1 General trends and institutional settings

The European Commission has invested heavily in improving its better regulation agenda and has steadily refined its approach to regulatory policy. This chapter summarises the European Union's legislative procedure and explores some of the general trends of regulatory policy across the EU and its Member States. It also presents an overview of the use of key regulatory management tools by EU Member States in the development and transposition of EU legislation. This chapter discusses the EU Member States' engagement in multiple layers of international regulatory co-operation and, finally, reviews the institutional settings of regulatory oversight across EU Member States.

Key messages

- Political commitment and transparent adoption of the established principles for regulatory reform are crucial to the success of regulatory quality management systems. This is universally recognised by EU Member States as all have several explicit and published regulatory policy documents that promote whole-of-government regulatory policy and almost all have a high-level official or minister responsible for advancing the regulatory agenda.
- EU Member States have the possibility to undertake stakeholder engagement and regulatory impact assessment to inform both the negotiation and transposition of EU legislation. They can also rely on the results of the European Commission's use of regulatory management tools. EU Member States require the use of regulatory management tools more systematically when transposing directives than to inform the negotiation stage of the EU legislative procedure. This is a particular concern when EU Member States engage with EU regulations that are directly applicable, as the negotiation stage is the final opportunity for Member States to use evidence on domestic impacts to influence policy proposals.
- The regulatory management tools used by the European Commission appear to be relied on by EU Member States more during the negotiation phase than the transposition phase. The exception is the use of the European Commission's *ex post* evaluations, which generally do not appear to be utilised by EU Member States much at all neither to evaluate existing laws nor as input for preparation of new proposals. EU Member States may benefit from further using the information resulting from the European Commission's use of regulatory management tools to inform their negotiation and transposition of EU adopted acts.
- The Council of the European Union needs to implement the Interinstitutional Agreement on Better Law Making signed in 2016, in particular in the analysis of impacts of its significant amendments. All three European institutions involved in the legislative process should systematically implement good regulatory practices to fully embed better regulation across all parts of the EU's decision-making procedures.
- International regulatory co-operation (IRC) occurs in multiple layers: "intra-EU IRC" covers co-operation between EU Member States within the EU; "external EU IRC" where EU Member States engage in IRC outside of the EU (i.e. common EU action by the European Commission vis-à-vis third countries or international organisations); and "residual EU Member State IRC" covers individual engagement of those states in IRC outside the EU framework. Overall, EU Member States have extensive experience and institutional frameworks to conduct "intra-EU IRC" and "external EU IRC". Despite this rich EU experience, Member States' better regulation frameworks rarely reflect "residual IRC".
- EU Member States' policies/ strategies on IRC, even though most frequently targeted to intra-EU IRC, are an evident avenue to clarify roles, responsibilities and strategic objectives on IRC within their domestic administration. EU Member States have opportunity to build on these policies/strategies, and more broadly on their ongoing intra-EU IRC experience to make strategic and evidence-based use of the global normative landscape at large to achieve both EU-wide as well as their specific domestic policy objectives.
- Regulatory oversight bodies (ROBs) have a major role to play in promoting the systematic and consistent use of regulatory management tools, as well as in fostering strong institutional co-ordination. All EU Member States have at least one dedicated body in charge of promoting and monitoring regulatory reform and quality. While this arguably reflects their awareness of regulatory oversight's importance for Better Regulation, the coverage of core regulatory oversight functions in EU Member States remains patchy. Oversight continues to focus primarily

on RIA. Relatively few Member States have an oversight body in charge of systematically reviewing the quality of either stakeholder engagement or *ex post* evaluations processes.

- ROBs can enhance governments' ability to reap the benefits from regulatory reform and target limited public resources by improving how the performance of regulatory management tools, and regulatory policy more broadly, is assessed and communicated upon. Performance assessment in this area is, however, neither fully transparent nor systematic in most EU Member States. Opportunities remain to enhance the systematic monitoring and evaluation of ROBs' contribution to regulatory improvement.

Introduction

Regulation is a core government activity that affects all areas of businesses and citizens' lives. It is a crucial determinant of any society's welfare and, when done well, regulation can improve societal wellbeing, improve business competition, and enhance environmental outcomes. When done poorly, however, regulation may unnecessarily increase burden on both business and regulators and can adversely affect citizens' lives. Regulatory policy is thus centrally important to ensure governments make laws that improve welfare.

