

# **6** *Ex post* evaluation of regulation in Croatia

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This chapter focuses on how the Croatian government rationalises its existing stock of regulations, including how it undertakes reforms to improve regulation in specific areas or sectors to reduce administrative burdens and other compliance costs associated with regulation or evaluate the overall effectiveness of a regulation.

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*Ex post* evaluation is one of the most underdeveloped regulatory policy tools in the OECD. Generally, OECD countries have *ex ante* requirements to look at the impacts of regulations under development, but few do a thorough analysis of regulations once they are in place. In many countries *ex post* reviews only happen effectively during the amendment of regulations or on an *ad hoc* basis. The impetus to modify, update or create new regulations often only happens when an issue suddenly becomes a political priority. Few countries have regular programmes in place to ensure that regulations meet their objectives or look at the package of regulations that affects an entire sector.

### **Box 6.1. The fifth recommendation the Council on Regulatory Policy and Governance**

Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost-justified, cost-effective and consistent and delivers the intended policy objectives.

5.1. The methods of Regulatory Impact Analysis should be integrated in programmes for the review and revision of existing regulations. These programmes should include an explicit objective to improve the efficiency and effectiveness of the regulations, including better design of regulatory instruments and to lessen regulatory costs for citizens and businesses as part of a policy to promote economic efficiency.

5.2. Reviews should preferably be scheduled to assess all significant regulation systematically over time, enhance consistency and coherence of the regulatory stock, and reduce unnecessary regulatory burdens and ensure that significant potential unintended consequences of regulation are identified. Priority should be given to identifying ineffective regulation and regulation with significant economic impacts on users and/or impact on risk management. The use of a permanent review mechanism should be considered for inclusion in rules, such as through review clauses in primary laws and sunseting of subordinate legislation.

5.3. Systems for reviews should assess progress toward achieving coherence with economic, social and environmental policies.

5.4. Programmes of administrative simplification should include measurements of the aggregate burdens of regulation where feasible and consider the use of explicit targets as a means to lessen administrative burdens for citizens and businesses. Qualitative methods should complement the quantitative methods to better target efforts.

5.5. Employ the opportunities of information technology and one-stop shops for licences, permits, and other procedural requirements to make service delivery more streamlined and user-focused.

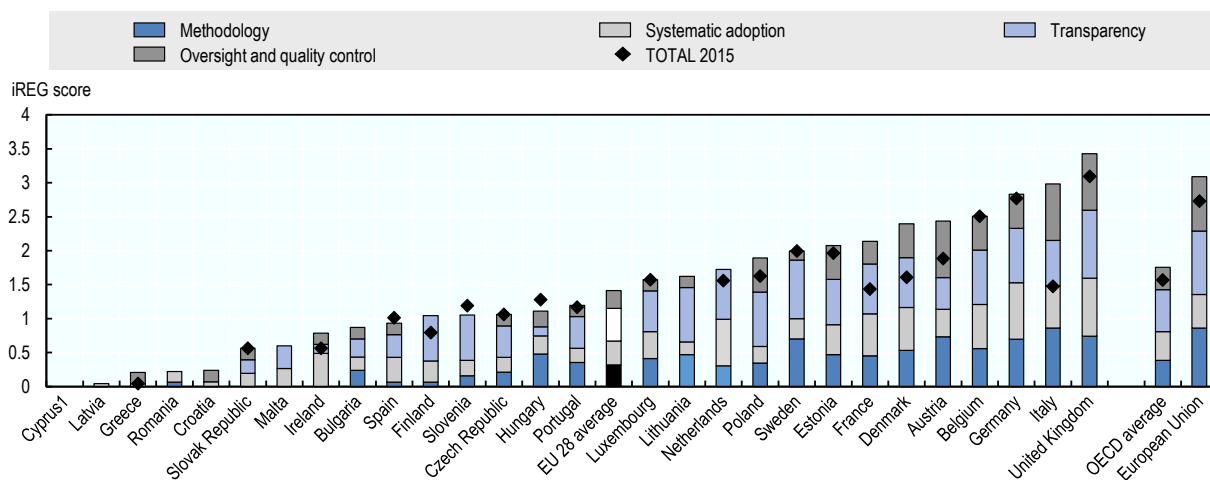
5.6. Review the means by which citizens and businesses are required to interact with government to satisfy regulatory requirements and reduce transaction costs.

Source: (OECD, 2012<sup>[1]</sup>), *Recommendation of the Council on Regulatory Policy and Governance*, <https://dx.doi.org/10.1787/9789264209022-en>.

