Ex post evaluation

All regulations are designed to induce behaviour. However, some work as intended, while others may not. Further, some regulations are introduced without the benefit of testing and public review (see section on regulatory impact assessment). Governments have often needed to act quickly, such as during COVID-19, introducing measures with limited information about regulations' potential impacts. Regulations may also have unexpected consequences or fail to rectify underlying problems. Evaluations provide a performance check on regulations. They can help to improve the overall regulatory system by increasing its coherence. They also offer an opportunity for stakeholders to bring forward problems and propose solutions. Evaluations can improve transparency, accountability, and compliance with regulations.

Most OECD countries are unaware of whether regulations are delivering as intended. When undertaking *ex post* evaluations, 21 of 38 OECD countries (55%) do not assess whether regulations achieve their objectives (Figure 5.6). Common practices include sunset clauses (whereby a regulation ceases to exist at a date in the future unless it is reviewed prior to that, and a decision is made to continue it) and one-in-one-out policies (whereby any anticipated costs to business of new regulations need to be offset by reducing existing costs to business). While both tools have their uses, they are more used for limiting increases in the number of regulations, rather than checking whether regulations deliver on policy objectives.

The Indicators of Regulatory Policy and Governance (iREG) survey measure countries' practices for *ex post* evaluation of regulations. There has been limited improvement in *ex post* evaluation of regulations across OECD countries in recent years. 22 of 38 OECD countries (58%) plus the EU improved the quality of *ex post* evaluation systems of primary laws between 2018 and 2021 (Figure 5.7). *Ex post* evaluation systems of subordinate regulations improved in 23 of 38 OECD countries (61%) plus the EU in the same period (Figure 5.8). The largest improvements have been in Transparency of *ex post* evaluations. OECD countries have invested in dedicated websites for the public to make recommendations to modify and provide feedback on existing regulations. In some countries stakeholders are actively engaged when *ex post* evaluations are conducted.

Nonetheless, most OECD countries still have significant scope to improve their *ex post* evaluation systems. Notwithstanding the establishment of more oversight bodies in some OECD countries, the area with the greatest scope for improvement is Oversight and Quality Control (mechanisms to monitor and ensure the quality of *ex post* evaluations). Some OECD countries have undertaken important improvements. Canada, Greece, Italy, Japan, Korea, Latvia, Lithuania, and Mexico have all expanded the scope of regulations subject to periodic review. This potentially allows governments to package regulations together into system-wide reviews and can help establish whether discrete policy areas are working well.

Methodology and definitions

The iREG survey draws on responses from delegates to the OECD Regulatory Policy Committee and central government officials. In 2021, 38 OECD countries, and the EU, responded to the survey. More information on iREG at *oe.cd/ireg*.

iREG is based on the practices described in the *2012 OECD Recommendation on Regulatory Policy and Governance*. The more practices a country has adopted, the higher its score. The composite indicator contains four equally weighted categories: *Methodology* gathers information on different assessments included in the *ex post* evaluations; *Oversight and Quality Control* records mechanisms to monitor and ensure the quality of *ex post* evaluations; *Systematic Adoption* records formal requirements and how often *ex post* evaluations are conducted; *Transparency* records how open *ex post* evaluation processes are. The maximum score for each category is 1. The total score for the composite indicator ranges from 0 to 4.

Primary laws are regulations which must be approved by the legislature. Subordinate regulations can be approved by the head of government, a minister or the cabinet.

Ex post evaluations assess the effectiveness and efficiency of regulations once they are in force. They are undertaken to ascertain the extent to which regulations met their originally intended goals, do not impose unnecessary costs on citizens and/or businesses, and continue to deliver good outcomes for the community.

Further reading

OECD (2021), *OECD Regulatory Policy Outlook 2021*, OECD Publishing, Paris, *https://doi.org/10.1787/38b0fdb1-en*.

OECD (2020), *Reviewing the Stock of Regulation*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, *https://doi.org/10.1787/1a8f33bc-en*.

OECD (2014), *OECD Framework for Regulatory Policy Evaluation*, OECD Publishing, Paris, *https://doi.org/10.1787/9789264214453-en*.

Figure notes

5.6. Data for 38 OECD countries and the European Union. Data relates to requirements to include a review of objectives in primary laws.

5.7 and 5.8. 2014 data based on 34 countries that were OECD members in 2014 and the EU. 2017 and 2021 data includes Colombia, Costa Rica, Latvia, Lithuania.
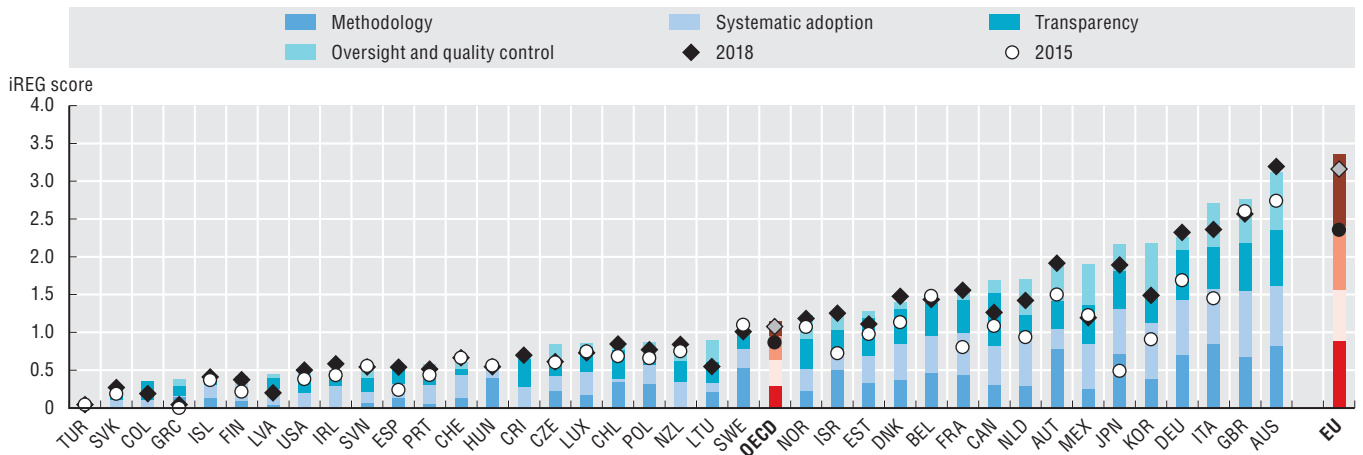
5.6. Requirement to consider regulatory objectives as part of *ex post* evaluations, 2021