A number of synergies exist between this report – which focuses exclusively on the European Union Member States and the European Union – and the recently published *OECD Regulatory Policy Outlook* (2021[1]), albeit with a more limited scope. The principal similarity is that both reports assess requirements and practices regarding the same regulatory management tools – namely stakeholder engagement,[1] regulatory impact assessment[2] (RIA), and *ex post* evaluation[3] – on a consistent basis, thereby allowing for the comparison of results between OECD member countries and EU Member States. This report also builds on the previous edition of *Better Regulation Practices across the European Union* (OECD, 2019[2]), which examined the use of impact assessment and stakeholder participation in the design and review of domestic laws and in the development and transposition of EU legislation.

The OECD and the European Union have both long-recognised the potential of regulatory policy. The OECD *Recommendation of the Council on Regulatory Policy and Governance* (2012[3]) is the product of decades of research at the OECD and sets the normative framework to measure regulatory performance in member countries. Regulatory policy in the European Union was advanced under the Better Regulation Agenda, which played a crucial role in shaping the European Commission's regulatory processes. The OECD *Recommendation* (2012[3]) and the EU Better Regulation Agenda share the same objectives, approaches and key principles. Both have a particularly strong focus on stakeholder engagement, regulatory impact assessment (RIA), and *ex post* evaluation, regulatory oversight, and international regulatory co-operation as critical pillars of regulatory quality.

The analysis in this report is based on the OECD Indicators of Regulatory Policy and Governance (iREG) survey. The iREG survey results in the construction of composite indicators relating to the three assessed areas of stakeholder engagement, RIA, and *ex post* evaluation. As for the previous edition, this report also extends the iREG survey to include all EU Member States, including countries that are not members of the OECD[4] – namely Bulgaria, Croatia, Cyprus, Malta and Romania. While stakeholder engagement, RIA, and *ex post* evaluation are all very important elements of regulatory policy, they do not constitute the whole better regulation framework. For instance, other principles from the OECD *Recommendation* (2012[3]) are currently not assessed, and it is also recognised that countries may have quite disparate approaches to achieving better regulation. While this report and the survey put a strong focus on evidence and examples, it does not constitute an in-depth assessment of the quality of country practices. In-depth country reviews are therefore required to complement the indicators presented in this report. Reviews provide readers with

a more detailed analysis of the content, strengths and shortcomings of countries' regulatory policies, as well as detailed and context-specific recommendations for improvement.

This chapter explores some of the general trends of regulatory policy across EU Member States. The section below reviews the existence and features of policy documents that frame EU Member States' Better Regulation agendas as well as high-level political responsibility and standard procedures to develop regulations. The second section summarises the European Union's legislative procedure. The third section provides an overview on the use of key regulatory management tools by EU Member States in the development and transposition of EU legislation (which are then assessed in more detail in Chapters 2, 3, and 4). The fourth section explores the EU Member States' engagement with multiple layers of international regulatory co-operation (IRC). The final part of this chapter discusses the institutional setting of regulatory oversight across EU Member States, including the allocation of oversight functions within the administration.

Regulatory policy in the EU Member States

The OECD *Recommendation of the Council on Regulatory Policy and Governance* (2012[3]) is a framework for regulatory policy. The *Recommendation* (2012[3]) seeks to help OECD member and non-member countries deliver ongoing improvements to regulatory quality. This framework elaborates a system of institutions, processes and tools that, when functioning properly, help support better regulatory decision making. The content of the *Recommendation* is listed in Box 1.1. Whilst the *Recommendation* (2012[3]) is officially recognised by OECD members, it also provides useful measures for non-member countries when supporting the implementation and advancement of systemic regulatory reform.

Principle 1 of the *Recommendation* (2012[3]) calls for effective regulatory policy to be adopted at the highest political level and for the importance of regulatory quality to be adequately communicated to lower levels of the administration. The endorsement of a clear political commitment to the established principles for regulatory reform is a key component for a successful system of regulatory quality management (OECD, 2012[3]). Such commitment should be transparently adopted and available to all officials across the entire national administration. The "whole-of-government" perspective is essential in order to capture the interrelations which allow a proper functioning of central government and determine the quality of regulation (OECD, 2012[3]).

Box 1.1. OECD Recommendation of the Council on Regulatory Policy and Governance

The *Recommendation* (2012[3]) sets out the measures that Governments can and should take to support the implementation and advancement of systemic regulatory reform to deliver regulations that meet public policy objectives and will have a positive impact on the economy and society. These measures are integrated in a comprehensive policy cycle in which regulations are designed, assessed and evaluated *ex ante* and *ex post*, revised and enforced at all levels of government, supported by appropriate institutions.

