costs. Absenteeism is valued in terms of lost earnings (this assumes that earnings measure the contribution that the absent worker would have made to output).

2. Valuation using information on individuals' preferences

Often it will not be possible to link the environmental impact to a change in marketable output. In these cases, the willingness to pay has to be estimated indirectly, using a range of other techniques, such as:

Replacement cost or preventive expenditure method

The economic value that individuals attach to the environment can sometimes be inferred from the cost of preventing unwanted environmental impacts, or of restoring an asset to its original state after it has been damaged. For example, the costs of air pollution-related acid depositions could be estimated using the costs of restoring damaged physical infrastructure, or the costs of soil erosion could be estimated using the costs of providing preventive terracing.

Contingent valuation method

The contingent valuation method (CVM) relies on direct questioning of people to determine their willingness-to-pay valuation of an environmental impact. A detailed description of the environmental impact is provided, and interviewees are then asked what they would be willing to pay (WTP) for a hypothetical environmental improvement, or to accept (WTA) as compensation for an environmental deterioration. The contingent valuation approach may, in principle at least, capture the total economic value (use and non-use components), whereas



other techniques may only provide estimates of direct or indirect use value.

Surrogate market valuation method

Whilst an environmental good or service may not be traded directly, it is sometimes possible to find a good or service, related to the non-marketed environmental item, that is sold in markets. In this situation, the individual may reveal his or her preference for both the market and non-market good or service when making a purchase. It may then be possible to separate-out the environmental component of value from the observed market price, and in this way use this component of market price as a 'surrogate' for the environmental value. There are two main techniques which have been used for applying the surrogate market method: travel cost method and property value (hedonic price) method. Each method is described, together with examples of their application in developing countries.

Travel cost method

Many natural resources (e.g. a national park or lake) are used for recreational purposes. The travel cost method bases its valuation on the money and time costs of visitors to such recreational facilities.

Property value (or hedonic price) method

The hedonic price method is based on the idea that differences in property prices can be used to infer the value which individuals attach to the difference in environmental quality between properties. For example, the difference in the price of two properties which differ only in, say, the local air quality, will provide a measure of the value which people give to difference in air quality. Even when properties differ in other ways, it may still be possible (though it is a complex task) to uncover the implicit prices of environmental quality using statistical techniques to separate out the contribution of each factor to the total market price.

3. Benefit transfer

Benefit transfer involves deriving estimates of economic value in one context for use in a different context, where the data required for the estimation are not readily available. For example, the value of health damage from air pollution in one city might be used to estimate health costs from air pollution in a different city or, more controversially, the values derived in one country might be transferred for use in a different country. Though this can provide quick and low-cost estimates, it is subject to a number of limitations (see Table below).

Table A summarises the main valuation techniques and lists some of the advantages and disadvantages of each method.

Table A: Valuation Methods

Valuation Method	Advantages	Disadvantages
Change in output of marketable resources and goods	<ul style="list-style-type: none"> > easily understood and applicable, provided dose-response relation is known > uses actual market prices 	<ul style="list-style-type: none"> > difficult to isolate the effect of given impact on observed change in production > market prices may be a poor indicator of willingness to pay > only relates to use value
Human capital cost	<ul style="list-style-type: none"> > epidemiological dose-response data > health expenditure data, and > earnings data are available 	<ul style="list-style-type: none"> > likely to understate full value of health > difficult to isolate separate causal factors in ill health > moral and ethical objections
Cost based approaches	<ul style="list-style-type: none"> > ease of application, if relevant technical 	<ul style="list-style-type: none"> > preventive expenditure may



