

Macedonian Young Lawyers Association

THE REGULATORY IMPACT ASSESSMENT PROCESS IN 2017

*Analysis of the Implementation of the Regulatory Impact Assessment Process (RIA)
by the Ministries of the Republic of Macedonia in 2017
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List of Abbreviations

RIA	Regulatory Impact Assessment
RM	Republic of Macedonia
EU	European Union
NATO	North Atlantic Treaty Organization
OECD	Organization for Economic Collaboration and Development
SNER	Single National Electronic Registry of Regulations
CSO	Civil Society Organizations
GRM	Government of the Republic of Macedonia
MISA	Ministry of Information Society and Administration
MD	Ministry of Defense
MIA	Ministry of Internal Affairs
MJ	Ministry of Justice
MFA	Ministry of Foreign Affairs
MLSP	Ministry of Labor and Social Policy
MTC	Ministry of Transport and Communications
MAFWE	Ministry of Agriculture, Forestry and Water Economy
ME	Ministry of Economy
MF	Ministry of Finance
MLSG	Ministry of Local Self Government
MEPP	Ministry of Environment and Physical Planning
MH	Ministry of Health

1. Introductory Notes

1.1 Subject and objective of the analysis

The Analysis of the Regulatory Impact Assessment Implementation in 2017 (hereinafter referred to as 'the Analysis') analyzes and assesses the actions of the ministries in the implementation of the obligations arising from the regulatory impact assessment. The purpose of the analysis is to identify whether and to what extent, while elaborating the proposals of the laws within their respective departments in 2017, the ministries complied with the Guideline on the Manner of Acting in the Work of the Ministries during the Implementation Process of the Regulatory Impact Assessment¹ and its related Methodology for Regulation Impact Assessment². In the assessment of the harmonization, the Analysis pays equal attention to both formal, i.e. process obligations (e.g. implementation of activities, compliance with deadlines, obligation to inform and similar), and essential requirements relating to the quality of the produced documents and the thoroughness of the analyses as a compulsory part of the RIA process.

Besides this, by conducting a comparative analysis of different systems and models for the RIA implementation, the Analysis attempts to identify the best practices and solutions which would be applicable in the RM and would significantly and positively affect the quality of the RIA process. The best identified practices and solutions shall complement the identified findings and conclusions from the RIA process Analysis in 2017, and shall contribute in the formulation of recommendations for the promotion of this very important process for strengthening the quality of the laws, and thus the legal security of citizens.

The Analysis adds to previously conducted research, papers and documents analyzing the RIA process. Although almost ten years have elapsed since the implementation of the regulatory impact assessment process, a common finding of these documents is that there are serious shortcomings due to which it failed to provide the necessary results and fulfill the objectives for which it was adopted. The Analysis also adds to previous work of the Macedonian Young Lawyers Association (MYLA). In 2011, MYLA produced and published an analysis of the quality and way of implementation of the Regulatory Impact Assessment³. The Analysis takes into account the regular annual information, the progress and the realization of the RIA prepared by the MISA, carries out an objective analysis of the containing data, yet it goes even further by entering into details of the quality of the documents produced within the frames of the RIA process. The Analysis has been prepared by Svetlana Crvenkovska, Research and Analysis Coordinator, and Goce Kocovski, Legal Assistance and Strategic Advocacy Coordinator at the Macedonian Young Lawyers Association.

The Analysis has been prepared within the project named "Through Quality RIA to a Better Legislation in the RM", carried out by MYLA, and supported by the Institute for Democracy "Societas Civilis" in Skopje and the Center for Economic Analysis within the programme "Regulatory Impact Assessment in the Shadow: Fostering evidence-based policy-making", financially supported by the European Union.

1 Official Gazette of the RM, no. 106 from 29.7.2013 r.

2 Official Gazette of the RM, no. 107 from 30.7.2013 r.

3 Brezovska J., Korunivska A.N., Danilovska B.D. Analysis of the Regulation Creation Process through the Preparation of the Regulatory Impact Assessment in 2010. Macedonian Young Lawyers Association 2011.

1.2 Methodology

The research subject is the acting of the ministries in the implementation of the regulatory impact process in 2017. The Analysis has the following **research objectives**: (1) To determine whether and to what extent the ministries acted in compliance with the RIA Guideline and Methodology (2) To identify the key issues that complicate or limit the RIA process; and (3) To provide applicable recommendations based on the best comparative practices for enhancing the quality of the RIA implementation.

During the research, a combined approach for collecting primary and secondary data has been applied, as well as their analysis through elaborated qualitative and quantitative indicators. For the purposes of the research, the following **tools for data collecting** were used:

- Document Analysis (desk research), which included a review and an analysis for the following documents:
 - o Regulations managing the RIA process implementation;
 - o Reports made by the MISA relating to the RIA process, published on the Ministry's web-site;
 - o Insight in the documents published on the web-site of the SNER⁴;
 - o Other relevant literature, handbooks, guides, instructions and reports relating to the RIA process in the RM;
 - o RIA related regulations and reports in the countries that are a subject of the comparative analysis.

Submission of requests for free access to public information⁵ to all ministries requesting access to documents associated to the RIA processes initiated in 2017.

- Structured anonymous questionnaire for collecting information from the RIA coordinators in each ministry on the issues and challenges they encounter in the implementation of the RIA process.

The collected data were analyzed for each ministry separately, based on a developed frame of indicators, which helps to determine whether and to what extent the ministry has acted in compliance with the Guideline and Methodology. The indicators are divided into two groups. The first group refers to complying with the formal (procedural) provisions contained in the Guideline, while the other provides the opportunity for an immediate analysis of whether the necessary analyses and consultations with stakeholders have been thoroughly implemented. During the implementation of the analysis it was identified whether and to what extent the predicted indicators were met. The analysis was implemented through an insight in the draft and proposal RIA reports and their analysis, all published on the SNER, and their comparison with the received data from the separate ministries, as well as through the information given by the MISA relating to the RIA.⁶

a. Indicators relating to the fulfillment of the formal requirements

- The Ministry has published an Annual Plan for the implementation of the RIA in 2017 and adheres to it.
- The Ministry implements a RIA process in the elaboration of each law, except the ones which have been exempted from the RIA in accordance with the Rules of Procedure.
- The Ministry carries out all planned activities in a manner and within a timeframe as prescribed in the Guideline.
- All documents have been published and are accessible on the SNER.
- All stakeholders have been timely notified for the commencement of the RIA process with an announcement on the SNER and a notification containing all compulsory elements.

⁴ <https://ener.gov.mk/>

⁵ Sample from the request – Annex 4.

⁶ Information on the progress-assessment of the regulation impact (RIA) (January - December 2017) and Review of compliance with the obligations arising from the RIA process and mandatory publication of the laws on the SNER (January-December, 2017).

b. Indicators relating to the fulfillment of essential requirements

- The description of the condition and the analysis of the problems have been clearly and thoroughly referred to in the RIA Report, including relevant statistical, demographic and other types of data, as well reference to previously elaborated analyses and reports.
- The objectives of the regulation are specific, achievable and measurable.
- The reports contain at least three possible and elaborated solutions for the identified problems.
- The benefits and the impact of the regulation have been identified on the basis of previously conducted analyses and have been elaborated and appropriately supported.
- A consultative process has been conducted, substantially providing the opportunity to include stakeholders, and a reply to the received comments and proposals has been provided.
- A framework of indicators for monitoring and evaluation of the law has been predicted.

Regarding time, the research subject has been limited to the RIA processes that started and were implemented over the course of 2017.

1.3 The RIA Process

The RIA process initiated its implementation in 2009, but it underwent certain changes with the Guideline and Methodology adopted by the Government of the RM in 2013. The Regulatory Impact Assessment (RIA) Process is a process of systematic identification and assessment of the expected impacts from the regulation proposal by the use of consistent analytical methods. The RIA is a comparative process based on defining the objectives to be achieved with the regulation and discovering possible ways for their achievement in order to systematically select the most efficient and effective ways for achieving the objective of the regulation proposal.⁷ As a matter of fact, the creation of effective policies is an essential precondition for proper functioning of the Rule of Law⁸, where the regulation is a foundation for the proper functioning of society and its economy, all the while being necessary for their protection⁹.

It must be observed that the RIA process is particularly important in the context of the priorities of the RM for EU and NATO membership, because during the pre-accession period, the process of harmonization of the legislation of the RM with the legislation of the EU and NATO member-states implies an analysis of their legal acts and appropriate transposition into the national legislation. Should negotiations on the country's accession to the EU begin, the RIA process shall gain greater significance, because it can help determine short-term and long-term impacts of the EU legal acts on the national legal system. Simultaneously, in this manner, the state will be able to build a better position in the negotiations process and reduce negative impacts for the RM.¹⁰

The basic objective of the RIA process is to provide relevant and true information for both positive and negative impacts of the potential problem-solving ways, as well as for the suggested way for achieving the objective for which the law-proposal has been presented. The quality implementation of the RIA process contributes to an effective and efficient implementation of the law, and thus to the realization of the government's policies.¹¹

Mainly, the RIA process is implemented in accordance with the principle of proportionality, that is, the level of the analysis, and the complexity of the analytical tools used within the process depend on the expected impact of the law-proposal. The analytical approach and the depth of the analysis may differ depending on the importance of the issues regulated by the law-proposal.¹²

7 MISA, Regulatory Impact Assessment Manual, October, 2013, p. 10.
8 Shikova N. Model for Analyzing the Effectiveness of the Regulatory Impact Assessment, IDSCS, CEA, August, 2017, p. 3.
9 Regulatory Impact Assessment Manual, p. 8.

10 Methodology for the Regulatory Impact Assessment.

11 Ibid.p. 5.

12 MISA. Regulatory Impact Assessment Manual, October, 2013, p. 11.

In accordance with the Rules of Procedure of the RM¹³, the RIA is implemented for all law-proposals submitted to the Government for consideration and establishment, except for the following: laws for which an urgent procedure is being implemented, laws for ratification of international agreements, laws that make a terminological alignment with other laws, as well as the Budget and the Law on Execution of the Budget of the RM.¹⁴

The RIA process is implemented in three phases. In the first phase, named Strategic Planning, the Government and the relevant ministries carry out an analysis of the conditions with the regulation, define existing eventual problems in the regulation and conduct an impact analysis (economic, social, financial and environmental). All of this is summarized and published in the Government's Annual Work Programme, as well as in the RIA Implementation Annual Plan, and these documents are thereafter published on the SNER.¹⁵

Afterwards, the second phase of the RIA implementation follows. In this phase, a number of activities are carried out, including the following: a) notifying stakeholders for the beginning of the process, b) analysis of the conditions and defining the objectives, c) establishing possible solutions, d) analysis of the impacts for each option and defining the optimal solution, e) if the necessity for implementing a regulatory measure is established, a draft-law is prepared along with a plan for monitoring and evaluation, e) preparation of a draft RIA report, its publication on the SNER and its submission for opinion to the MISA, f) preparation of a draft RIA report and its signing by the department minister.¹⁶ What is common for most of the separate activities of the second phase are the consultations with stakeholders. They are an integral part of the RIA process and are a very important mechanism for the regulation quality improvement, as well as for the promotion of the efficiency and effectiveness in the implementation of the predicted measures.¹⁷

The final phase of the RIA process involves decision-making. During this phase the law-proposal and the RIA report-proposal are submitted to the General Secretariat of the Government of the RM, where the law-proposal is adopted by the Government and, along with the RIA report, it is published on the SNER. What follows after this phase is implementation, monitoring and evaluation of the adopted laws in accordance with the adopted plan¹⁸.