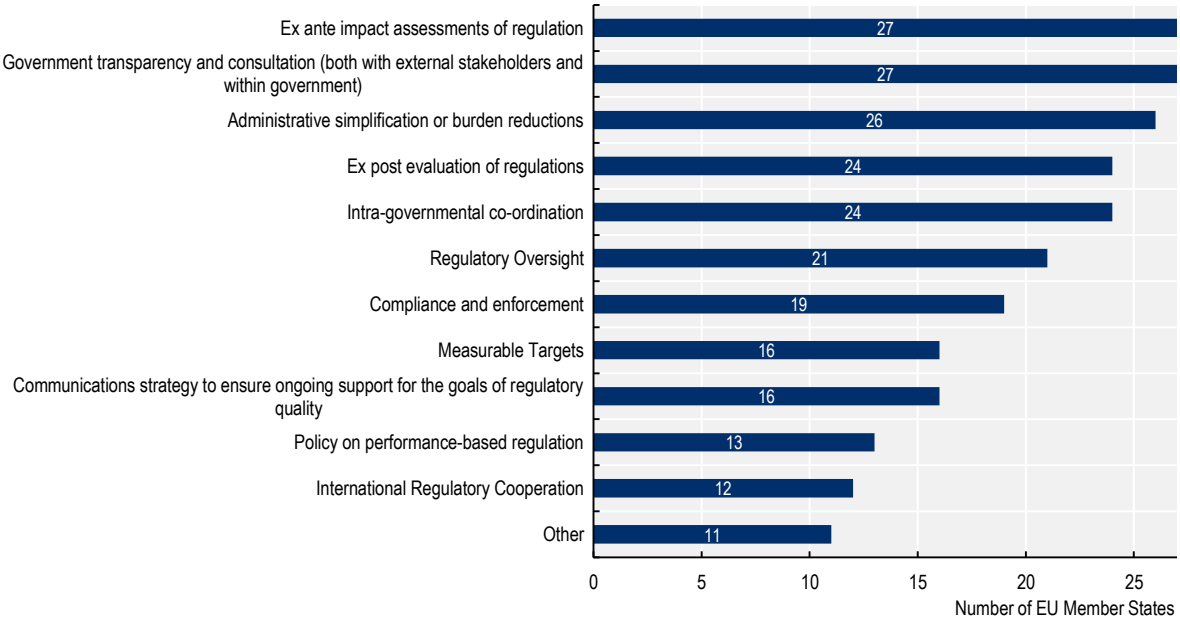
1. Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered and the net benefits are maximised.

2. Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including on-line) for the public to contribute to the process of preparing draft regulatory proposals and to the quality of the supporting analysis. Governments should ensure that regulations are comprehensible and clear and that parties can easily understand their rights and obligations.
3. Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality.
4. Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals. Consider means other than regulation and identify the trade-offs of the different approaches analysed to identify the best approach.
5. Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives.
6. Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations. Such reports should also include information on how regulatory tools such as Regulatory Impact Assessment (RIA), public consultation practices and reviews of existing regulations are functioning in practice.
7. Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.
8. Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner.
9. As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective. Regulators should assess how regulations will be given effect and should design responsive implementation and enforcement strategies.
10. Where appropriate promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government. Identify cross-cutting regulatory issues at all levels of government, to promote coherence between regulatory approaches and avoid duplication or conflict of regulations.
11. Foster the development of regulatory management capacity and performance at sub-national levels of government.
12. In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction.

Source: OECD (2012[3]), Recommendation of the Council on Regulatory Policy and Governance, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264209022-en.

All twenty-seven EU Member States show some commitment to Principle 1 of the *Recommendation* (2012[3]). All indeed have an explicit and published regulatory policy documents that promote government-wide regulatory reform. There is however no blueprint to embed these documents into practice as there is strong divergence across EU Member States. Data show that regulatory policy is rarely expressed in a single high-level document. Instead, a majority of EU Member States have four documents or more that embed requirements and that can take the form of laws, manuals or guidelines, and government strategies and programmes. These policies cover various areas of regulatory governance (Figure 1.1). Universally across all EU Member States, regulatory policy covers *ex ante* RIAs and government transparency and consultation, whilst it covers *ex post* evaluation of regulations in 24 EU Member States.