(Replacement cost or preventive expenditure)	and cost data are available	<ul style="list-style-type: none"> understate environmental value ➤ replacement cost may understate full reinstatement of environment quality ➤ may not cover non-use values
Contingent valuation	<ul style="list-style-type: none"> ➤ potentially covers most components of total economic value ➤ practice improving with greater experience in its use 	<ul style="list-style-type: none"> ➤ time-intensive and expensive to implement ➤ biases through use of stated rather than revealed preferences ➤ other biases associated with questionnaire design and survey practices
Travel cost	➤ a fairly well developed and used method	<ul style="list-style-type: none"> ➤ significant data requirements ➤ problems in reliably interpreting the statistical findings ➤ measures use value only
Property valuation/hedonic pricing	<p>Applicable where there is:</p> <ul style="list-style-type: none"> ➤ availability of property price data ➤ availability of data relating to determinants of property prices 	<ul style="list-style-type: none"> ➤ assumes market values capture the environmental good's value ➤ problems in segregating the influence on property prices of environmental factors from that of other explanatory variables ➤ measures use value only
Benefits transfer	<ul style="list-style-type: none"> ➤ time saved and inexpensive ➤ applicable where value estimates are available from other comparable studies 	➤ inappropriate transfer of values from sites where primary analyses were conducted to sites experiencing different, non-comparable conditions



Annex 6: Discounting and Present Value

There are three main stages in the application of economic valuation to impacts. The first involves the identification of the potential benefits (positive impacts) and costs (negative impacts). The second stage involves the valuation of the identified costs and benefits in economic terms. Third, where the benefits and costs are estimated to continue into the future, the discounting technique is used to convert future impacts into equivalent present day values.

The first step in the financial appraisal is to record on an annual basis the monetary value of the economic benefits and economic costs of the regulation. If the regulation is to last for a specified number of years ('sunset clause'), the benefits and costs should be estimated for each year. Otherwise, the benefits and costs should be estimated for a minimum of 10 years. The difference between the annual benefits and costs is the net benefit flow. Net benefits received in the future are less valuable than benefits received immediately. The reason for this is simply that the benefits received in the future are less certain and even if they are certain to occur, there is an opportunity cost in terms of the delay in receiving the benefits.⁵⁰

In order to combine each year's net benefit flow into a single aggregate figure, they need to be converted into equivalent terms. This is done by the process of discounting, which converts future values into an equivalent present period value. This important process can be explained by using a simple example. Suppose a firm or individual is asked to choose between €100 today and €100 next year. The choice will be in favour of €100 today, which can then be placed in a savings account, earning, say, 10 per cent a year. After one year the interest payment will have increased the savings account balance to €110. So the prospect of €100 a year from now is equivalent to only €100 divided by 1.1 = €90.9 in present period terms. This process of reducing future values to their present period equivalent value is called discounting. If the example is extended to a second year, then we need to allow for the fact that interest will be earned on the previous period's interest, increasing the savings balance to €121 (€110 + €11). The payment of €100 two years hence would therefore be discounted to give a present value of €100 divided by 1.21 = €82.6. A general expression for calculating the net present value (NPV) is:

$$NPV = \sum_{t=0}^n \frac{Bt - Ct}{(1+i)^t}$$

where Bt and Ct are the benefits (revenues) and costs (expenditures) in each year t , i is the discount rate (rate of interest) and n is the life of the project. The calculation of NPV can be easily undertaken using discount tables.

The NPV criterion follows directly from what has already been discussed, namely that a project is worth proceeding with if its NPV is positive.

Discounting and Calculation of Net Present Value

Suppose the proposal is expected to give annual benefits for 5 years of € 500. The annual costs are €350. The discount rate is 10%.

⁵⁰ This is equivalent to the opportunity cost of financial saving, where borrowers have to compensate lenders for the income they are forgoing, by paying a rate of interest.



Year	0	1	2	3	4
Benefits	500	500	500	500	500
Costs	350	350	350	350	350
Net Benefits	150	150	150	150	150
Discount Factor (for 10%)	1.0	0.909	0.826	0.751	0.683
Discounted Net Present Value	150	136.35	123.9	112.65	102.45
The total net present value = 150 + 136.35 + 123.9 + 112.65 + 102.45 = € 625.35					



Annex 7: Frame for Consultations/PPD in General and for RIA

General

Legislation

- The Law on the Right of Access to Information (2013),
- The Code of Good Practice for Civil Participation in the Decision-Making Process (2009),

Guidelines

- Guidelines for Implementation of the Code of Good Practice for Civil Participation in the Decision-Making Process (2010)

RIA

Legislation

- RIA Law (2011);
- RIA Regulation (2012);
- Government Rules of Conduct (2011);
- Parliament Rules of Conduct (2013).