2. Implementation of the RIA Process in 2017

2.1 General notes

The RIA Implementation Process in 2017 was largely influenced by the socio-economic context of the country during that period. Starting in 2015, the RM was going through serious political crisis and its institutions were blocked, which slowed down, and for a period, even ceased the legislative activity. The key reform processes were not implemented, legal projects were stopped, which minimized the necessity for the RIA process implementation. Due to this, 6 ministries out of 15 prepared and published annual plans for the RIA implementation in 2017. In the beginning of 2017, for almost four months, the RM did not have a legitimate executive authority as a result of the political crisis that escalated with the events of 27 April. The new government was elected in June 2017, which resulted with essential activity related to the RIA only in the second half of the year.

13, Official Gazette of the Republic of Macedonia" no. 38/01, 98/02, 9/03, 47/03, 64/03, 67/03, 51/06, 5/07, 15/07, 26/07, 30/07, 58/07, 105/07, 116/07, 129/07, 157/07, 29/08, 51/08, 86/08, 114/08, 42/09, 62/09, 141/09, 162/09, 40/10, 83/10, 166/10, 172/10, 95/11, 151/11, 170/11, 67/13, 145/14, 62/15, 41/16 and 153/16.

14 Article 8 p. (1) a. 7 from the Rules of Procedure of the Republic of Macedonia.

15 Methodology for the Regulatory Impact Assessment, i. 2.1.

16 Ibid.

17 Ibid.

18 Ibid.

It is characteristic for the legislative activities carried out in 2017 that they were largely focused on complying with the EU recommendations contained in the Urgent Reform Priorities and in the Report of the Senior Experts' Group on Systemic Rule of Law Issues Relating to the Communications Interception (the so-called Priebe Report). These recommendations were translated into the government's 3-6-9 Plan and were raised to the highest level of priority. Regarding other reforms, a process for an intensive planning and drafting of strategic documents was initiated (ex. judiciary, public administration etc.), which are to dictate the legislative activity in the following years.

In 2017, a total of 48 RIA processes were planned. However, partly due to the new circumstances, but also due to shortcomings in the planning process, a total of 92 RIA processes were initiated. In 2017, the Government adopted 54 law-proposals subject to the RIA.

Review of initiated RIA processes and adopted law proposals subject to RIA in 2017¹⁹

Ministry	Planned RIA	Initiated RIA	Adopted by the Government
MS	0	3	1
MIA	0	7	5
MJ	7	9	11
MF	12	9	7
ME	0	18	0
MFA	1	1	1
MAFWE	20	12	1
MH	1	1	2
MS	6	3	0
MLSP	0	5	10
MLSG	0	0	0
MC	0	7	6
MISA	0	10	9
MTC	0	3	1
MEPP	1	4	0
Total:	48	92	54

¹⁹The data have been collected by an insight on the SNER, as well as by comparison with the Review by the MISA for complying with the obligations arising from the RIA process in the period January - December 2017.

2.2 Implementation of the RIA by the Ministries in 2017

2.2.1 Ministry of Defense

The Ministry of Defense has neither prepared nor published an Annual RIA plan because the Work Plan for 2017 did not predict amendments of the laws regarding defense²⁰. However, over the course of the year, a RIA procedure had been initiated for a law-proposal on amending the Law on Classified Information. The need for intervention stems from the recommendations in the Priebe Report. In 2017, RIA processes were initiated and implemented to amend two other laws, however they were not adopted by the Government in 2018.

Law on Amendments the Law on Classified Information

From a formal point of view, the Ministry has complied with the RIA procedure, except that the draft RIA report has been submitted for opinion to the MISA before the expiration of the minimum consultations deadline of 20 days on the SNER – contrary to the RIA procedure. Additionally, the Draft RIA Report has not been published on the SNER. The draft-report is rather scarce and fails to provide space for analysis of the RIA process quality.

Law on Amendments to the Law on Protection and Rescue, Law on Amendments to the Law on Crisis Management

These two laws provide minor intervention in the basic legal texts regarding requirements to be complied with by holders of public functions, regulated by these laws. From a formal point of view, the RIA process has been respected, however, there is no publication of a report-proposal on the SNER, while the draft-reports, except the description of the condition and the regulation objectives, are too scarce to allow implementation of an essential analysis.

2.2.2 Ministry of Internal Affairs

The Annual RIA plan for 2017 for this Ministry has not been published under the explanation that the reasons for this are of technical nature²¹. In 2017 a RIA process was initiated for a total of seven laws²², of which five were adopted by the Government of the RM as law-proposals.

Law on Amendments to the Law on Traffic and Road Safety

With the proposed amendments to the Law, the Ministry of Internal Affairs performs content, i.e. normative-legal and technical improvement of the text, in order to facilitate its applicability. The amendment is relatively extensive and covers over 90 articles of this Law, which consists of 414 articles. The law has been adopted in 2018, however a report-proposal for the RIA hasn't been published on the SNER. The draft-report is scarce regarding the description of the condition and the reasons for adopting the amendment. The objectives are far too general in order to be achievable or measurable. The regulatory impact assessment goes one step further and identifies possible impacts, but without appropriate analyses and reports to support them. Regarding the consultations, considering it is a draft-report, there is not enough data as a basis for deriving conclusions.

Law on Amendments to the Law on Weapons

The reasons for adopting this Law come from the need for technical and terminological precision in certain provisions of the Law and overcoming practical issues encountered by competent services. The proposal provides intervention in almost one third of the provisions of the basic law, which, more appropriately, for nomo-technical reasons should be implemented by the adoption of an entirely new text of the Law²³, and not only by an amendment. The Law was adopted in 2018, but a RIA draft-report hasn't been published on the SNER. The description of the condition and objectives relating to the compliance with relevant EU regulations is appropriate, but in its other part it is too general and unprecise.

20 Information from the Ministry of Defense no. 15/1-3233/1 from 11.5.2018.

21 Information from MIA no. 16.1.2-1216/1 from 14.5.2018.

22 Note: As a law proposed by the MIA, the Law on Criminal Procedure

is published on the SNER, however from the insight in the notification, it is undoubtedly a matter of technical omission.

23 Secretariat for Legislation of the Government of RM. Manual for Nomo-technical Rules, Skopje 2007, p.32

There is absence of a description of three possible solutions. Instead, there is a description of the proposed solution only. The regulatory impact assessment goes one step further and identifies all possible impacts, but without appropriate analyses and reports to support it. Regarding the consultations, considering it is a draft-report, there are not enough data as a basis for deriving conclusions as to whether they have been implemented in compliance with the Guideline and Methodology.

Law on Amendments to the Law on Police, Law on Amendments to the Law on Internal Affairs

These laws are a part of the cluster laws prepared to establish an independent mechanism for control of the police work. The intervention in the laws is minor and refers only to the establishment of the obligation for notifying the newly-formed department in the Public Prosecutor's Office in the case of obtained information about a committed criminal act by a person of police authority, as well as the regulation of certain issues related to disciplinary responsibility. The Laws were adopted in 2018, however, such as in the previous cases, no RIA report-proposals have been published on the SNER. From a key point of view, the draft-laws meet the requirements of the Guideline and Methodology.

Law on International and Temporary Protection

This entirely new law harmonizes the legislation with the European Asylum Directives. Unfortunately, in this case as well, a RIA report-proposal has not been published, so our analysis is based on the draft-report. The description of the conditions and the definition of the problems are scarce and formal, deprived of statistical data or reference to certain analysis and reports. On the other hand, the objectives of the law are achievable and measurable, given that it is a normative alignment with the EU directives. Three possible solutions to the problem are absent. The regulatory impact assessment, although present, still lacks enough arguments for supporting the conclusions. The consultative process is appropriately planned, however, due to the fact that it is a draft-report, we cannot conclude how it was implemented in practice. The SNER did not publish any responses to the received comments along with information whether they were adopted or not, and the related reasons in case they were not adopted.

Law on Communications Interception, Law on Operational-Technical Agency

These two laws implement the recommendations by the group of senior experts for systemic Rule of Law issues relating to communications interception (the Priebe Report). Both laws have been adopted by the Assembly of the RM, but a RIA report-proposal has been published solely for the Law on Communications Interception. Regarding the RIA process and the insight in the two reports, it can be concluded that the procedure established in the Guideline has been followed. A consultative process has been implemented by including all stakeholders and the adopted proposals have been published, as well as the reasons for not adopting certain ones. What is missing are three possible solutions, as well as a more detailed analysis of the regulation impact, particularly regarding financial and human resources necessary for their implementation.

2.2.3 Ministry of Justice

In accordance with the Annual RIA Plan, this ministry planned to adopt seven laws in 2017, however due to the new circumstances related to the change of the government and the launching of activities for judicial reform, the Government established 11 law-proposals. According to the data obtained during the SNER inspection and the records in the MISA, it has been established that; there were 9 laws published on the SNER; eight Draft RIA Reports have been submitted to the MISA for opinion, of which one was submitted on the same date when it was published on the SNER – contrary to the RIA procedure. Of eleven laws submitted to the GRM, the RIA process has not been implemented at all for two of them (Law on the Use of Languages and Law on Amendments to the Criminal Law), contrary to the Rules of Procedure and Guidelines, and there has been a RIA Report submitted to the Government for one of them (Law on Amnesty).

Law on Amendments to the Law on Whistle-blower Protection

The need for the adoption of this law comes directly from the 3-6-9 Plan. The description of the condition and problems is detailed, it refers to all relevant circumstances and cites published analyses and reports. The objectives are achievable and measurable and there are more than three possible solutions proposed. The report contains a detailed description of the various types of impact of all proposed options. However, regarding fiscal impacts, the Report identifies that the law shall make fiscal impacts, but it does not estimate how big they would be. On the other hand, the expenses for implementation and compliance with the regulation have been estimated in detail. The report identifies all relevant stakeholders and contains a description of the inclusion method (working group, public hearing and public inspection through the SNER). It also contains a description of the received and embedded comments, as well as an explanation for the unembedded ones. The report contains a detailed frame of indicators for monitoring and evaluation of the law.

Law on Amendments to the Law on Enforcement

With this law, the Ministry aimed to clarify and improve the procedures for passing the enforcement agent exam and the announcement of call of applications for enforcement agents, to regulate the compulsory participation of lawyers in the execution of enforcement of claims higher than 10.000 euros, to address the complex and expensive system of conducting a procedure for out-of-court debt collection, but to also revise the way of supervision. Regarding this amendment, according to the SNER, the RIA procedure has stopped at the draft-report phase. The description of the condition and problems contains a description of the regulation of the issue, instead of the possible problems that need to be addressed. In part, the problems have been identified, however what lacks is precision and clarification about their consequences. The objectives of the regulation proposal haven't been precisely expressed (redefining a legal frame is not an objective per se. It is necessary to state the objective that needs to be achieved with the amendment.) There are no three possible solutions, while the ones given are imprecise (adoption of a law-proposal without a description of what it amends). Except the economic impacts, according to the Report, there shall not be other impacts, nor does it cite or call for their analysis. The consultative process meets the requirements of the RIA process.

Law on Amendments to the Law on Notaries

The objectives of this Law refer to the redefinition of the procedure for conducting a call of application for notaries, but also to increasing the economy and efficiency of issuing a notary payment order. The draft-report meets the conditions to a certain date, however it is too scarce regarding the description of planned and conducted consultations, and also regarding the regulatory impact.

Amnesty Law

The Amnesty Law aimed to reduce the number of the prison population in the RM and therefrom reduce the prison overload, which was listed as a reason for inhumane and degrading treatment of prisoners. The RIA process for this law was entirely implemented, except, according to information obtained from the MISA, the Government hasn't received the RIA Report. The RIA report-proposal, published on the SNER, is scarce relating to the description of the condition and the problems that need to be addressed. The description doesn't contain data for the number of the prison population in the RM and its structure, the number of reformatory-detention centers, the ratings on their overload and similar. The description also lacks a reference to analyses and reports regarding the needs for adopting such a law. The objective of the law, referring to resocialization from a feasibility point of view, is limited. The Report does not contain three possible solutions, while the description of the impacts, especially the social ones, is scarce and not based on analyses, but on assumptions. The consultative process is satisfactory.