Legend:
- For all *ex post* evaluations
- For some *ex post* evaluations
- For *ex post* evaluations regarding major primary laws
- Never
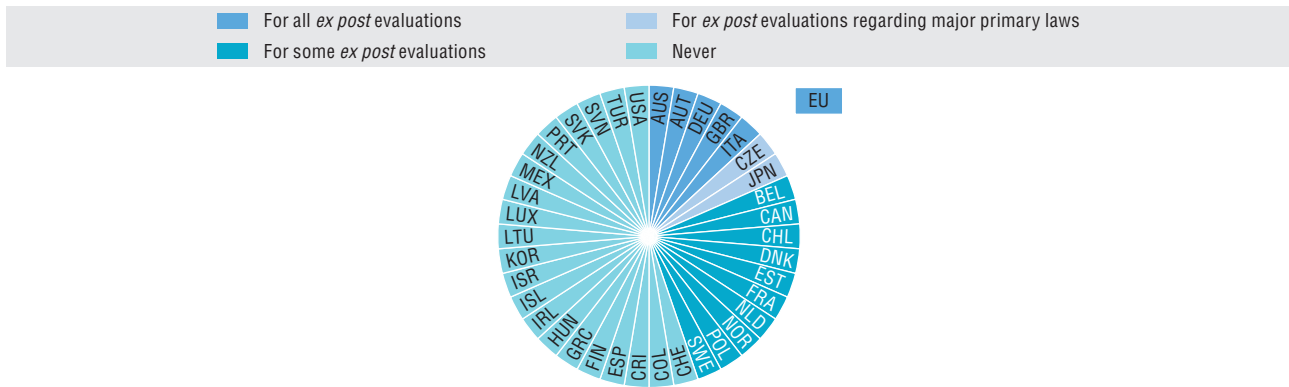
Source: Indicators of Regulatory Policy and Governance Survey 2021, *oe.cd/ireg*.

StatLink ⟶ https://stat.link/dae4gn

5.7. Quality of *ex post* evaluation systems for primary laws, 2021, and total score in 2015 and 2018

Legend:
- Methodology
- Oversight and quality control
- Systematic adoption
- ◆ 2018
- Transparency
- ○ 2015

Source: Indicators of Regulatory Policy and Governance Surveys 2014, 2017 and 2021, *oe.cd/ireg*.

StatLink ⟶ https://stat.link/xar4ko

5.8. Quality of *ex post* evaluation systems for subordinate regulations, 2021, and total score in 2015 and 2018
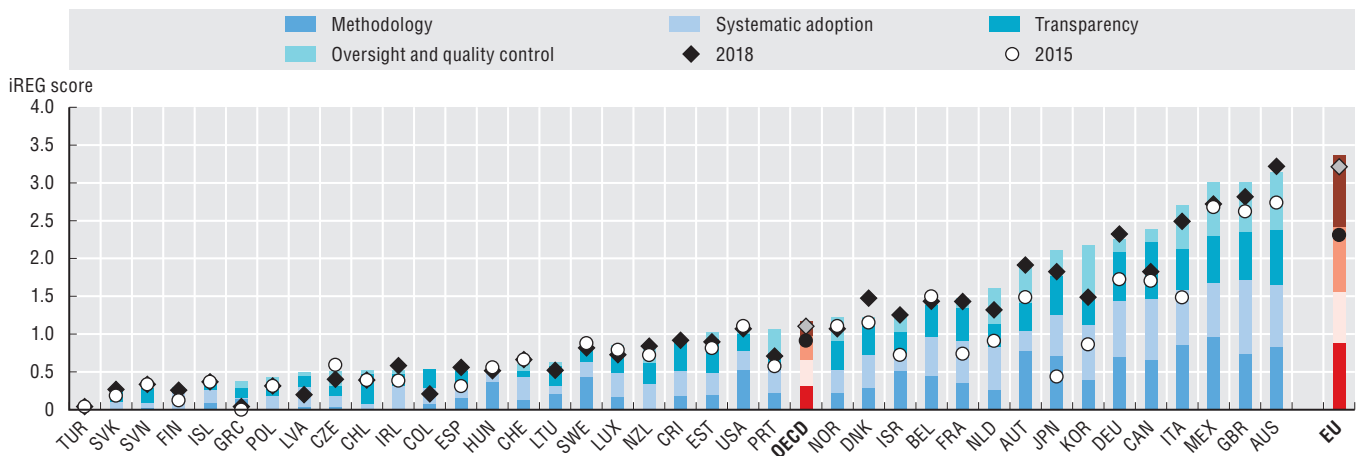
Legend:
- Methodology
- Oversight and quality control
- Systematic adoption
- ◆ 2018
- Transparency
- ○ 2015

Source: Indicators of Regulatory Policy and Governance Surveys 2014, 2017 and 2021, *oe.cd/ireg*.

StatLink ⟶ https://stat.link/gqlzhs

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