Figure 1.1. *Ex ante* impact assessment, transparency and consultation, as well as administrative simplification or burden reduction are the most commonly covered areas of regulatory governance in EU Member States



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Almost all EU Member States also have a high-level official or minister responsible for promoting government-wide progress on regulatory reform. In 21 EU Member States, the person responsible is a minister whose portfolio includes responsibility for implementing the better regulation agenda. In four EU Member States – **Belgium**, **Hungary**, **Latvia**, and **Malta** – it is a high-level appointment whilst in **Lithuania** it is the head of the Government Office who is responsible for regulatory policy. **Ireland** is the only EU Member State that reported having no person responsible for the development of the better regulation agenda and of regulatory reform.

EU legislative process and regulatory policy in the European Union

The three main institutions within the European Union are the European Commission, the Council of the European Union (henceforth referred to as “the Council”), and the European Parliament. The right of initiative for EU legislation lies, as a rule, with the European Commission, except for some specific political areas, whether either the European Parliament, the Council or a number of Member States have the right

to initiate legislation. While some special legislative procedures in the EU treaties provide that the Council adopts the EU legislative proposal, most EU legislative acts are adopted under the so-called "ordinary legislative procedure", where it is for the Council and the European Parliament to negotiate, amend, adopt and/or reject the proposals tabled by the European Commission. The European Parliament and the Council are often referred to as "co-legislators" as they are on par with each other under the ordinary legislative procedure. The two main types of legislative and regulatory tools available to the European Union are further described in Box 1.2.

Box 1.2. The main types of EU legislative acts and subordinate regulations

The two main types of EU legislative acts are regulations and directives. Both the nature of and processes for these types of EU legislative acts have important differences. The differences are relevant to the regulatory management tools that individual Member States employ when implementing these acts.

EU regulations have general application and are directly applicable in all EU Member States and binding in their entirety. Regulations are used most commonly where it is important to achieve a uniform implementation of a policy intervention, such as in the internal market or the governance of mergers. They leave individual Member States limited scope to determine how they implement these laws. EU directives on the other hand, afford Member States considerable latitude to choose the method and form of implementation. They are binding on the Member States to which they are addressed in respect of the result to be achieved but the specific form and methods are left to national authorities to decide.

The main types of EU subordinate regulations are delegated acts and implementing acts. In the legislative acts they adopt, the European Parliament and the Council can empower the Commission to adopt acts to supplement or amend non-essential parts of EU legislative acts (in case of delegated acts) or where uniform conditions for implementing legally binding acts are needed (in case of implementing acts). Both delegated and implementing acts may take the form of either regulations, directives or decisions.

The European Commission's regulatory process for preparing proposals for legislative acts and delegated and implementing acts involves both stakeholder consultation and impact assessment (see Chapters 2 and 3). Once the Commission has adopted a proposal for a legislative act under the ordinary legislative procedure, the proposed regulation or directive (as the case may be) is subject to the legislative process in the Parliament and the Council, where proposals can be refused or amendments are negotiated before the EU legislative act is finally adopted. Delegated and implementing acts are not subject to a legislative process per se. However, delegated acts only enter into force if the European Parliament and the Council of the European Union have no objections. Additionally, delegated and implementing acts are usually prepared in consultation with an expert group (the former) or a committee (the latter) comprised of representatives from EU countries.

EU regulations take effect in individual Member States once they have been published in the Official Journal of the EU or later if the regulation so provides. EU directives are subject to an additional transposition procedure, as the individual Member States need to incorporate them into national law. The European Commission monitors whether legislation has been correctly transposed into the individual Member States' legal orders and has the power to launch infringement proceedings before the European Court of Justice against individual Member States, if the transposition is deemed insufficient or unduly delayed.

Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021; OECD (2019[2]), Better Regulation Practices across the European Union, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264311732-en.

The better regulation agenda was introduced in the EU policy procedure in the early 2000s, in response to some of the EU Member States' efforts to embed good regulatory practices within their domestic legislative procedures (Goldberg, 2018[4]). In the early stages, the European Commission's better regulation agenda was strongly underpinned by the rationale to simplify and improve the quality of EU legislation (European Commission, 2002[5]), to strengthen the competitiveness of the European economies, and to ensure that the analysis addressed economic, environmental and social regulatory impacts (European Commission, 2005[6]). The EU's approach to regulatory policy has been refined over the years as subsequent Commissions (e.g. the Barroso Commissions, 2005-2015; the Juncker Commission, 2015-2020) attempted to improve the existing framework by refining the various tools included in the better regulation agenda. Most recently, the von der Leyen Commission (2020-present) published a new Communication on better regulation in April 2021 (European Commission, 2021[7]) as well as new *Guidelines on Better Regulation* and an updated *Better Regulation Toolbox* in November 2021 (European Commission, 2021[8]; European Commission, 2021[9]).