Law on Amendments to the Law on Witness Protection

The proposal for the adoption of this Law arose from the need to establish an essential autonomy of the Special Public Prosecutor from the Public Prosecutor's Office of the Republic of Macedonia in the procedure for establishing the status of a protected witness. The RIA process for this law has been correctly implemented. The description of the conditions and problems has been fully and correctly identified. The objectives are measurable and achievable. Three decisions are missing along with a detailed assessment of the fiscal impacts of this law. The consultative process was implemented satisfactorily, but there are no indicators for monitoring and evaluation of the law.

Law on Termination of the Validity of the Law on the Council for Establishing Facts and Initiating a Procedure for Determining the Responsibility of a Judge

The need for the adoption of this law, whose scope is rather narrow - the cessation of this state organ, arose from the remarks of the Venice Commission. Due to the certain abolition of this organ, although formally respected, a profound RIA process was not necessary, which would be implemented during the preparation of the amendments by the Court Council, which would take over the function of this organ.

Law on Free Legal Assistance

Along with a proposal, the Ministry prepared a text-proposal for an entirely new text of the Law on Free Legal Assistance. The first phase of the RIA process for this law was implemented in 2017 and it included a preparation of a draft-text of a law and a draft RIA report. The description of the condition and the reasons for the problems have been clearly explained and supported by appropriate data and analyses. Concerning the objectives, instead of formulating them, the contents of the law is presented. The report does not contain at least three possible solutions for policies. The part concerning the impact identifies scarcely (although correctly) that the law shall cause impact (social, fiscal and economic), but this has not been estimated nor explained. Regarding the consultations within the frames of the draft-phase, they have been planned, but not implemented in further phases.

Law-proposal on Amendments to the Law on Personal Data Protection

The RIA procedure for this law began in 2017, with an announcement of a notification, however from the insight on the webpage of the SNER and the available data, it can be concluded that the procedure did not continue.

Law on Amendments to the Law on the Public Prosecutor's Office

The basic intention for initiating the production process of this Law is to provide the establishment of so-called research centers within the Public Prosecutor's Offices. The RIA process began in 2017, and was completed in 2018. The draft-report was correctly filled-in regarding the description of the condition, the problems and the objectives.

There is absence of three possible solutions and an appropriate analysis of the possible impacts, particularly the fiscal impact, considering that the law shall apparently have fiscal implications.

Law on Amendments to the Law on Public Prosecution

A RIA process for amending one of the basic systemic laws in the field of judiciary – the Law on Public Prosecution, began in 2017. The proposal predicted the establishment of a special unit within the Public Prosecutor's Office for Organized Crime of the RM, with the authority to investigate and prosecute committed crimes and violation of authorization by persons of police authority. This reform is part of the efforts for establishing an efficient system for external control over police authorizations. The RIA process was implemented in 2017 and finalized with the preparation of a draft-text of a law and a RIA report, however the procedure did not continue in 2018. Regarding the description of the condition, the problems that need to be addressed and the objectives, the RIA draft-report is clear and precise. There is absence of three possible solutions, assessment of the fiscal impacts and identification of the other legal frame that needs to be adjusted to the proposed amendments. Regarding the consultations, due to working in the draft-phase, it cannot be estimated whether the process has been implemented appropriately.

Law on Amendments to the Law on Public Prosecutors' Council of the Republic of Macedonia

The RIA procedure for this law began in 2017, with the announcement of a notice, but from the insight on the SNER webpage and the available data it can be concluded that the procedure has not been continued.

Draft-Law Amendments to the Law on the Ombudsman

This legal project is part of the initiative for introducing an efficient system for external control of the work of persons with police authorizations. The RIA process began in 2017, and although the Law was adopted in 2018 (Official Gazette of the RM 35/2018), only the draft RIA report was published on the SNER webpage. This report lacks a few essential elements. There is no description of possible solutions and a regulatory impact assessment, except a scarce statement about fiscal impacts. Regarding consultations, stakeholders have been mentioned along with ways for their inclusion. The report does not contain a description of the considered and non-considered recommendations.

Law on Amendments to the Law on the Academy for Judges and Public Prosecutors

The RIA procedure for this Law began in 2017 with an announcement of a notification, while the RIA Reports were published in 2018 due to which they were not a subject of this Analysis.

Law on Execution of Sanctions

The RIA procedure for this Law began in 2017 with an announcement of a notification, however from the insight on the SNER webpage and from the available data it can be concluded that the procedure was not continued.

2.2.4 Ministry of Foreign Affairs

The MFA has not prepared nor published an Annual RIA plan for 2017 on the SNER. Over the course of 2017, the MFA has submitted a total of 14 law-proposals to the Government of the RM, of which only one law-proposal is subject to RIA, while the other 13 are ratifications of international agreements and are not subject to the RIA process. All law-proposals have been adopted by the Government of the RM.

Law on Restrictive Measures

From a formal aspect, the prescribed procedure for RIA implementation has not been complied with, regarding the need for public announcement of the following documents: an announcement for beginning the process of preparation of a law-proposal, a draft RIA report and a draft-law²⁴. Only an opinion from the stakeholders has been requested. After the publication on the SNER and after submitting the report, again, the MISA indicates to an incorrectly filled-in report and gives detailed instructions for filling-in the report²⁵. The description of the conditions contains only a description of the subject of regulation of the Law on International Restriction Measures. The problem has been clearly and concisely explained. The objectives are achievable and measurable, however there is absence of three possible solutions (options). The regulatory impact assessment is scarce and insufficient.

2.2.5 Ministry of Finance

The Ministry of Finance has prepared and published an Annual RIA Plan for 2017. The annual plan identifies 12 legal projects for which the RIA processes are about to begin. Based on the data obtained by the General Secretariat of the Government of the Republic of Macedonia, it has been concluded that during the months of January through December 2017, 12 law-proposals of the Ministry of Finance were adopted, of which five do not submit to the RIA process. In accordance to the data obtained through the SNER inspection and the MISA records, it has been established that: (1) four laws have been published on the SNER (of which two have been published upon submission for opinion to the MISA – contrary to the RIA procedure²⁶, (2) three draft RIA reports have been submitted for opinion to the MISA, and (3) out of seven laws subject to RIA and submitted to the Government of the RM, only three contain a draft RIA report.

Law on Amendments to the Law on Accounting for Budgets and Budget Users

The law and the report have been published on the SNER in their draft- form, but not as proposals. The draft-report and the draft-law have been published on the SNER upon submission for opinion to the MISA. The law has been adopted by the Assembly of the RM. The scope of the amendment is narrow and refers only to the establishment of the budget users' obligation to publish the final accounts on their website within 15 days from the date of submission of the final accounts to the Register of Annual Accounts at the Central Register. Due to the limited scope, the draft RIA report is scarce with information in order to be analyzed.

Law on Amendments to the Law on Issuing Bonds of the Republic of Macedonia for Denationalization

The law and the report have been published on the SNER in their draft-form, but not as proposals. The draft-report and the draft-law have been published on the SNER upon submission for opinion to the MISA. The law was passed by the Assembly of the RM. The objective of the law is to increase the number of denationalization bonds from fifteen to eighteen. The draft RIA report is scarce, but it is most striking that there is no mention of fiscal implications, while, undoubtedly, the increase of the number of emissions as bonding would result in certain fiscal, even economic implications.

24 Source: Opinion on a law-proposal for restrictive measures no. 08/32676/2 from 21.08.2017 from the MISA.

25 Source: Opinion on a law-proposal for restrictive measures no. 13/1-3082/2 from 9.10.2017 from the MISA.

26 The draft RIA report and the draft-law are published on the SNER at least 20 days prior to the submission of the draft RIA report for opinion to the MISA.

Law on Amendments to the Law on Personal Income Tax in shortened procedure

The objective of this law is to particularize, clarify and elaborate the provisions of the law in order to facilitate the practical implementation of the legal provisions and to decrease the administrative load. From a formal aspect, the RIA process has been respected. Regarding the essential aspect, there is absence of three possible solutions, and in particular, an evaluation of the fiscal implications of the law, which, considering it is a tax law, are more than certainly present. Regarding consultations, the law was published on the SNER, certain comments were taken into consideration, and a reply was given on the reason for not accepting other comments.

Law on Amendments to the Law on Payment Operations

This law only postpones the possibility for participants with frozen accounts to perform mutual settlements of monetary liabilities, compensation claims, assignment and cession and debt assumption from 31 December 2017 to 31 December 2018. Although, as in the previous cases, from a formal point of view, the RIA process has been respected, there is still no adequate argumentation and analysis as to why the extension is necessary and there is no assessment as to whether and what the impact of this measure will be in the economy. The law was passed in 2017.

Law on Amendments to the Law on Contributions from Compulsory Social Insurance

The subject of the amendment to this law is relatively narrow. It relates exclusively to the way of calculating the basis of individuals with agriculture as their only occupation. However, here as well, there is no identification of the fiscal impacts that are undoubtedly present, as well as consultations with chambers and associations of farmers most affected by the change.

Law on Amendments to the Law on Administrative Fees

This law only harmonizes with the Law on Road Transport introducing the new term "extension of license". Due to the need to regulate the fee, this law does this. Here as well, there is no identification of the fiscal impacts that are undoubtedly present, as well as a consultation with those affected by the amendment, i.e. transporters.

Law on Amendments to the Law on Oil Reserves

This law only postpones the application of the basic law, and therefore a more detailed analysis of the RIA report has not been carried out. However, there are no reasons sufficiently explained as to why it is necessary to postpone the application.

Law on Reporting and Record of Obligations

There is clear description of the condition and the reasons for the problems. The objectives are achievable and measurable. There is absence of three solutions. According to the report, the law shall not cause fiscal impacts, and it predicts a software solution for reporting and keeping record of obligations, as well as costs for training the personnel assigned to work with the software. From a formal aspect, the RIA Procedure.

Law on Amendments to the Law on Games of Chance and Entertainment Games

Among other things, this law-proposal proposes issuing a license for each business premise where games of chance take place in slot clubs, which will positively affect the income of the budget of the Republic of Macedonia, as well the limitation of the number of payment points that can be opened with a single betting license. Although the RIA process has been respected, again, after initializing the reports, serious shortcomings occur. An important shortcoming is that there is no analysis of the fiscal benefits from this law in the part where the regulation impact is to be identified (regardless positive or negative).

2.2.6 Ministry of Economy

The Ministry of Economy has not prepared and published an annual RIA plan for 2017. However, the insight from the SNER can confirm that in the same year a RIA process was initiated for 18 laws. None of the initiated RIA processes over the course of 2017 included the establishment of a law-proposal by the Government of the RM.

Law on Amendments to the Law on Public Enterprises

The RIA process for this Law began by an announcement published on 3 November 2017. On 21 November 2017 only the draft-law and the draft-report were published. The procedure continued in 2018. In the report-proposal, the description of the condition includes only a description of the legal arrangement of the issue, while the problems are clearly and precisely identified. The objectives are achievable and measurable. There is absence of three possible solutions. The assessment of the impact is satisfactory. The consultative process is appropriately conducted.

Law on Amendments to the Law on Trade Companies

The RIA process began on 3 November 2017. The SNER published only the draft-law and the draft RIA report. The MOE submitted the draft-law prepared in December 2017, however it was not published on the SNER. The scope of the proposed amendment is narrow, it relates exclusively to the recognition of the APTIS Certificate of English Language Proficiency as evidence of English language knowledge, as well as to the abolition of the psychological exam and the exam of integrity in certain functions. Three possible solutions are absent, while the regulatory impact assessment is satisfactory considering the narrow scope of the legal intervention. The consultative process was conducted only with other state authorities.