Currently in Croatia, ministries may propose and develop amendments through the working groups described in Chapter 4. In these working groups, members get an opportunity to present ideas that may affect amendments to existing regulations. However, there is no formal system for reviewing the quality of regulations in particular sectors or programmes of work. Croatia has also not undertaken any *ad hoc* reviews of the performance of regulations in any particular sectors.

As a result, Croatia scores quite poorly in the OECD iREG indicators for *ex post* reviews (OECD, 2019<sup>[2]</sup>). In fact, it is one of the worst performing EU countries, according to a recent study by the OECD (see Figure 6.1).

**Figure 6.1. Composite indicators: Ex post evaluation of primary laws, 2018**



Notes: Data for 2015 is based on the 34 countries that were OECD members in 2014 and the European Union, which included 21 of the current 28 EU Member States. The OECD average is based on the 34 member countries at the time of the survey. Data for 2018 includes the remaining EU Member States of Bulgaria, Croatia, Cyprus,<sup>1</sup> Malta and Romania. The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score.

1. Note by Turkey:

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

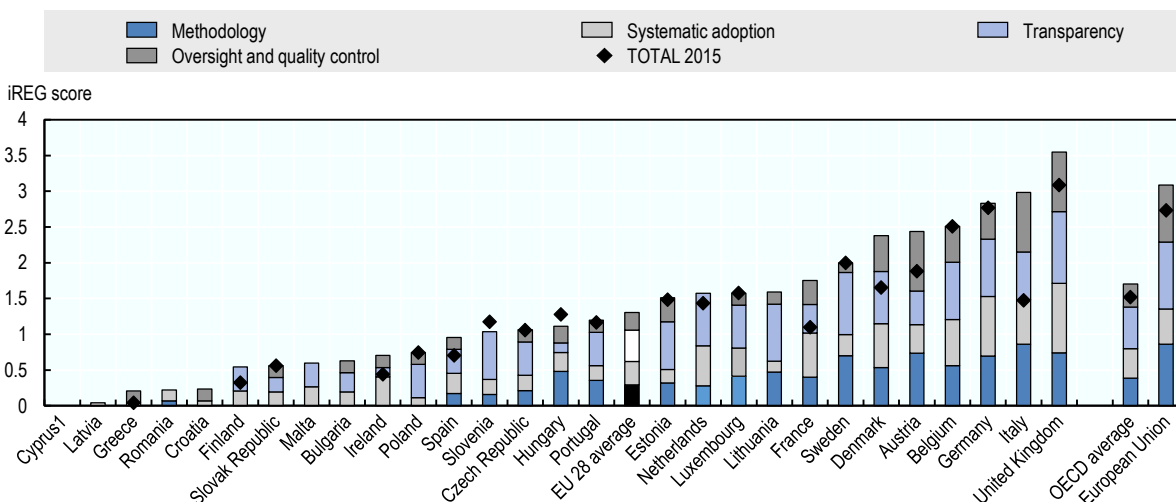
Note by all the European Union Member States of the OECD and the European Union:

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, and the extension to all EU Member States,

<http://oe.cd/ireg>.

**Figure 6.2. Composite indicators: Ex post evaluation of subordinate regulations, 2018**



Notes: Data for 2015 is based on the 34 countries that were OECD members in 2014 and the European Union, which included 21 of the current 28 EU Member States. The OECD average is based on the 34 member countries at the time of the survey. Data for 2018 includes the remaining EU Member States of Bulgaria, Croatia, Cyprus,<sup>1</sup> Malta and Romania. The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score.

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Recognising the relative weakness, Croatia already has some changes planned. In 2017, an obligation to conduct an *ex post* RIA process was put into place in certain cases, e.g. when a draft legislative proposal is passed under an urgent procedure. In theory, the government may use an urgent procedure to remove a threat or damage or to protect a particular economic or social interest. In those cases, the state administration body shall subsequently (*ex post*) carry out RIA at the latest within two years from the date of entry into force of the law.

### Box 6.2. Approaches to *ex post* evaluation

#### “Programmed” reviews

- For regulations or laws with potentially important impacts on society or the economy, particularly those containing innovative features or where their effectiveness is uncertain, it is desirable to embed review requirements in the legislative/regulatory framework itself.
- Sunset requirements provide a useful “failsafe” mechanism to ensure the entire stock of subordinate regulation remains fit for purpose over time.
- Post-implementation reviews within a shorter timeframe (1-2 years) are relevant to situations in which an *ex ante* regulatory assessment was deemed inadequate (by an oversight body for example), or a regulation was introduced despite known deficiencies or downside risks.