The European Commission has the general right of legislative initiative, but it does not control the end-product that is adopted as the Council and the European Parliament, under the ordinary legislative procedure, need to jointly agree on the final legislative act. Even though the European Commission follows rigorous regulatory procedures, the negotiations and amendments tabled by the co-legislators could introduce elements of poor regulation in EU legislative acts (Goldberg, 2018[4]). In light of this, the Interinstitutional Agreement on Better Law Making was established in 2003 and revised in 2016 to support evidence-based decision-making across all three institutions and to ensure that the adopted EU legislation remains in line with better regulation principles. Amongst other things, the Council and the European Parliament agreed in 2016 to consider the European Commission's impact assessments when debating the legislative proposal and to carry out impact assessments in relation to any of their substantial amendments to a proposal, when appropriate and necessary for the legislative process (European Union, 2016[10]). There is, however, no agreed definition of what constitutes a "substantial" amendment (European Court of Auditors, 2020[11]).

The use of regulatory management tools, and particularly RIAs, remains a difficult issue in the application of the better regulation agenda across the European Institutions. In light of the 2016 Interinstitutional agreement, the European Parliament has created a Directorate for Impact Assessment and European Added Value, as part of the European Parliamentary Research Service, that offers parliamentary committees a range of support in relation to *ex ante* impact assessment and *ex post* evaluation, including the development of impact assessments on parliamentary amendments (European Parliamentary Research Service, 2021[12]). Since 2016, the relevant units within the European Parliament have in some instances undertaken impact assessments of the amendments introduced by European Members of Parliament (European Parliamentary Research Service, 2020[13]). The Council of the European Union however does not engage with RIA at all (Simonelli and Iacob, 2021[14]). As argued by Goldberg (2018[4]), the European Commission's legislative proposal is by nature a draft as it is likely to be amended by the Council and by the European Parliament during the legislative process. Furthermore, stakeholders continue to raise concerns about the lack of transparency during the "trilogues" (i.e. the negotiation between the European Commission, the European Parliament, and the Council of the European Union) as these continue to operate behind closed doors without the possibility for stakeholders to follow or contribute to the debates (Business Europe, 2018[15]). As a result, the European Commission's assessment may only identify and assess some of the costs and benefits that European citizens and businesses will experience when the final legislation is implemented. There thus continues to be thousands of amendments introduced yearly in the Council and/or Parliament whose impacts are not understood and that have not been consulted with affected parties. This is a significant weakness for EU law-making and demonstrates that, until all three European institutions involved in the legislative process systematically implement good regulatory practices, it is unlikely that better regulation can be considered as successfully embedded into the EU's decision-making procedures. The European Commission calls for the European Parliament and the Council to assess the anticipated impacts of their amendments and to relaunch a common political dialogue in its recent *Communication on Better Regulation* (European Commission, 2021[7]).

Overview of the use of regulatory management tools in EU Member States in the development and transposition of EU legislation

In its Communication on Better Regulation, the European Commission highlighted the role of EU Member States in improving transparency of evidence-based policy and to reduce the burden of EU legislation (European Commission, 2021[7]). Legislation and regulatory policy emanating from the EU naturally affects EU Member States, so the regulatory management systems of the EU institutions and of the EU Member State need to be mutually reinforcing in order to operate effectively and efficiently (OECD, 2019[2]).

The results from the iREG survey demonstrate that there has been little change since the previous edition of this report (2019[2]) and less than half of the EU Member States require either stakeholder engagement or RIA to be conducted during the negotiation stage. In fact, only 10 EU Member States require both regulatory management tools to be used to assist the negotiation of proposed EU directives and regulations, namely **Bulgaria**, **Denmark**, **Estonia**, **Finland**, **France**, **Hungary**, **Italy**, **Poland**, the **Slovak Republic**, and **Slovenia**. The negotiation phase of the EU legislative process is a major opportunity for EU Member States to directly amend the European Commission's legislative proposal. Using regulatory management tools at the negotiation stage helps to identify specific domestic issues and sensitivities to the European Commission's regulatory proposals, which can then be utilised to inform the negotiation debate. This is particularly relevant for EU regulations as these are directly applicable and binding in their entirety, meaning that Member States have no discretion to amend any element or to determine how to implement such laws once they are adopted by the EU (see Box 1.2). The negotiation is thus the last stage in the EU legislative procedure where Member States can use evidence on domestic impacts to influence a proposed EU regulation. The efficient use of evidence in the negotiation of proposed EU regulations will become increasingly significant as the European Union appears to move towards adopting more of them. The short timing between the publication of the European Commission's legislative proposal and the beginning of the negotiation can however impede the development of suitable regulatory management tools to inform the domestic negotiation position, particularly RIA as discussed in Chapter 3.