Law on Amendments to the Law on Standardization, Law on Amendments to the Law on Accreditation, Law on Amendments to the Law on Metrology, Law on Amendments to the Law on Technical Inspection, Law on Amendments to the Law on Industrial Ownership, Law on Amendments to the Law on Protection of Competition, Law on Amendments to the Law on the Geological Institute of the Republic of Macedonia, Law on Amendments to the Law on the Establishment of Entrepreneurship Support Agency, Law on Amendments to the Law on the Establishment of Agency for Energetics of the Republic of Macedonia

The RIA implementation processes for these nine laws were jointly analyzed because they all have an identical and limited scope, the recognition of the APTIS Certificate, as evidence for English language proficiency, and the abolition of the requirements for the psychological exam and the exam of integrity. For each of these laws, the RIA process began on 10 November 2017, and only the draft-law and the draft RIA report have been published on 21 November 2017, although in 2018 the Assembly of the Republic of Macedonia voted on these law-proposals. It is common for all draft RIA reports that they contain only basic data and there is absence of a detailed analysis, which can be explained with the somewhat narrow scope of the legal intervention.

Law on Amendments to the Law on the State Market Inspectorate

This proposal, besides recognizing the APTIS and abolishing the requirement for the psychological exam and the exam of integrity, transfers the competencies of an offence body from the inspectorate to the ministry. From a formal point of view, the RIA procedure has been correctly implemented. However, such as in the case of other laws, the draft-report lacks enough detail.

Law on Amendments to the Law on Product Safety, Law on Amendments to the Law on Control of Objects of Precious Metals, Law on Amendments to the Law on Consumer Protection

The RIA implementation processes for these three laws were also jointly analyzed because their scope is identical and limited, harmonizing with the change of authority for conducting offence procedures, from the State Market Inspectorate to the Ministry of Economy. The reports are almost identical, but besides the absence of three solutions (which is also justified), there is absence of a regulatory impact assessment. The consultations have been conducted only with state organs.

Law on Energetics

The preparation of the Law on Energetics was one of the most extensive and most complex legal projects within all of the ministries during 2017. As such, considering its significance, both for the economy as well as for the living standard of the households and the environment, an appropriate and correct RIA procedure was of great importance. From the insight in the-draft report and the report-proposal for the RIA, it can be concluded that, unlike other legal projects, this project dedicated time and attention to their preparation. The description of the condition, the problems and the objectives to be achieved is clear and precise. Regarding the regulation impact, although it has been described for each of the different types (economic, fiscal etc.), there is still absence of analyses as separate documents on the basis of which the impact assessment is provided. Regarding the inclusion of stakeholders, this law stands out, as well, because consultations were carried out with the larger number of the stakeholders, and a detailed overview of all suggestions and comments was published, along with an explanation of whether they were adopted or not. On the whole, except the absence of analyses as separate documents, the RIA for this law satisfies the requirements established in the Guideline and Methodology.

Law on Services

This legal project is second in range for its extensiveness and complexity after the Law on Energetics. It is adopted due to transposition of the EU Directive on Services. The RIA for this law began by the end of 2017, however the procedure ceased at the phase of a draft RIA report. From the insight in the draft RIA report it can be concluded that the description of the condition is complete and precise, while the reasons for the problems haven't been sufficiently explained. The objectives lack correct formulation that needs to be brief, clear, measurable and achievable. In this case as well, there is absence of a third possible solution. In the regulatory impact assessment, there is absence of precise analyses of costs and benefits, as well as analyses of fiscal impacts. Instead, there is no mention of a source as the basis for the impact assessment. Regarding consultations, the process with this law is satisfactory because stakeholders were essentially involved. The report contains explained reasons for not considering certain suggestions.

Law on Amendments to the Law on Construction Products

This law is an attempt for harmonizing the law with the EU Regulation 305/2011. From a formal aspect, the RIA procedure has been appropriately implemented, but the RIA report (draft) is too scarce for a thorough analysis. What is obvious here as well is the absence of analyses on the basis of which the economic and fiscal impacts of the law could be established. The law regulates the requirements for positioning construction products on the market, which will inevitably make certain economic impact on manufacturers and consumers of this type of products. There is absence of a description about the way of planning consultations with stakeholders.

2.2.7 Ministry of Agriculture, Forestry and Water Economy

In the Annual RIA Plan for 2017, published on the SNER, the MAFWE planned the implementation of RIA processes for a total of 20 laws, however the Government established only one law-proposal submitted by this ministry. During the preparation of this law, established at the Session of the Government of the RM on 13 June 2017, from a formal point of view, the RIA procedure was incompletely conformed to (the law hasn't been published on the SNER and the draft RIA Report for the law-proposal hasn't been submitted for opinion to the MISA).

Law on Amendments to the Law on the Agency for Promotion of Agricultural Development, Law on Amendments to the Law on Plant Health, Law on Amendments the Law on the State Agriculture Inspectorate, Law on Amendments to the Law on Forestry and Hunting Inspection

With this group of laws, interventions are made relating to the fulfilling of the requirements by holders of public functions predicted with these laws. The amendments abolish the psychological exam and postpone the implementation of the requirement relating to English language proficiency, as well as the obligation of the designated head, until the beginning of the implementation of the requirement for foreign language proficiency, to complete it within one year from the day of his designation. Report-proposals for these RIA processes haven't been published. The draft-reports are scarce regarding the consultative process.

Law on Amendments to the Law on Forests

The objective of the MAFWE with this law was to facilitate the procedure and documentation for approval of timber felling in private forests. The RIA procedure was initiated by announcing a notification on the SNER in 2017, however the case was left there and no further activities have taken place.

Law on Abolition of the Law on Sale of Agricultural Land of State Property

With this legal decision, the MAFWE aimed to abolish the provisions of the Law on Sale of Agricultural Land of State Property which have proved inapplicable in practice. The RIA procedure began by the announcement of a notification on the SNER in 2017, however the case was left there and no further activities have taken place.

Law on Amendments the Law on Food Safety

With the adoption of this law, the MAFWE aimed to regulate the nutritional and legal claims relating to the growth and development of children and their health, food additives for special nutritional use, enriched food and food for athletes. The RIA process began with an announcement of a notification on the SNER in 2017, but the case was left there and no further activities took place.

Law on Amendments to the Law on Hunting, Law on Amendments to the Law on Fisheries and Aquaculture

These two laws aim to facilitate the procedure for the exam for hunters, i.e. anglers. The SNER has published only draft-reports, while there are no report- proposals, although the law was adopted in 2018. The draft-reports contain all necessary elements except the minimum of three possible solutions.

Law on Amendments to the Law on Seed and Planting Material for Agricultural Plants

The RIA process for this law, in accordance with the publications on the SNER, began in 2017 and was implemented until the draft-law/report phase. Still, this law was adopted in 2018, however a RIA report-proposal was not published on the SNER. From the insight in the draft-report it can be concluded that the description of the condition is relatively scarce with data and analyses for the necessity to pass this law. The report, also, does not contain three possible solutions, and there is absence of a precise analysis of the impact of this law, especially regarding the environment. There is also absence of the consultative process and applied opinions and comments.

Law on Tobacco, Tobacco Products and Related Products

The RIA process began in 2017, but it was essentially carried out in 2018 and was therefore not taken in consideration during this analysis.

Law on Amendments to the Law on Consolidation of Agricultural Land

The RIA process for this law, in accordance with the publications on the SNER, began in 2017 and was implemented until the draft-law/report phase. Still, this law was passed in 2018, however there is absence of a RIA report-proposal published on the SNER. From the insight in the draft-report it can be concluded that the report, regarding the description of the condition, the problems and the objectives, has been appropriately completed. There is absence of three possible solutions, as well as an essential analysis of the regulatory impact. The report does not contain information for the implementation of an essential consultative process.

2.2.8 Ministry of Health

In the published Annual RIA Plan for 2017, the Ministry of Health predicted only one law for which a RIA process was to be implemented, while the Government established two law-proposals²⁷ by the Ministry of Health that were not published on the SNER, nor were the draft RIA reports for the law-proposals submitted for opinion to the MISA. Only one of the law-proposals was submitted to the GRM with a report-proposal for the RIA.

Law on Amendments to the Law on Health Care Protection

In 2017 the Ministry of Health implemented a RIA procedure only for this law where the key documents were published on the SNER. The draft RIA report contains a detailed description of the condition, an analysis of the problems, as well as measurable and achievable subjects. Although there is absence of three possible solutions, the report contains a rather detailed analysis of the regulatory impact. Regarding the consultative process, an appropriate procedure for consultation was carried out, and the report includes an overview of the received and embedded opinions, including the ones not considered with an explanation of the reasons as to why they were not embedded.

2.2.9 Ministry of Education and Science

The MES has published an Annual Plan for the RIA Implementation in 2017, where it is stated that there will be 6 laws to be passed. Of the planned processes, the RIA was initiated only for the Law on Higher Education, the Law on Primary Education and the Law on Amendments to the Law on Secondary Education. Although planned, the RIA for the other laws hasn't been implemented. On the other hand, a RIA was initiated for the Law on Mathematical Gymnasium and the Law on Textbooks for Primary and Secondary Education.²⁸ Still, none of these laws was established as a law-proposal by the Government of the RM, and although the RIA process began in 2017, on 31 December 2017 it was at the phase of draft-reports.

27 Bill on Amending the Law on Medical Studies and Continuous Specialized Training of Medical Doctors, by shortened procedure, and Bill for Amending the Law on Health Insurance, by shortened procedure.

28 Source: Information from the MES 03-5130/2 from 25 April 2018.

Law on Higher Education

Considering that the report-proposal for the RIA was not published, and the draft-report was not filled-in in its most part for a law of this type, regulating a rather complex and extensive matter, there is no possibility for analysis of the content.

Law on Amendments to the Law on Textbooks for Primary and Secondary Education

The draft-report published on the SNER is scarce. The description of the condition describes the law-proposal, but not the conditions which require a new regulation, nor the problems that need to be addressed. There is absence of a description of the objectives of the regulation, as well as three possible solutions (there is no description of a status-quo). According to the report, the proposal shall not make any impacts (economical, fiscal etc.), which is illogical, considering what is planned to be implemented, and there is absence of a description for the way of including stakeholders.

Law on Mathematical Gymnasium

The draft-report contains an extensive and detailed analysis of the condition and the reasons, which is precisely why there is a need for passing such a law. The objectives of the regulation haven't been precisely formulated in order to be measurable, and there is lack of proposals for three possible solutions. The report does not contain a regulatory impact assessment. It is illogical to plan the establishment of a particular type of an educational institution, a mathematical-information gymnasium, without it causing economical or fiscal impacts, as well as costs for the regulation implementation. There is absence of a description for the way of including stakeholders.

2.2.10 Ministry of Labor and Social Policy

MLSP hasn't published an Annual RIA plan for 2017 on the SNER, although during the year there were RIA processes for five laws, and 10 law-proposals have been established by the Government of the RM (for a part of them, the RIA processes began previously). In 2017, the MLSP initiated RIA processes for the following laws:

Law on Amendments to the Law on Social Protection

The RIA process for this law was implemented during the summer of 2017, when the law was passed. Only a draft-report was published on the SNER, while the report-proposal was submitted to the Government and with delay to the MISA. The draft-report is scarce with data. The condition and the problems haven't been described precisely. There is absence of three possible solutions, as well as analyses relating to the regulatory impact. What is positive is that the report contains an assessment of the fiscal implications, however without a description as to how this amount was reached. Regarding the consultations, the report is scarce.

Law on Amendments to the Law on Minimum Wage in the Republic of Macedonia

The amendments predicted with this law were a part of the Republic of Macedonia's Government work programme. The law raises the minimum wage of all employees and regulates the financial aid for employers in order to exercise the right to a minimum wage. Regarding the RIA procedure, there is no publication of the RIA report-proposal on the SNER, and the draft-report was sent to the MISA after being adopted by the Government, contrary to the SNER. Regarding the content of the draft RIA report, there is absence of data in the description of the condition for the necessity to raise the minimal wage (demographic data, living standards, employment, etc.). Due to this, the reasons for the problems haven't been appropriately identified. There is absence of three possible solutions, and the analysis of the impact is scarce, although it contains an assessment of the fiscal implications. From the draft-law it cannot be concluded if the procedure for consultations has been appropriately conducted.