Guidelines

- RIA Guidelines for Civil Servants (2012);
- RIA Guidelines for GLO (2012);
- RIA Guidelines for Stakeholders, Public and Interested Parties (2012).

EIA for SMEs

Guidelines

- Manual of EIA for SMEs (forthcoming);



Annex 8: Expert Bearers and Competent Bodies

The **Expert Bearer Drafting the Regulation** (hereinafter: **Expert Bearer**) is the central body of the state administration and any other body, which, in line with its prescribed scope of work, is authorised to submit a regulation for adoption to the Government of the Republic of Croatia.

Expert Bearers in the RIA process are:

- Ministry of Agriculture
- Ministry of Construction and Spatial Planning
- Ministry of Culture
- Ministry of Defence
- Ministry of Economy
- Ministry of Entrepreneurship and Crafts
- Ministry of Environmental Protection and Nature
- Ministry of External and European Affairs
- Ministry of Finances
- Ministry of Healthcare
- Ministry of Justice
- Ministry of Labour and Pension System
- Ministry of Maritime Affairs, Transportation and Infrastructure
- Ministry of Public Administration
- Ministry of Regional Development and EU Funds
- Ministry of Science, Education and Sport
- Ministry of Social Policy and Youth
- Ministry of Tourism
- Ministry of War Veterans
- State Geodetic Directorate
- State Hydrometeorology Institute
- State Institute for Intellectual Rights (Ownership)
- State Institute for Metrology
- State Institute for Statistics
- State Institute for Radiology and Nuclear Safety
- State Office for Central Public Procurement
- State Office for Croats Abroad
- State Office for Renovation and Housing

The **Competent bodies** are the central bodies of the state administration in charge for the following areas:

- Economy;
- Health and Social Welfare;
- Environmental Protection;
- Finance.

Competent bodies in the RIA process are:

- Ministry competent for economy;
- Ministry competent for entrepreneurship and crafts;
- Ministry competent for labour and pension system;
- Ministry competent for environmental protection and nature;
- Ministry competent for social policy and youth;
- Ministry competent for finances;
- Agency for the protection of the market competition for the impacts on the market competition.



Annex 9: RIA Terminology

Regulatory Thesis is the starting document for drafting of regulations. It presents (maximum of one page) the main intention of a future regulation.

Information obtained by the **Initial Impact Assessment** is entered into a prescribed template. It includes information on the problem, possible solution and main fiscal, economic, social and environmental impacts. Depending on the results of this assessment, the planned regulation goes either to the regular procedure or to the detailed RIA.

The **Proposal of the Plan of Normative Activities** contains a list of all normative activities that an Expert Bearer plans for the forthcoming year. It contains two lists of regulations: the RIA and the non-RIA regulations and must be published on the Expert Bearer's website for a minimum of 15 days during 01-30 September. After this period, the document is sent to the GLO for its opinion.

GLO aligns all Proposals of the Plans of Normative Activities with the individual Expert Bearers until 31st November and then publishes the **Annual Plan of Normative Activities**.

Regulatory Impact Assessment Statement (RIA Statement) is an official document, which contains the results of the implemented RIA procedure. Depending on the stage of RIA process it can have different titles:

- **Draft of the Proposal of RIA Statement:** at the start of the drafting process, the first version of the document that goes to public consultation;
- **Proposal of RIA Statement:** the second version of the document, up-dated in line with the results of the consultation and opinions of the Competent Bodies;
- **Final RIA Statement:** upon termination of the second round of consultation, it becomes final after updating in line with the results of consultation, positive opinion of all Competent Bodies and GLO approval. This is the last version of the RIA Statement which is presented to the Government, along with the Regulation for deliberation and adoption.