#### Ad hoc reviews

- Public “stocktakes” of regulation provide a periodic opportunity to identify current problem areas in specific sectors or the economy as a whole.
- Stocktake-type reviews can also employ a screening criterion or principle to focus on specific performance issues or impacts of concern.
- “In depth” public reviews are appropriate for major regulatory regimes that involve significant complexities or interactions, or that are highly contentious, or both.
- ‘Benchmarking’ of regulation can be a useful mechanism for identifying improvements based on comparisons with jurisdictions having similar policy frameworks and objectives.

#### Ongoing stock management

- There need to be mechanisms in place that enable “on the ground” learnings within enforcement bodies about a regulation’s performance to be conveyed as a matter of course to areas of government with policy responsibility.
- Regulatory offset rules (such as one-in one-out) and Burden Reduction Targets or quotas need to include a requirement that regulations slated for removal if still “active”, first undergo some form of assessment as to their worth.
- Review methods should themselves be reviewed periodically to ensure that they too remain fit for purpose.

Source: (OECD, Forthcoming<sup>[3]</sup>), *OECD Best Practice Principles for Regulatory Policy: Reviewing the Stock of Regulation*, Paris.

The first set of laws that must undergo the *ex post* RIA procedure, which are related to tax reform, entered into force on 1 January 2017. The Ministry of Finance has prepared the *ex post* RIA for each of the laws under this requirement. The Government has plans to monitor *ex post* RIAs.

Croatia has undertaken an extensive administrative burden reduction program for businesses and for the public sector called the Action Plan for Administrative Burden Reduction. According to the results of the Action Plan for Administrative Burden Reduction 2018, the total measured costs of all areas covered was HRK 5.1 billion. The Ministry of Economy, Entrepreneurship and Crafts estimates that implementing all the measures would save the economy HRK 625.9 million – an administrative burden reduction of 12%. The goal for administrative reduction until the end of 2021 is 21%.

For Croatia, the key challenges during the simplification process of regulation and burden reduction were; short deadlines, large number of regulations, resistance of the institutions, small number of employees within Ministry of Economy, Entrepreneurship and Crafts/Independent Business Environment Improving Service – in charge for the Action Plan co-ordination.

## Reviews of the stock of regulation and formalities

During the mid-2000s, administrative burden reduction programs were a hot topic in regulatory policy. Almost all countries in Europe had targets to reduce administrative burdens on businesses, and sometimes citizens and the public administration too. Although Croatia started a bit later, it has a well-developed plan for reducing administrative burdens, even if it does not yet do systematic reviews of areas for improvement.

The Ministry of Economy Entrepreneurship and Crafts has implemented the Standard Cost Model (SCM) methodology and SME Test to help support businesses in Croatia, which face steeper burdens and procedures than in many comparable countries (see Chapter 1).

The Action Plan for Administrative Burden Reduction on the Economy is part of the broader reform package from the National Reform Plan within the European Semester. The purpose is to create an improved investment climate, simpler business conditions and to provide easier access to market services through the full implementation of the Internal Market Services Directive of the EU.

Regulations significantly burden the business sector and make it difficult for free access to market services. Therefore, the main objective of Action Plan and its several iterations was to administratively unburden the economy.

This Action Plan builds on the 34 measures of administrative reduction that have already been implemented in 2016, which included improvements in public procurement, work safety, crafts, trade, real estate brokerage, tax consultancy and accounting.

In 2019, Croatia also has two new initiatives related to the *ex post* evaluation of regulation. The first project will aim to identify the 10 most problematic procedures and areas on businesses and citizens. The second project, funded by the Structural Reform Support Service of the EC, will focus on new methodologies to review regulations other than SCM. *Ex post* evaluations have so far in Croatia focused exclusively on administrative burdens, so developing new ways to review regulations will be a critical to improving the regulatory environment (see Table 6.1 for examples of other types of *ex post* evaluation).

## Administrative simplification initiatives

The Government determined the measures for administrative reduction through inter-departmental co-ordination with public administration bodies and through numerous consultations with business associations.