Law on Amendments to the Law on the Compulsory Fully Funded Pension Insurance, Law on Amendments to the Law on Labor Inspection

These two laws harmonize with the law-proposal for amending the Law on Administrative Officers, adding the APTIS as one of the exams for English Language Proficiency, and it also abolishes the requirement for a psychological exam and an exam of integrity. The draft-reports contain the necessary elements, considering that these laws are not extensive.

Law on Private Employment Agencies

This law was proposed in order to establish a single legal framework to regulate the work of the private employment agencies, which is otherwise a subject of regulation of several different laws. The draft RIA report is scarce regarding the description of the condition and the reasons for which the adoption of this law is necessary. The whole argumentation moves towards equalizing the legal frame, however there is no description of the issues occurring in practice due to the uneven or dual legal framework. The regulatory impact assessment is particularly scarce. A consultative process was conducted and the MLSP provides responses to the received proposals and comments.

2.2.11 Ministry of Local Self-Government

The MLSG hasn't prepared an annual RIA plan. In 2017, in accordance with the plan, the MLSG didn't have any legislative initiatives²⁹, and therefore no RIA processes were implemented.

2.2.12 Ministry of Culture

The Ministry of Culture hasn't adopted nor published an annual RIA plan in 2017³⁰. According to the data obtained during an inspection on the SNER, it has been established that all laws were published on the SNER. 3 draft RIA reports have been submitted for opinion to the MISA, but on the same date when they were published on the SNER – contrary to the RIA procedure, and out of 6 law-proposals submitted to the Government of the RM, only 3 contain a RIA report-proposal.

Law on Amendments to the Law on Culture (1), Law on Amendments to the Law on Culture (2)

Regarding this law, two amendments were implemented in 2017 over a period of several months, which raises the issue of the lack of proper planning, when it is certain that successive interventions should be made in several areas of the law. The report-proposals for both laws contain a detailed and sufficient description of the condition, the reasons for the problems and the objectives of the regulation proposal, however they lack three possible solutions. From the regulation, both positive and negative impacts were essentially identified. Consultations were conducted through the publication on the SNER and the received opinions from stakeholders. The stakeholders include only state organs. It has been stated that prominent artists were consulted, however their opinions haven't been listed.

Law on Termination of the Validity of the Law on the National Artist of the RM, Law on Termination of the Validity of the Law on Support of the Local Music Production

It is evident from the title that these laws terminate the validity of the basic laws. The needs for passing these laws have been explained in detail and sufficiently in the draft RIA report: there is absence of three possible solutions. There is an essential identification of both positive and negative possible impacts. Consultations have been conducted via publication on the SNER and from the received opinions from stakeholders. The stakeholders include only state organs, but none other non-state entities.

²⁹ Information from the MLSG, no. 18-877/2 from 11 May 2018.

³⁰ Information from the MC, no. Y/11 52-162 from 1 June 2018.

Law on Amendments to the Law on the Use of Macedonian Language

This law regulates certain issues relating to proofreading/editing. The RIA process has been implemented in accordance with the Guideline, but what is missing is a description of whether and in which manner consultations have been conducted with professionals concerned with the amendments, the proofreaders/editors and their associations.

Law on Amendments to the Law on Film Activity, Law on Amendments to the Law on Protection of Cultural Heritage

The scope of intervention within these two laws is identical and limited to regulating the requirements established with these laws, and which should be met by the holders of public functions. The RIA process has been carried out appropriately, however there is absence of three possible solutions for the problem. Consultations have been conducted through publication on the SNER and collecting opinions from stakeholders. Stakeholders include only state organs, but not other non-state entities.

2.2.13 Ministry of Informatic Society and Administration

The MISA hasn't published an annual RIA plan for 2017, although, at the same period, the RIA process was initiated for ten laws, while on the other hand, the Government established nine law-proposals from this ministry.

Law on Amendments to the Law on Administrative Officers, Law on Amendments to the Law on the Establishment of a State Commission for Decision Making in Administrative Procedures and Labor Relations Procedure in the Second Instance, Law on Amendments to the Law on Administrative Inspection, Law on Amendments to the Law on Archive Material, Law on Amendments to the Law the Establishment of a State Commission for Decision Making in the Second Instance for Inspection Supervision and Misdemeanor Procedure, Law on Amendments to the Law on the Establishment of the Macedonian Academic Research Network

These six laws amend the requirements for the election of holders of public functions, adding the APTIS certificate as an acceptable evidence of English Language proficiency, but they also abolish the requirement for passing a psychological exam. The SNER published the draft RIA reports for these laws, but not the report-proposals. Due to the narrow scope of the amendments, the draft-reports meet the criteria established in the Guideline.

Law on Amendments to the Law on Electronic Communications

This law arises from the recommendations of the group of high experts for system issues from the Rule of Law relating to the communications interception. The law was adopted by the Government of the RM, however a RIA report-proposal hasn't been published. The draft-report contains a thorough and precise description of the condition, the problems and the objectives, however three possible solutions are missing. The regulatory impact assessment hasn't been supported with certain analyses, while, regarding the consultations, a conclusion cannot be made, considering that it is the draft-report in question. There are no replies to the submitted comments and recommendations on the SNER.

Law on Amendments to the Law on the Establishment of the Public Enterprise Macedonian Broadcasting

This law harmonizes the provisions from the basic law with the amendments to the Law on Audio and Audiovisual Media Services. As a law whose objective is harmonizing with another law, the scope of the amendment is limited. The draft-report has been appropriately filled-in regarding the description of the condition, the problems and the objectives, while it is scarce in its remaining part.

Law on Amendments to the Law on Electronic Management

The objective of this law is to standardize the content of the documents that citizens would receive in electronic form and to establish an integrated electronic data base of the organs that communicate with each other. Except that a report-proposal has not been published on the SNER, the RIA implementation process meets the basic requirements, however there is absence of a deeper analysis, particularly relating the costs for implementation, which are inevitable for a law with such a subject, regardless of whether it is a matter of certain software solutions and platforms through which the electronic management would be conducted.

Law on Amendments to the Law on Audio and Audiovisual Media Services

This law is one of the more extensive projects the MISA has worked on over the course of 2017. The reasons for the amendment arise from the need for separation from political parties and professionalization of the public broadcasting service and the regulatory body – Agency for Audio and Audiovisual Media Services. This amendment hasn't entered the Assembly's procedure yet. The draft RIA report contains a detailed analysis of the reasons for passing this law, as well as of the conducted open consultative process and the received opinions and proposals.

2.2.14 Ministry of Transport and Communications

The Ministry of Transport and Communications hasn't published an Annual RIA plan for 2017, and this year the Government adopted only one law-proposal from this Ministry – the Law on Sale and Lease of Business Buildings and Premises of the Republic of Macedonia, which was submitted without previously being published on the SNER. In 2017, the MTC initiated a RIA process for three law-proposals.

Law on Amendments to the Law on Realization of Infrastructure Projects for the Construction of the Road Sections Mildainovci – Shtip and Kichevo- Ohrid

This law enables extending the deadline for construction of the planned road-section Miladinovci – Shtip. Although the amendment subject matter is quite limited, it is necessary to analyze the RIA process for this law in order to establish if, during the RIA for the laws relating to infrastructure projects, the implementation of the regulatory impact assessment is appropriately implemented. Considering that a once planned deadline for completion of works is being extended, it is logical to expect that the extension shall cause certain fiscal impacts, however, according to the published report-proposal, the law-proposal shall not cause fiscal impacts.

Law on Amendments to the Law on Treatment of Illegally Constructed Buildings

The law-proposal only extends the deadline for submission of requests for "legalization" of the illegally constructed buildings. The RIA report-proposal is scarce and there is absence of information for a conducted consultation process.

Law on Amendments to the Law on Dangerous Goods in Road and Rail Traffic

This law, like the previous ones, contains rather limited amendments in the basic text of the law. The RIA process formally meets the prescribed requirements.

2.2.15 Ministry of Environment and Physical Planning

In accordance with the Annual RIA Plan for 2017, published on the SNER, only one law was planned, while, on the other hand, the Government of the RM hasn't established any law-proposals from this ministry. In 2017, four RIA procedures were initiated.

Law-proposal on Environmental Inspection

The main reason for approaching the elaboration of a new law is the need of a coordinated planning of the inspection supervision at central and local levels, which would last for several years. The draft RIA report indicates to an appropriately and thoroughly implemented RIA process. The report provides a clear and concise description of the condition and the reasons for passing this law. The report offers several solutions to the problem, with a detailed analysis of the impacts of each of the solutions. Essential consultations have been conducted, where the ministry has spoken about all received proposals and comments.

Law on Waste Management, Law on Amendments to the Law on Protection of Nature, Law on Amendments to the Law on Environment

The RIA process for these laws began in 2017, with an announcement of a notification, however a draft-report hasn't been published, and therefore it is not a subject of the analysis.

2.3 Problems and Challenges in the Implementation of the RIA process - An Inside View

In order to identify the capacities of the ministries to implement the RIA process, a research was conducted by the use of a web-tool for collecting data. The questionnaire for the implementation of the RIA process within the ministries in the RM was intended for completion by the responsible persons for the RIA process implementation in the actual ministry. Of 15 department ministries to which the questionnaire was sent, only nine ministries provided responses³¹.

RIA coordinators in all ministries are not of the same category, level and job title. In some of the ministries they are senior officers, and in others they are managerial administrative officers of B or C category. But what is mutual is that over 90 percent of them have higher education and a bachelor's degree from the Faculty of Law. One of the respondents has higher education, but a Bachelor's degree from the Faculty of Economy.

Over 90 percent of the RIA process coordinators assigned in the ministries have one deputy. Only 50 percent of the coordinators and their deputies have attended RIA trainings, and only one of them has stated to have participated in over 20 trainings. The remaining part of the respondents have attended one to three trainings, mostly conducted by the MISA. The trainings covered topics such as the SNER, use of data from the Central Register for preparation of RIA reports, the RIA implementation process, tools related to its use etc. The respondents claim that the trainings have helped them to a large extent and contributed to their better understanding of the RIA process. It is important to note that the respondents consider that there should be continuous education on the RIA. The trainings should be compulsory and more individuals should participate. Topics that can be covered relate to defining the problems, analysis of the risks and financial implications from the implementation of a single public policy, as respondents claim.

It is worrying that the respondents have stated that all of the analyses that should be made during the RIA process are most often not implemented. In fact, over 50 percent state that the analysis of the costs and benefits, analysis of the costs and efficiency, multi-criteria analysis, analysis of risks and models of standard costs during analyzing possible solutions/options in order to achieve the goals are most frequently not implemented at all. The analyses that are still made are prepared by people who work in the ministry. In a small number of cases, they have been prepared by independent external experts.

31 Ministry of Transport and Communications, Ministry of Information Society and Administration, Ministry of Labor and Social Policy, Ministry of Education and Science, Ministry of Finance, Ministry of Economy, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Internal Affairs.

In the majority of the questionnaires it has been stated that there are different ways to include stakeholders in the RIA process, but what cannot be established is how many of their remarks, opinions, proposals and recommendations have been adopted. However, stakeholders can join working groups for preparation of a new legal decision, can participate in meetings, submit written requests and opinions, provide comments to the proposal attached to the SNER, participate in public hearings regarding law proposal decisions etc.

Who will be invited to participate in the working group for changing/amending a law/by-law depends on the subject matter of the proposal. Respondents claim that all stakeholders and active civil organizations (CO) in the field, who have the expertise and competence to contribute in the adoption of the law proposal decision, are invited.