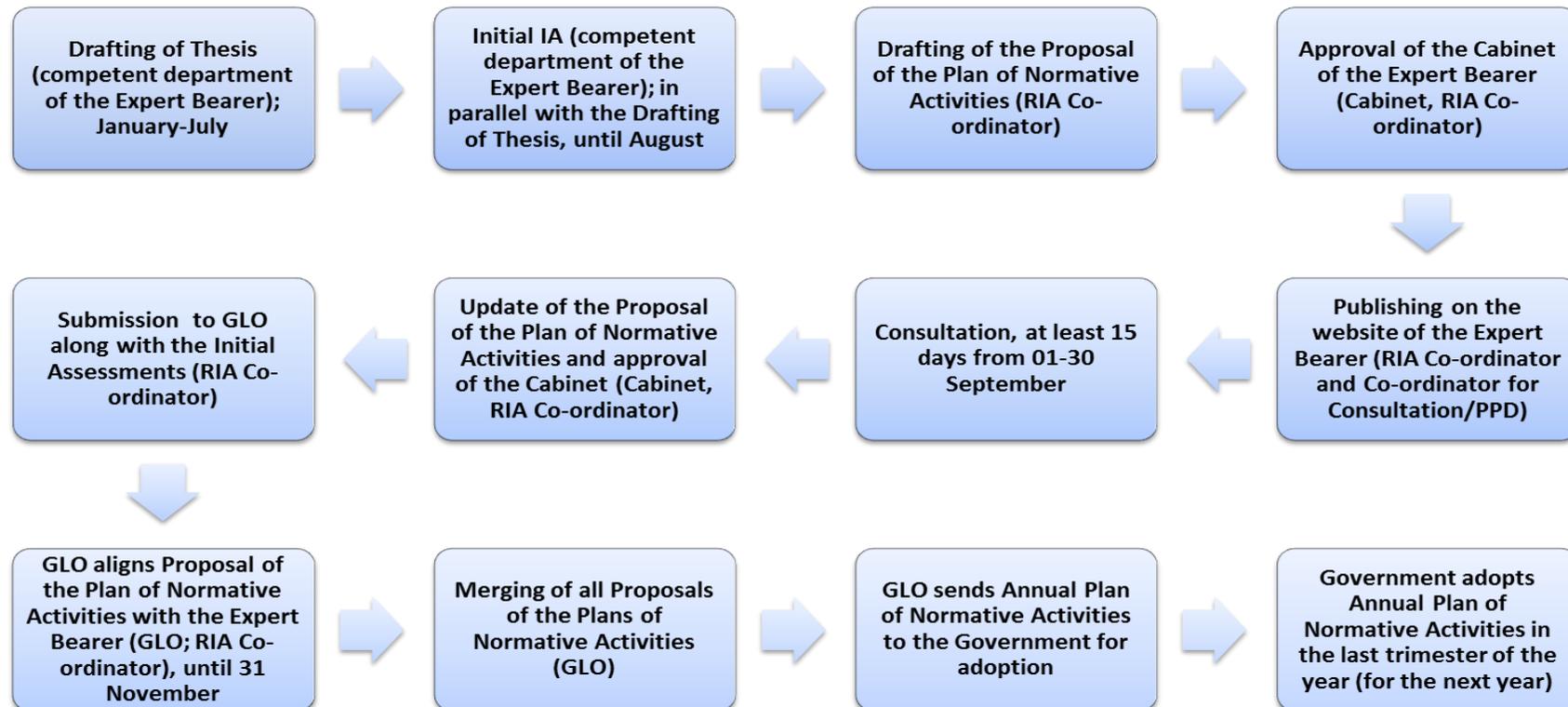
The **RIA co-ordinator** is the person in each Expert Bearer that is in charge of the overall RIA process, in coordination with the **Government's Legislation Office**. The RIA co-ordinator organises, co-ordinates and is responsible for all steps of the RIA process in each Expert Bearer.

The **Consultation co-ordinator** is the person in each Expert Bearer that is in charge of consultation/PPD in coordination with the **Government's Office for NGOs**. In the RIA process, the consultation co-ordinator liaises with the RIA co-ordinator in relation to the activities connected with consultation/PPD.