**Table 6.1. Sum of administrative costs and reduction – Action Plan for Administrative Burden Reduction on Economy 2018**

Competent authority	Legislative area	Total measured administrative cost per area (HRK) <i>ex post</i>	Amount of administrative reduction (HRK) <i>ex ante</i>	Estimated amount of administrative reduction (%) <i>ex ante</i>
Croatian Bureau of Statistics	Noble metals	1 134 651.13	87 740.06	7.73%
Croatian Bureau of Statistics	Metrology	22 429 954.42	5 764 520.84	25.70%
Croatian Bureau of Statistics	Homologation	1 947 584.18	0.00	0.00%
Ministry of Finance – Tax Authority	Taxes	4 858 814 699.84	577 024 891.45	11.88%
Ministry of Finance –Customs Administration	Customs, excise and special taxes	39 802 610.58	1 251 013.49	3.14%
Ministry of the Interior	Private protection	3 145 522.57	94 236.56	3.00%
Ministry of the Interior	Private detectives	82 453.46	4 258.30	5.16%
Ministry of the Interior	Protection of money institutions	2 712 670.21	189 779.32	7.00%
Ministry of Tourism	Tourism and catering	109 023 452.26	23 902 096.45	21.92%
Croatian Bureau of Statistics	Official statistics	48 572 693.06	7 116 070.93	14.65%
Ministry of Agriculture	Aquaculture	158 475.54	109 821.58	69.30%
Ministry of Agriculture	Fresh-water fisheries	695 464.43	627 875.99	90.28%
Ministry of Agriculture	Phytosanitary policy	1 089 458.03	521 453.74	47.86%
Ministry of Construction and Physical Planning – State Geodetic Directorate	Geodetic and cadastral jobs	13 681 713.66	9 292 072.95	67.92%
	<b>TOTAL</b>	<b>5 103 291 403.37</b>	<b>625 985 831.66</b>	<b>12.27%</b>

Source: Information provided by the Ministry of Economy.

One of the additional outputs from the Action Plan for Administrative Burden Reduction on Economy was the online tool, the “SCM Calculator”. The ministries are using this tool in the process of SCM measurement of their regulations.<sup>1</sup>

Citizens can report detected burdens by e-mail. Also, all parafiscal levies can be reported on the Registry for Parafiscal Levies.<sup>2</sup> At this moment, there is an on-line form on the Ministry of Economy, Entrepreneurship and Crafts website as part of Registry for Parafiscal Levies that automatically forwards all queries to responsible institutions. In 2020, a project is planned for the implementation of a portal that will integrate all applications in a user-friendly way.

## The use of ICTs to streamline processes in Croatia

In addition to looking at how regulations could be streamlined for businesses, Croatia has undertaken extensive measures to digitalise public administration procedures, perhaps more than in many OECD countries. The main task of public administration is to serve citizens, which Croatia hopes to achieve through improving electronic public services.

In June 2015, the Croatian Parliament adopted The Public Administration Development Strategy for the period from 2015 to 2020, which represents a strategic framework for improving administrative capacity and better public administration.

In December 2016, the Government of the Republic of Croatia also agreed to the Action Plan for Implementation of the Public Administration Development Strategy for the period 2017-2020.

The Government’s policy is focused on meeting specific objectives:

- Building effective public administration
- Depoliticising and effectively managing human resources in the public sector
- Digitalisation of public services.

Among all the main and specific objectives of the Action Plan, the ones that are ICT related are:

- **Main objective 6:** Improving the delivery of services by electronic means; specific objective: facilitation the communication between public service and users of electronic services
- **Main objective 7:** Rational use of ICT resources; specific objective: rationalisation of resources, creating standards for e-Business and digitalisation.

To achieve the objectives above, Croatia is in the process of preparing numerous projects to reduce administrative burdens on public administration. (These projects are presented in detail in Annex 6.A).

The ultimate objective of the above is to establish common platforms and appropriate digital services for public administration bodies, which will improve service delivery and reduce the regulatory and administrative burdens on citizens and businesses.

## Assessment and recommendations

Up until now, *ex post* review in Croatia has focused almost exclusively on reducing administrative burdens to business, government and citizens. There has been a strong focus on digitalisation of services. Generally, these reviews have brought improvements to the procedures internal to government. Many OECD countries have had a focus on administrative burdens, but this focus neglects whether laws and regulations are really meeting their objectives in an efficacious way. Every regulation is in effect an experiment. A ministry develops new rules for the market in the hopes that the market will have a better outcome on Croatian citizens. It is crucial that Croatia takes steps to ensuring that regulations are meeting the policy objectives of the government without undue costs to society.

**Targeted *ex post* reviews focusing on performance of regulations (“fitness checks”) or particular sectors should be used to improve the quality of regulations in high-impact sectors.** Croatia could follow up the project this year on new methodologies in *ex post* evaluation with a few reviews in target sectors.