In the greater part of the ministries, there is a responsible person/department in charge to analyze and follow the European regulation and its proper transposition in the national legislation. However, very often, the persons responsible for the RIA are either not included in the process of analysis or cannot be included, because there are too many laws and too little human capacities in order to achieve all that has been predicted and is compulsory.

Most of the respondents claim that during collecting data from other subjects (including other state administration organs), necessary for a proper implementation of the RIA process, encounter certain risks and challenges. Most often the information they receive is untimely, incomplete, and inappropriate or there isn't any information delivered at all.

The respondents conclude that it is necessary to have more people work on the RIA process, while the state secretaries should be the responsible persons in all the ministries. In addition, continuous trainings are required for the persons who conduct the process in order for its better understanding and implementation. Another mentioned problem are the short deadlines for the implementation of the process and the preparation of the regulation, as well the existing bureaucratic procedures that complicate the work of the coordinators and their deputies.

3. Best Practices in the Implementation of the RIA – Comparative Analysis

3.1 Implementation and Significance of the RIA in the EU

The European Commission defines the RIA process as follows: “The Regulatory Impact Assessment is a set of logical steps to be followed when you prepare public policy proposals. It is a process that prepares evidence for political decision-makers on the advantages and disadvantages of the possible policy options by assessing their potential impacts. The results of this process are summarized and presented in the RIA Report.”³²

We need to note that “in the EU, what is produced during the implementation of the RIA is the basic element in the development of proposals by the European Commission, and the commissioners take the RIA Report into consideration while making decisions. The RIA is an aid, but it is not a substitute for the decision-making process, because the adoption of a certain policy is a political decision made by the Commission.”

The RIA originates from the practice of the OECD, such as the United States (where the RIA implementation started in 1974) and Australia (where the RIA implementation started in 1985.)

Today, 34 of 35 state members of OECD use the RIA as a method on the basis of which the decision-making in the creation of policies and regulation is founded.³³ The EU decided to incorporate the RIA in the decision-making after the held meetings of the European Council in Gothenburg (2001) and Laeken (2001). The launch of the RIA implementation is a basic element of the Better Regulation Guidelines Set³⁴ that has been upgraded regularly (2015, 2017) and has replaced the old type of regulation assessment conducted only by the sector that had to implement a particular policy.

The main analytical steps of the RIA comprise of: 1) Identification of the problem; 2) Defining the objectives; 3) Development of possible solutions for regulating the public policy; 4) Analysis of the impacts of the possible solutions; 5) Comparison with other possibilities; 6) Preparation of a plan for monitoring and evaluation. The RIA contains three steps regarding the impact assessment: 1) Identification of the economic, social and environmental impacts, 2) Qualitative assessment of the most important of these impacts, 3) In-depth qualitative and quantitative analysis of the most important impacts. The RIA aims towards the involvement of different stakeholders in the process in order to achieve the highest efficiency of the public policy that needs to be passed.³⁵

The lead sector for adoption of the proposal is responsible for the preparation of the RIA. Among other things, this sector needs a contribution from the stakeholders, and in the biggest number of cases, an internal and external expertise is necessary. Other services of the Commission, including the General Secretariat, only provide support to the various groups for impact assessment and intersectoral consultations during the process of the RIA implementation. The Regulatory Scrutiny Board, which controls the quality of the implemented RIA, can also, give support and advice during the preparation of the reports before they are finalized.³⁶

The EU Regulatory Scrutiny Board (RSB) is an independent body of the Commission, which evaluates the submitted RIA reports. This Board replaces the Impact Assessment Board which, in the past, assessed and controlled the application of the public policy ex-ante. Today, the RSB assesses the RIA as well, however it also controls the impact of the policy/regulation after its establishment/implementation. The Board consists of 3 officers from the Commission and 3 individual experts. It publishes annual reports for its results and activities.

After the RIA assessment and approval, the relevant commissioner may decide whether it is necessary to undertake activities in the defined area. The next step, before adopting and implementing a particular policy, is the intersectoral consultation that validates the RIA report. Afterwards, the report is published and can be used by the Council or the Parliament while undertaking specific further activities.

The RIA method can be used in different phases of the legislative/legal process. The assessment may result in the adoption of a "green" paper or a "white" paper or in giving a proposal for the adoption of a certain legal act (regulation/directive etc.) Within the EU, the RIA can be used for the adoption of various types of initiatives, starting from non-legislative initiatives, communications, recommendations, "white" papers, intersectoral legal acts, "narrower" legislative actions, programs for financial spending, decisions relating to the set of procedures of the Commission etc.

33 https://idscs.org.mk/wp-content/uploads/2017/12/Analiza-na-trosoci_WEB.pdf
34 https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en

35 For more details, read the complete guidelines: http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iag_2009_en.pdf.
36 Op. cit. SEC(2009)92, page 6.

3.2 RIA in France

In France, in accordance with Article 8 of the Organic Law of April 15th 2009, law-proposals must be accompanied by the RIA (in French “étude d’impact”), i.e. the RIA report must be submitted along with the law-proposal.

The obligation to attach the RIA to the law-proposals results in the constitutional change in 2008. However, this obligation can be found best if Articles 24 and 40 of the Constitution of France are read together.

Article 24 states: “The Parliament passes the laws, supervises the Government’s work and assesses public policies”. While Article 40 stipulates that: “Proposals and amendments submitted by Parliament members shall not be accepted if their adoption results in reduction of the public goods or cause damage to public expenditure”. As mentioned above, only the Organic Law clearly indicates the obligation for preparation of the RIA: “The draft law-proposals are subjected to an impact analysis”.

As everywhere, so in France, the RIA is conducted by the ministry relevant for passing a particular law, i.e. for implementing the particular public policy.

The obligation to prepare and attach the RIA has been implemented in France since 1 September 2009, the same year when Macedonia started to implement this process.

In the same Organic Law from April 2009, the second paragraph of Article 8 states that the RIA “defines the objectives to be met by the proposed law, it contains a list of possible solutions outside the legal intervention and uncovers the motives for the adoption of a new law”.³⁷

What the RIA should do is explain the connection between the law-proposal and the EU legislative and its impact on the national legal order, the application of the law and its potential impact from a *ratione loci* and *ratione temporis* point of view, as well as assess the impact of the economic, financial, social and environmental consequences, the expected financial costs and benefits (for each involved institution, but also what the change would mean for each natural or legal entity).³⁸

The RIA in France is not implemented when there is no need of constitutional change (*projets de révision constitutionnelle*), it is not needed for budget law-proposals, social protection budget law-proposals and law-proposals for financial policies in the medium term.³⁹ Additionally, the RIA should not be implemented for law-proposals adopted in accordance with Article 53 from the Constitution of France, i.e. international peace agreements, international trade agreements, international organizational agreements, as well as agreements including national finances. However, although the RIA is not formally necessary, the proposals for the listed laws and agreements are accompanied by documents which evaluate the objectives and consequences of the particular act that needs to be adopted/signed (only economic, financial, social and environmental consequences in the national legal system are evaluated).

In France, the new law-proposal, or amendment to the existing law, can be submitted to the National Assembly (*Assemblée Nationale*) or the Senate of France (*Sénat*). Wherever it is submitted, if noticed that the law-proposal has a formal irregularity (such as absence of RIA), or an irregularity in the RIA report, the Gathering of the party presidents in the upper or lower house shall declare that the RIA results are unsatisfactory.

³⁷ Organic law, April 15th 2009, article 8, paragraph 2.
³⁸ *Ibid.*, paragraphs 3 to 11.

³⁹ Organic law, April 15th 2009, article 11, paragraph 1.

In such a case, if the Government of France and the Gathering fail to find a common solution, the Constitutional Council shall, within 8 days, decide on the RIA validity of the submitted proposal. If the Constitutional Council establishes that the RIA is invalid, the law-proposal cannot be reviewed for adoption before one of the houses in the Parliament.⁴⁰

Each RIA is published on the French web-site for legal regulations www.legifrance.fr. Through this web-site, each step of the RIA implementation for the law-proposals can be followed (starting from the announcement of the decision until the operational frame, the analyses, the possible scenarios, action plan and implementation⁴¹).

3.3 RIA in the United Kingdom

Contrary to the approach chosen in France, the UK prefers a more transparent and detailed process for the RIA, copied by the EU framework and focusing on principles, such as proportionality in its understanding for the need of the adoption of policies. The British concept for the RIA shows real intention to be part of the long process of adoption of policies and is not only an annex to the law-proposal.

The UK Government provides a detailed RIA.⁴² The main steps taken by the UK in the implementation of the RIA are the following: 1) Identification of possible solutions for achieving the set objectives; 2) Identification of the effects; 3) Evaluation of the costs and benefits; 4) Risk analysis; 5) Economic assessment of the best option; 6) Proposed implementation, execution and sanctions for the preferred option; 7) Monitoring, evaluation and review plan 8) Process of approval and publication.⁴³

3.4 RIA in Slovenia

The scientific analysis of the economic impact of the regulation in Slovenia dates from the mid-1970s. The first guidelines towards the implementation of the RIA in Slovenia have been in force for more than 30 years and are prescribed with the Permanent Orders of the Assembly of the Socialist Republic of Slovenia (Official Gazette SRS, no.40/1967).⁴⁴

In the early 2000s, more precisely in 2001, in the new Rules of the National Assembly of Slovenia, a step is taken for the improvement of the regulation,⁴⁵ so the law-proposals must include a description of the potential effects of the proposed legal solution. In 2002, the Government of Slovenia launched a new initiative for the improvement of the RIA assessment and implementation conducted by the Ministry of Internal Affairs.

In 2004, Slovenia signed the Law on Collaboration between the National Assembly and the Government for Matters Relating to the EU, in accordance to which the Government is obligated to implement an assessment of the impacts and implications of the EU directive proposal, particularly from the aspect of the need to amend a specific law and its implications relating to the budget, economy, public administration and environment.⁴⁶

40 See notably for this dispute Constitutional Council, April 9th 2009, decision n°2009-579DC, Organic Law relating to the application of articles 34-1, 39 and 44 of the Constitution, paragraphs 14 to 18.

41 <http://www.modernisation.gouv.fr/l'action-publique-se-transforme/en-évaluant-ses-politiques-publiques/évaluation-des-politiques-publiques-suivre-état-d'avancement-de-chaque-évaluation>

42 <https://www.gov.uk/government/publications/impact-assessment-template-for-government-policies>.

43 See notably the detailed guidance for Northern Ireland: <https://www.economy-ni.gov.uk/sites/default/files/publications/deti/NI%20Regulatory%20Impact%20Assessment%20Guidance%20-%20August%202016%20Version%201%201.pdf>.

44 Regulatory Impact Analysis in Slovenia, Andrej A. Chiaiutta, Institute of Macroeconomic Analysis and Development (IMAD) Ljubljana, Slovenia, 2003 (<https://studylib.net/doc/9029384/regulatory-impact-analysis-in-slovenia>).

45 Came into force on 15th July 2002 (Official Gazette of the Republic of Slovenia, No. 35/2002).

46 Katarina Staroňová, Jan Pavel & Katarina Krapež (2007) Piloting regulatory impact assessment: a comparative analysis of the Czech Republic, Slovakia and Slovenia, Impact Assessment and Project Appraisal, 25:4, 271-280, DOI: 10.3152/146155107X246314, page 272.

In 2006 a significant change was made in the Rules of Procedure of the Government of Slovenia, obliging proponents of laws to attach a statement of executed intersectoral consultation with the relevant ministry to their proposed legal solutions. The correct RIA, also, became compulsory, but only in certain areas, such as public finances, administrative burdens, economy, environment and social protection, as well in harmonizing with the EU legislation.⁴⁷

In 2009, the National Assembly adopted the Resolution on the Regulation of the Legislative, setting out guidelines and principles for impact assessment, emphasizing the need for collaboration with external experts and other interested parties.⁴⁸ However, such a Resolution is not obligatory, and thus the Government of Slovenia changed the Rules of Acting of the Government of the Republic of Slovenia in 2010 in order to improve the rules and procedures relating to the RIA.