Annex 10: Overall RIA Process

1: Preparation of the Annual Plan of Normative Activities





This step is finished with the creation of the **Annual Plan of Normative Activities**. It is consisted of two lists:

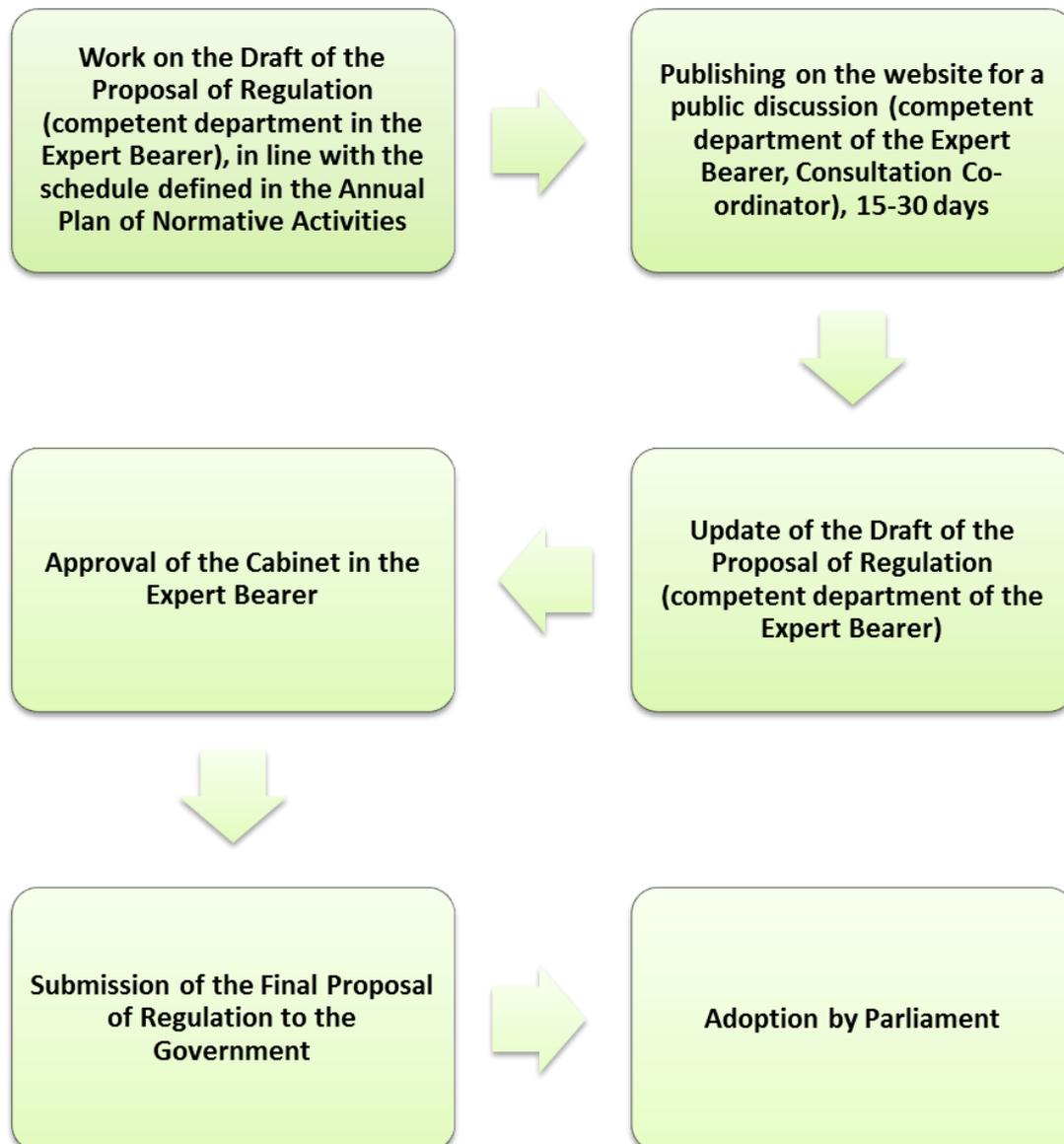
- > Non-RIA Regulation (go to regular procedure);
- > RIA Regulation (detailed impact assessment needed).

Depending on the type of list, the process branches into two options:

- > Process with Non-RIA Regulation;
- > Process with RIA Regulation.