Priority areas or sectors for those reviews must be identified in co-operation with stakeholders. **Croatia could establish a permanent business forum to target areas of reform and to continuously search for areas to reduce administrative burdens**, e.g. like the Danish Business Forum (see Chapter 4 for more details).

During the design phase, **Croatian ministries could develop plans to track the success for proposed major regulations or at least identify some objectives of success.** What is measured is improved. It will be difficult for Croatia to review the impact of regulations without a plan to evaluate their efficacy, so Croatia should plan how to evaluate new regulations during the design phase. This could include mentioning one or two indicators of relevance for any new major draft regulation. The first *ex post* RIAs required in 2019 could be a good opportunity to see if the regulations met their proposed objectives.

Like for *ex ante* evaluation, a key challenge for Croatia will be building the necessary expertise on *ex post* evaluation. **Croatia should develop or reinforce institutions for oversight and expertise on *ex post* evaluations and *ex post* RIAs.** This unit could possibly be combined with the functions within a centre-of-government body, like the GLO, or could continue within the Ministry of Economy, Entrepreneurship and Crafts, who already has expertise on the Standard Cost Methodology. Rather than reviewing all *ex post* reviews, the GLO with the co-operation from the Ministry of Economy, Entrepreneurship and Crafts could provide oversight of the first *ex post* reviews based on methodologies other than the SCM.

## References

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of Regulation*, OECD Publishing, Paris.

## Notes

<sup>1</sup> <https://scm.mingo.hr>.

<sup>2</sup> <https://nameti.mingo.hr>.



## Annex 6.A. Seven public administration digitalisation projects under way in Croatia

1. Shared Service Centre which will unify the state information infrastructure and will enable the sharing of ICT resources and the same application solutions with a view to their rationalisation. All public sector bodies will be able to use a common, reliable and scalable ICT infrastructure according to the "clouds" paradigm. During 2018, it is planned to prepare a report on the ERDF, sign the Grant Agreement and begin implementation of the three-year project for the Establishment of Shared Services Centre. The amount of funds will be HRK 305 million, of which up to 85% of the funds from the ERDF fund.
2. e-Business which will provide a unique approach to e-business services, in the same way as the e-Citizens System is set up for individuals. The project will also establish a sub-system of e-Authorisation and access rights management. We are planning to prepare applications for ESF (European Social Fund), sign the Grant Agreement and begin the implementation of a three-year project on Establishing a Common e-Business Platform. For the establishment of the system and the three-year project, HRK 45.5 million is provided, of which 85% is the grant from the ESF fund.
3. e-Fees, which represents a common horizontal component in the development of complex e-services that will enable electronic payment of administrative and other fees. By the end of 2018, we will enable the card payments in the State offices around the Republic of Croatia. At later stages, payment of other types of fees (court, notary, tourist ...) will be provided. For the establishment of the system and the three-year project, HRK 45.7 million is provided, out of which 85% is non-refundable from the ESF fund.
4. e/m-Signature and e-Stamp is a project that will significantly facilitate the business in public administration. Citizens or business entities will no longer have to submit signed bills in order to use the services of public bodies. We are planning to prepare applications for the ESF, sign the Grant Agreement and begin the implementation of a three-year project establishing a Common System of e-Signature, m-Signature and e-Stamp with appropriate services that will be able to be used by all public administration bodies, citizens and business entities for electronic signing and / or stamping of electronic documents as well as for their validation. For the establishment of the system and the three-year project, HRK 12 million is foreseen, of which 85% is non-refundable from the ESF fund.
5. Single Administrative Site represents a project whose establishment will facilitate access to public administration. Computerised services will be used by citizens and entrepreneurs through the e-Citizens Platform or through the e-Business Platform, and citizens who do not use digital technologies will be able to realise their rights by entering a single administrative site where a public servant will assist them in doing so. Out of the ESF funds, HRK 113.8 million are foreseen, of which 85% are non-refundable funds from the ESF fund.
6. e-Enrolment project will facilitate the process of enrolment in educational institutions from nursery schools through primary and secondary school to admission to higher education institutions, by digitalizing the whole process. Citizens will be able to report a child without a paper through the e-Citizens System or electronically in a selected institution. Also, the tracking of one's child through the whole education path will be enabled.

7. e-Newborn project Croatia has also established the first complexed e-service in a form of e-Newborn child. It is an integrated service that in one place allows: enrolment of a child into a birth register; enrolment in the register of citizenship; regulating the residence of the child to the parents' address; regulation of the health insurance of the child; and applying for a one-time cash support for a new born child from the Croatian Institute for Health Insurance.



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