The final step was taken in May 2015, when after an in-depth initiative for reducing the administrative burden, a new Manual was issued, relating to the planning and implementation of the consultative process, while also there was preparation of Guidelines for stakeholders included in the preparation of legal decisions/solutions within the project for RIA Capacity Strengthening and inclusion of the public in the preparation and implementation of public policies.

In accordance with Article 115 from the Rules of Acting of the National Assembly, the law-proposal must contain a title, introduction, main text with articles and a statement for the reasons for adopting such a legal decision. Impact assessment by areas is conducted only for the law-proposals given by the Government.⁴⁹

Prior to the major changes in 2006 and 2009, the law proponents were not obliged to require opinions from stakeholders. However, the proponents' practice is to contact social partners, non-governmental organizations and other stakeholders in the process of preparation of the legal decision. It is important to state that the previous impact assessments, conducted by the Slovenian official bodies, were focused on quantitative evaluation, instead of qualitative assessment.⁵⁰

The main interest of the Slovenian RIA system can be found in its roots. Simultaneously, the desire to improve the impact assessment of public policies is linked to the transparency of administration (the obligation for publishing official papers on an online platform), which is highly important for Slovenia. The biggest progress ever made in this field comes from the Ministry of Public Administration, which promoted a major medium-term programme for reducing the administrative burden in 2005, and then in 2009 and 2015.

Although all seems well, Slovenia still faces difficulties in the implementation of the RIA. During a research it has been established that all measures have been implemented due to the existing pressure by EU institutions.⁵¹ In fact, all RIA pilot-projects began in one ministry in each of the countries, followed by a few years of poor results.⁵² However, years later, this process became compulsory in Slovenia as well, in order to create a better regulation and a better business environment, as well as an increased competitiveness of the state within regional and world frames.

47 Regulatory Policy Review of Slovenia, 27 October 2017, OECD, GOV/RPC(2017)11, page 24 (http://www.stopbirokraciji.gov.si/fileadmin/user_upload/mju/templates/pdf/porocilo_OECD.pdf and https://read.oecd-ilibrary.org/governance/regulatory-policy-in-slovenia_9789264291690-en#page35), 48 Ibid.

49 Ibid. for more details

50 Regulatory Impact Analysis in Slovenia, Andrej A. Chiaiutta, op. cit.

51 Ibid., see notably the similarities between these three countries for the implementation of RIAs.

52 Ibid., pages 272-278.

3.5 RIA in Croatia

Croatia is no exception in the implementation of the RIA process during the preparation of the national legislation. The legal frame for the RIA is covered by the Law on RIA⁵³ (Official Gazette 44/17), the Decree on the Implementation of the RIA Procedures⁵⁴ (Official Gazette of the RM no.52/17), harmonization of the Rules of Procedure of the Government of the Republic of Croatia (Official Gazette 154/11⁵⁵, 121/12⁵⁶ and 13/07⁵⁷), and the Rulebook of the Legislation Office (Official Gazette no.17/12⁵⁸).

Prior to the entry in force of the Law on the RIA from 2017, the Law on the RIA (Official Gazette 90/11⁵⁹) and the Rulebook for the Implementation of the RIA procedure (Official Gazette no.66/12⁶⁰) were valid, when Croatia began to implement this process.

The new law entered into force on May 13th 2017, regulating the necessary documents and the way of implementation of the RIA, the way of annual planning of the legislative processes, the bodies responsible for the RIA implementation, the way of consulting stakeholders and other issues relating to this process.

The Decree entered into force on June 10th 2017, prescribing the criteria for the assessment of the direct effects from the law-proposal, the way of addressing, activities prior to the RIA, samples for procedures prior to the RIA, the way of counseling with stakeholders, the RIA activities and the content of the samples for the RIA reports, as well as other related issues.

In accordance with Article 3 from the Croatian Law on the RIA, the general objective of the effect assessment process is to consider proposals for possible normative or other solutions for supporting the business environment, strengthening the Rule of Law and reducing the costs for implementation of the regulations, simultaneously providing protection of human rights and fundamental freedoms, personal and political freedom and rights, economic, social and cultural rights. The specific objectives of the procedure for assessment of the regulations' effects are the following: a) providing an open and transparent legislation process by involving the general and interested public in the preparation of the regulations, b) identification of possible obstacles for entrepreneurship and the civil status, c) promotion of collaboration and intersectoral coordination of the organs of the central government in the process of preparation of the laws.

The framework of this process includes the adoption of a RIA strategy, an action plan and a report for the implementation of RIA in the Republic of Croatia. The Legislation Office⁶¹, as part of the Government of the Republic of Croatia, is the coordinator and responsible body for the preparation of the strategy and action plan in collaboration with the central government and other interested parties. These documents are adopted for a period of five years. The Legislation Office is the entity responsible for the implementation of professional RIA trainings and education, as well as preparation of the legislative.

In accordance with the strategy, Annual RIA plans are adopted afterwards, proposed to the Government by the Legislation Office. In the preparation of the Annual Plan, all institutions/bodies responsible for the proposal of a particular legislation take part. They prepare their own plans for the regulative which are inserted in the annual RIA plan issued by the Government of the Republic of Croatia. The process in each institution is led by an appointed coordinator elected from the ranks of the civil servants with managerial functions, who may also have a deputy.

53 https://narodne-novine.nn.hr/clanci/sluzbeni/2017_05_44_998.html

54 https://narodne-novine.nn.hr/clanci/sluzbeni/2017_06_52_1170.html

55 https://narodne-novine.nn.hr/clanci/sluzbeni/2011_12_154_3214.html

56 https://narodne-novine.nn.hr/clanci/sluzbeni/2012_11_121_2635.html

57 https://narodne-novine.nn.hr/clanci/sluzbeni/2013_01_7_110.html

58 https://narodne-novine.nn.hr/clanci/sluzbeni/2012_02_17_486.html

59 https://zakonodavstvo.gov.hr/UserDocsImages/arhiva/1.%20RIA%20Law_NN%209011_EN.pdf

60 https://narodne-novine.nn.hr/clanci/sluzbeni/2012_06_66_1554.html

61 <https://zakonodavstvo.gov.hr/>

Although Croatia has implemented the RIA process for several years, it has faced difficulties which, on the other hand, have led to the adoption of a completely new legal decision related to this process. However, the Legislation Office is serious about this process, and views it as the basis for making an informed decision, considering that the RIA is an excellent tool for making an impact on the quality of legislation.⁶²

4. Final Conclusions and Recommendations

- The ministries did not abide to the published Annual RIA Implementation Plans, and the plans are not updated in cases of newly occurred circumstances and priorities. Partly, this can be justified with the state's specific circumstances during 2017 (political crisis, delaying the process of election of the Government, implementation of urgent reform priorities and similar), however this should not be an excuse for failure to conform to the Guidelines. The planning of the process is necessary for an appropriate and efficient allocation of the necessary human resources within the ministries and prevention of the possibility of "getting stuck" of certain legislative initiatives because of the occurrence of other priorities. It is necessary to consistently apply the obligation for updating the Annual Plan for the RIA implementation, regardless of whether the change arises from the Government's Annual Work Programme or from another initiative.

- In almost all laws adopted by the Government of the RM, subject to the obligation for the RIA process, the basic elements for the RIA process have been abided to from a formal point of view (a RIA report has been submitted along with the law-proposal, and the law has been published on the SNER). However, it is worrying that there are exceptions of adopted laws where the Guideline has been completely neglected. Thus, there are six law-proposals for which a RIA process has never been implemented⁶³, three law-proposals that were never published on the SNER⁶⁴, as well as five for which there was no RIA report submitted to the Government of the RM⁶⁵ along with the law-proposal, yet they were adopted and submitted to the Assembly of the RM. In the Rules of Procedure of the Government of the RM it is necessary to regulate that a law-proposal cannot be adopted at a session of the Government of the RM unless there is attached a report for an implemented RIA process, as well as a proof that the law-proposal was published on the SNER.

- Certain activities of the RIA process aren't conformed to. Thus, of 55 law-proposals submitted to the MISA along with a request for opinion, only 10 have been submitted without a draft RIA report, for which the MISA should provide an opinion. An opinion from the MISA has been requested in three cases, after adoption by the Government of the RM, and in two cases the law-proposals and the report have been published on the SNER after submitting the request for an opinion to the MISA or on the same date. For more than 75% of the analyzed laws published on the SNER and adopted by the Government of the RM, the RIA report and the law-proposal haven't been published on the SNER. It is necessary to consistently comply with the obligations arising from the Guideline, relating to the activities that are a part of the RIA process.

63 Law on the Use of Languages, Law on Amendments to the Criminal Code, Law on Amendments to the Law of Public Procurement, Law on Amendments to the Law on Excises, Law on Amendments to the Law on Health Insurance, Law on Amendments to the Law on Use and Disposal of State-Owned Property and Municipal Property.

64 Law-proposal on Amendments to the Law on Agriculture and Rural Development, in shortened procedure, Law-proposal on Amendments to the Law on Medical Studies and Continued Expert Training of Medical Doctors, in shortened procedure, Law-proposal on Amendments to the Law on Sale and Lease of Business Buildings and Premises of the Republic of Macedonia.

65 Law on Amendments to the Law on Culture, Law on Amendments to the Law on the Use of Macedonian Language, Law on Termination of Validity of the Law on the National Artist of the Republic of Macedonia, Law on Amendments to the Law on Contributions from Compulsory Social Insurance, in shortened procedure, and Law-proposal on Amnesty.

- For their most part, the RIA reports are scarce with data necessary for an essential (not formal) implementation of the regulation impact assessment. The description of the condition comes down to presenting the subject of regulation of the law, instead of an essential description of the context and the conditions in the part of society where a regulatory intervention is needed. Statistic, demographic and scientific or expert studies are rarely cited. The analysis of the problem does not contain the elements of Article 10 from the Guideline. The identified objectives are in rare cases real, measurable and achievable. Except in two cases (the Law on Protection of Whistleblowers and the Law on Environment Protection), the rule for identifying at least three possible solutions is not respected. It is necessary to define the compulsory elements for each of the questions that are part of the RIA report, to train the persons responsible for the RIA to fill-in the reports, but to also not accept it from the Government if the report does not meet the minimum criteria.

- The most essential part of the report where the impact of the proposed regulation in certain areas is analyzed is most often limited to a simple answer YES/NO, without a detailed explanation on the basis of which the conclusion is founded, as well as an analysis as to of what type and how big the impact would be. This is especially the case when identifying fiscal impacts, and thus there are frequent cases where the analysis of the law undoubtedly demonstrates that its application shall cause impacts on the budget, yet the response is that the law shall not cause fiscal impacts. Or, there is a response that the law shall cause fiscal impact, however, there is no assessment on how big it would be. In this part there is particular absence of a resource assessment (human and financial) for the implementation of the proposed regulation. This is not a serious problem in certain amendments with a limited scope, but it is necessary in passing new laws or during larger reforms. It is necessary to implement analyses of costs and benefits, analyses of costs and efficiency, multi-criteria analyses, analyses of risks and a model of standard costs during analyses of possible solutions, as well as other analytical tools for assessment of the regulation.

- Regarding the obligation to conduct consultations, there is a difference between a more extensive amendment, passing a law or a narrower amendment. Thus, in the case of the former two, the regulations from the Guideline relating to the forms in which the consultative process is implemented are respected, as well as relating to the obligation to state opinions after the received comments and proposals. There is preparedness for conducting an essential consultative process with stakeholders. On the other hand, it can be noticed that with limited changes of no particular impact there is lack of the stakeholders' interest for involvement in the process, as well as the tendency to formally fill-in this part of the report. It is necessary to start the consultations in the phase of defining the strategic documents and programmes and to conduct them in parallel to the process of preparation of the regulative-proposal.