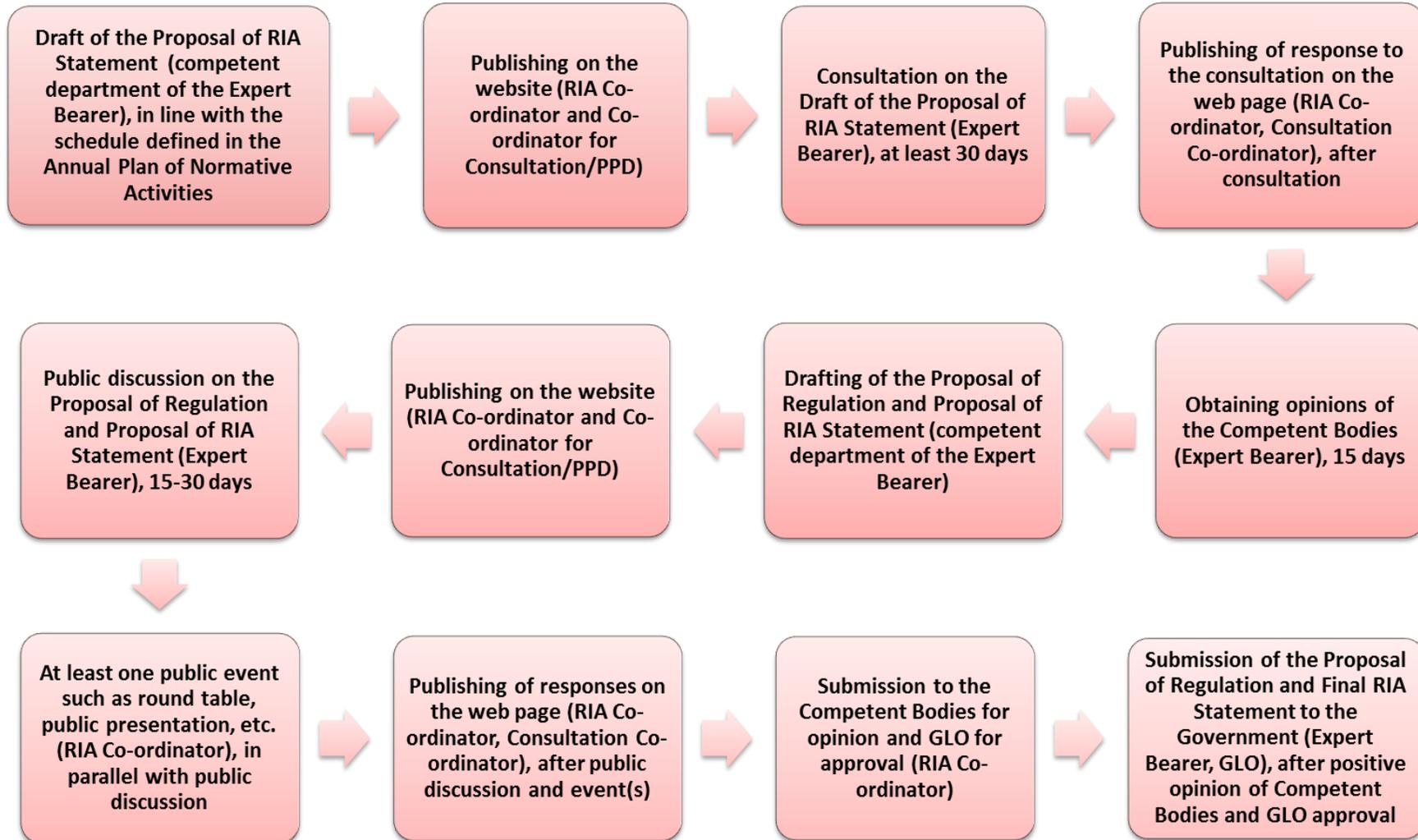
These two processes are illustrated below.

2a: Process with Non-RIA Regulation



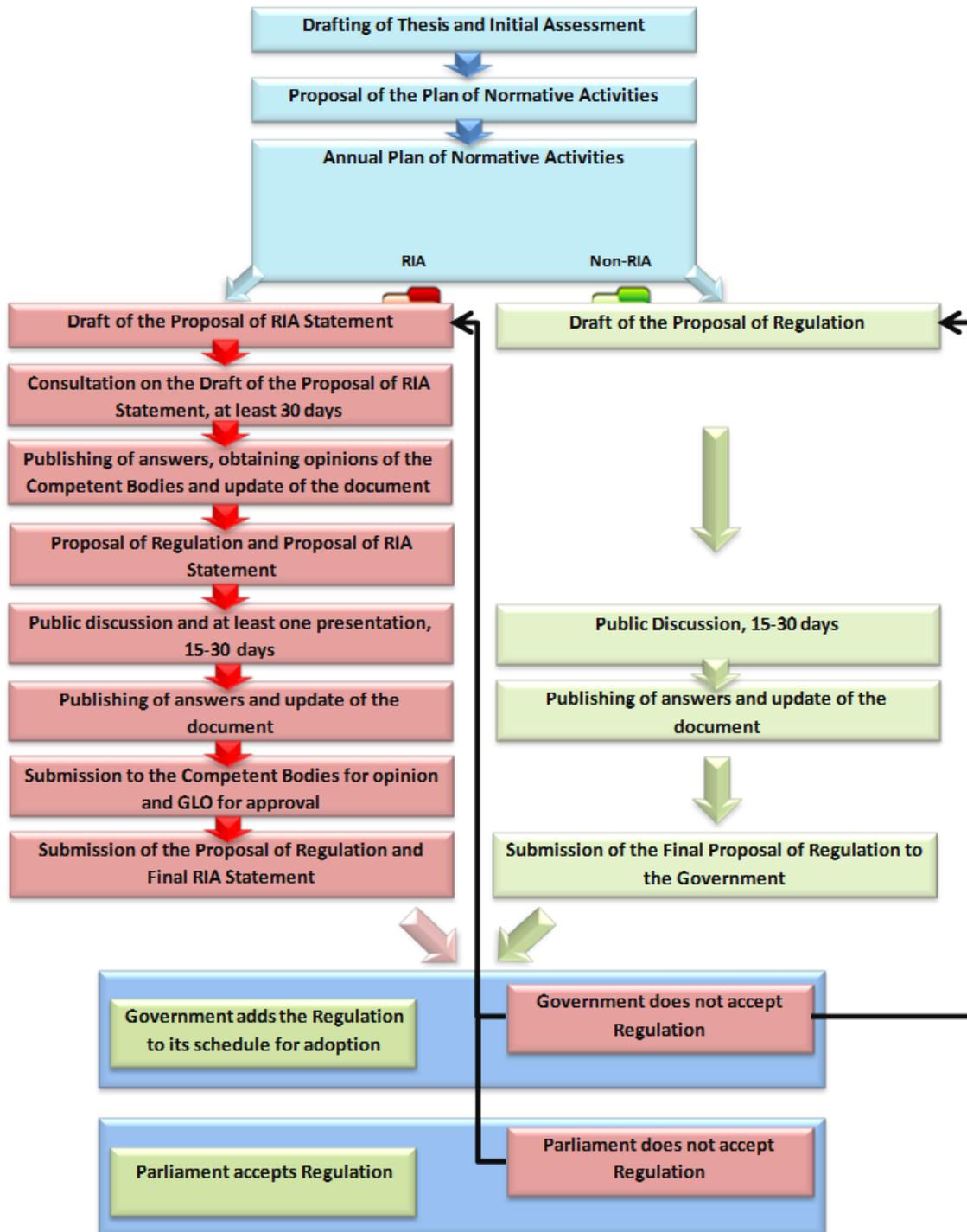


2b: Process with RIA Regulation





Whole Legislation Process – from Thesis to the Parliament



NOTE:

Besides the procedure for adoption of regulations from the Annual List of Normative Activities, Croatian legislation allows *ad hoc* adoption of the regulations. This includes all regulations which are not added to the Annual List. Adoption of the *ad hoc* regulations follows the same pattern as adoption of regulations in the Annual list, except in the case of Public Discussion which is implemented in the duration of 15 days. It is important to notice that *ad hoc* process is not the regular procedure and its use should be minimised as much as possible.