- Except for one case (the RIA Report for the Law on Whistleblowers), none of the other reports identify indicators for monitoring the implementation of the law after its passing and entry into force. A proper system for monitoring and evaluation is necessary in order to timely identify certain problems that could arise in the implementation of the law. It is necessary to strengthen capacities for the implementation of monitoring and evaluation of the adopted laws within the ministries.

- From the analyzed comparative experiences, it can be concluded that predominantly there is a law regulating the matter of the RIA process, and special organs taking care of this process in the countries, which are not a part of a ministry, but are either separate bodies or are a part of the governments. Long-term papers relating to the RIA are adopted in order to understand the seriousness of the process and its importance in the compliance with the principles of the rule of law and the guarantee of fundamental human freedoms and rights. Based on the comparative solutions, the following recommendations are suggested:

- o To raise the obligation for the RIA process implementation at the level of a law, instead of a by-law act, a guideline based on the Rules of Procedure of the Government;

- o To prepare a Strategy and an Action Plan for the Implementation of the RIA (for a long-term planning, when it is a matter of amendments in legislation) as a basis for the preparation of annual plans by both the Government and relevant institutions as law proponents;

- o To annex the RIA Report to the proposed legal solution and to not provide a voting option for the amendment-proposal or for the entirely new law without a prior approval of the report;

- o To insert the code for consultations with the public during the preparation of the regulation into the law;

- o It is necessary to create a body within the Government, but outside the ministries, that will manage and coordinate the RIA process along with review of the RIA reports, compulsory trainings and education of the persons engaged in the RIA.

Annex 1: Literature

- Rules of Procedure of the Government of the Republic of Macedonia, Official Gazette of the RM no. 38/01, 98/02, 9/03, 47/03, 64/03, 67/03, 51/06, 5/07, 15/07, 26/07, 30/07, 58/07, 105/07, 116/07, 129/07, 157/07, 29/08, 51/08, 86/08, 114/08, 42/09, 62/09, 141/09, 162/09, 40/10, 83/10, 166/10, 172/10, 95/11, 151/11, 170/11, 67/13, 145/14, 62/15, 41/16 и 153/16
- Code of Good Practices for the Civil Sector Participation in the Process of Creation of Policies, Official Gazette of the RM no. 99/11
- Guidelines for the Manner of Acting of the Ministries in the Implementation of the Regulation Impact Assessment, Official Gazette of the RM no. 106/13
- Methodology for the Regulatory Impact Assessment, Official Gazette of the RM no. 107/2013
- Decision on the Form and Content of the Regulatory Impact Assessment Report, Official Gazette of the RM no. 106/13
- Comparative Good Practices for the Implementation of the RIA and Possibilities for their Implementation in Macedonia, author: Jovan Bliznakovski, publisher: Institute for Democracy "Societas Civilis" (IDSCS), 2017
- Model of Analysis of the Effectiveness of the Regulation Impact Assessment, author: Natalija Shikova, publisher: Institute for Democracy "Societas Civilis" (IDSCS), 2017
- Analysis of the Costs in the Regulatory Impact Assessment Process, author: Goran Kovachev, publisher: Center for Economic Analyses (CEA), 2017
- Analysis of the Quality of the Application Forms for the Regulation Impact Assessment, author: Natalija Shikova, publisher: Institute for Democracy "Societas Civilis" (IDSCS), 2017
- Analysis of the Process of Creating Regulations through Preparation of a Regulatory Impact Assessment in 2010, authors: Macedonian Young Lawyers Association in collaboration with the Foundation Open Society – Macedonia, publisher: Foundation Open Society – Macedonia, 2011
- Regulatory Impact Assessment Manual, author: Gordana Gapik Dimitrovska, publisher: Ministry of Information Society and Administration, 2013
- Acts Regulating the Subject Matter of the Regulation Impact Assessment, author: Gordana Gapik Dimitrovska, publisher: Ministry of Information Society and Administration, 2013
- Manual for Stakeholders, Consultations in the Process of Creating Policies in the Government of the Republic of Macedonia, author: Gordana Gapik Dimitrovska, publisher: Ministry of Information Society and Administration, 2014

Annex 2: Questionnaire

Questionnaire for the Implementation of the Regulatory Impact Assessment Process within the Ministries of the RM

Respected Sir/Madam,

The Macedonian Young Lawyers Association (MYLA) in collaboration with the Institute for Democracy "Societal Civils", and within the frames of the project "Regulatory Impact Assessment in the Shadow: Fostering evidence-based policy-making in Macedonia", supported by the European Union, is carrying out a research of the Regulatory Impact Assessment Process in the Republic of Macedonia.

In order to collect data from the persons most directly involved in the RIA process, MYLA has collected and is submitting a short survey questionnaire. The survey questionnaire serves for the purposes of the coordinators of the RIA process within the ministries, and in case they are prevented, the questionnaire can be filled-in by their deputies. The questionnaire is anonymous. The data of the ministry is solely necessary for processing and data-grinding. Filling-in the questionnaire should only take you 15 minutes. We would kindly ask you to fill-in this questionnaire by 14 June, 2018, and thus help us analyze the current state of the RIA process and formulate achievable and sustained recommendations for its improvement.

*With respect,
The MYLA Team*

Q1 Ministry

Ministry of Defense
Ministry of Internal Affairs
Ministry of Justice
Ministry of Foreign Affairs
Ministry of Finance
Ministry of Economy
Ministry of Agriculture, Forestry and Water Economy
Ministry of Health
Ministry of Education and Science
Ministry of Labor and Social Policy
Ministry of Local Self Government
Ministry of Culture
Ministry of Information Society and Administration
Ministry of Transport and Communications, and
Ministry of Environment and Physical Planning

Q2 Category, level and job title of the RIA Coordinator

A1 -state secretary,
A2 -general secretary,
A3 -secretary of the city of Skopje,
A4 -secretary of a city-based municipality, and
A5 -secretary of a village-based municipality
B1 -managerial first-level administrative officer, state adviser
B2 -managerial second-level administrative officer, head of sector
B3 -managerial third-level administrative officer, assistant head of department
B4 -managerial fourth-level administrative officer, head of department
B1 -first-level expert administrative officer, adviser
B2 -second-level administrative officer, senior associate
B3 -third-level administrative officer, associate
B4 -fourth-level professional administrative officer, junior associate
Г1 -first-level expert-assistant administrative officer, independent officer
Г2 -second-level expert-assistant administrative officer, senior officer
Г3 -third-level expert-assistant administrative officer, officer
Г4 -fourth-level expert-assistant administrative officer, junior officer

Q3 Sector and department where the coordinator for RIA works in accordance to the internal organization of the Ministry

Q4.1 Level of education of the RIA coordinator

IV Secondary Education
V High Education (60 to 120 credits)
VIa Higher Education (240 credits)
VIb Higher Education (180 credits)
VIIa Master Academic Studies (60 to 120 credits)
VIIb Specialist Studies (up to 60 credits)
VIII Doctoral Studies

Q4.2 Type of education

Q5 How many deputies of the RIA Process Coordinator have been appointed in the Ministry?

Q6 Has the RIA process Coordinator and his/her deputy/deputies attended trainings for the implementation of RIA?

Q6.1 Please give a description for the trainings that you and your deputies have attended, their number, the subjects covered and their organizer.

Q6.2 On a scale of 1 to 5, where 5 is the highest grade, please evaluate to what extent the trainings have contributed to a better understanding of the RIA process among the persons responsible for the implementation.

1 2 3 4 5

Q6.3 Do you consider that additional trainings for the RIA process are necessary, and if yes, explain the subjects which particularly require trainings for the RIA process?

Q7 In the implementation of the RIA process so far, has your Ministry prepared the following analyses provided in the RIA Methodology:

- Analysis of the costs and benefits
- Analysis of costs and efficiency
- Multi-criteria analysis
- Risk Analysis
- Model of standard costs in the analysis of possible solutions/options for fulfilling the objectives and effects predicted in the law-proposal.

Q8 If at least one of the listed analysis is implemented, please answer who shall prepare it.

- Persons employed in the Ministry
- Persons employed in other state administration bodies
- Scientific workers in higher education and science institutions
- Independent experts
- Representatives of international organizations
- Representatives of non-governmental organizations

Q9 According to your experience so far, please provide a description about the way of identification of stakeholders within your Ministry, their involvement in all phases of the RIA process and the manner in which the consultations are carried out.

Q10 Which criteria does the Ministry abide by during the assessment, meaning who is invited to participate in the working group for amendment of a law/by-law?

Q11 Is there a responsible person, department or sector within the Ministry appointed for analysis and monitoring of the European regulation and its appropriate transposition in the national legislation and are the responsible persons for the RIA involved in the process?

Q12 When collecting data from other entities (including other State Administration Bodies) necessary for proper implementation of the RIA process, does the Ministry encounter any of the following challenges:

- Insufficient responsiveness of the subjects
- Deliver incomplete information
- Deliver inappropriate information
- Deliver untimely information
- Do not deliver information

Q13 Based on your experience so far, please identify at least three problems and challenges you have encountered in the RIA implementation process and give recommendations for overcoming them.

Annex 3: Sample of submitted requests for free access to public information

REQUEST

for access to public information

Based on Articles 4 and 12 from the Law on Free Access to Public Information ("Official Gazette of the Republic of Macedonia" no.13/1.2.2006), we require the following public information from the holder:

Please provide us with an electronic version (pdf, doc, scan or a functional link) of the following documents:

- 1. The Annual Plan for the implementation of the regulatory impact assessment for 2017, including its updated versions, if any.**
- 2. All announcements for the beginning of the process of preparation of laws, that is legal amendments published in 2017 (in regular and shortened procedure), for which the ministry appears as a proponent.**
- 3. All analyses of the costs, benefits and risks, or other appropriate analyses prepared by the ministry within the frames of the process for the Regulatory Impact Assessment (RIA) for all laws elaborated in 2017 (in regular and shortened procedure) for which the ministry appears as a proponent.**
- 4. All draft-reports for the Regulatory Impact Assessment prepared in 2017 by the ministry for all the laws and legal amendments (in regular or shortened procedure) for which the ministry appears as a proponent.**
- 5. All final reports for the Regulatory Impact Assessment in the form they were submitted to the Ministry of Information Society and Administration (MISA) in 2017 (in regular or shortened procedure) for which the ministry appears as a proponent.**
- 6. Provide a review of the received and embedded (adopted) opinions of the stakeholders in the preparation of the law-proposals submitted in 2017 (in regular or shortened procedure) for which the ministry appears as a proponent, for each law separately.**
- 7. Provide the opinions of the stakeholders that were not taken into consideration in the preparation of the law-proposals submitted in 2017 (in regular or shortened procedure) as well as the explanation for the reasons each of them was not taken into consideration and for which the ministry appears as a proponent, for each law separately.**

(description of the required information)

Requested form of the information:

- a) insight
- b) transcript
- c) photocopy
- d) electronic record
- e) other _____

(describe the requested form and circle)

Way of delivery of the information:

- a) by mail
- b) phone
- c) fax
- d) e-mail
- e) other _____

(describe the requested form and circle)

Information requester:

Macedonian Young Lawyers Association

14-1/6 Donbas Street, 1000 Skopje

tel: 02/3220-870

contact@myla.org.mk

Representative/attorney of the information requester:

Zoran Drangovski

(Legal advice: the Requester is not obliged to state and explain the reasons for the request, but should state that it is a request for free access to public information.)

In: **Skopje**

Date: **18 April, 2018**



*Analysis of the Implementation of the Regulatory Impact Assessment Process (RIA)
by the Ministries of the Republic of Macedonia in 2017
Authors: Svetlana Crvenkovska, Goce Kocevski
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