In contrast, the requirement to use regulatory management tools when transposing directives continues to be more common across EU Member States. All EU Member States require either stakeholder engagement or RIA to be conducted when transposing EU directives. Given that transposing EU directives involves amending existing or developing new domestic regulations (see Box 1.2), it is unsurprising that the RIA requirements for laws originating at the EU level are identical to those originating domestically. In addition, all Member States require both regulatory management tools, with the exception of four countries. **Ireland**, **the Netherlands**, and **Portugal** require RIA but not stakeholder engagement to be undertaken during transposition, whilst **Romania** requires the opposite. Generally, the requirements governing stakeholder engagement and RIA for the transposition of EU directives are identical to the requirements on regulations originating domestically. Few EU Member States however generally report assessing the impacts resulting from additional provisions added to EU directives.

The results from the iREG survey also indicate that a majority EU Member States report facilitating the engagement of domestic stakeholders in the European Commission's public consultation process, which is open for 12 weeks. EU Member States also report using the results from the European Commission's consultation processes and its impact assessment more systematically as input to inform the negotiating position for proposed directives and regulations rather than when transposing directives. In contrast, there appears to be less interface between the European Commission and the EU Member States regarding the use of *ex post* evaluation than the use of the other two regulatory management tools. Indeed, few EU Member States reported using the results of the European Commission's *ex post* evaluation at any stages in the negotiation or transposition of EU legislation.

The requirements and practices of EU Member States regarding stakeholder engagement, RIA, and *ex post* evaluation on EU legislative proposals are discussed and assessed in more details in Chapters 2, 3 and 4, respectively.

EU Member States inherently engage in international regulatory co-operation within the EU and can deploy their experience beyond the EU framework

EU Member States are pioneers of international regulatory co-operation (IRC) by virtue of being part of the European Union. In practice, IRC takes place in multiple layers within the EU, ranging from "intra-EU IRC" including co-operation between EU Member States facilitated by the EU framework, and "external EU IRC" where EU Member States commonly engage in IRC beyond the EU framework, to "specific EU Member State IRC" including individual engagement in IRC. Each layer of IRC is explained below. Overall, while EU Member States have an extensive experience and institutional framework to conduct "intra-EU IRC", specific EU Member States' better regulation frameworks often fail to reflect the experience gained from regulating within the EU context. This section illustrates EU Member States' manifold engagement in IRC while identifying opportunities for leveraging on this experience.

What is IRC?

IRC has become a critical building block of Better Regulation, recognised as a principle enshrined in the *2012 OECD Recommendation on Regulatory Policy and Governance* (OECD, 2012[3]). On this basis, the OECD has studied a variety of approaches to IRC and mapped the benefits and challenges in using it to support its members in applying an international lens in the regulatory process. The body of knowledge gathered by the OECD in this area since 2012 is compiled in the *OECD Best Practice Principles on IRC* (2021[16]). Understood in very broad terms, IRC extends "any agreement or organisational arrangement, formal or informal, between countries to promote some form of co-operation in the design, monitoring, enforcement, or ex-post management of regulation" (OECD, 2013, p. 153[17]).

Three layers of IRC of EU Member States

As mentioned above, EU Member States can be considered to have three "layers" of IRC, resulting in different levels of integration between regulatory frameworks.

First, the most integrated "layer" of IRC is among the EU Member States themselves, or "intra-EU IRC". To this effect, EU Member States have developed an ambitious set of legal and institutional settings that can be equated to a complex IRC framework seeking regional economic integration and, more broadly, promoting economic and social progress for citizens, taking into account the principle of sustainable development. As such, the EU can be considered not only as a highly developed product of IRC created by an international treaty, but also as an ongoing platform for IRC to take place in many forms. Based on treaties between the EU Member States, certain national regulatory competences leave way to supranational law making and institutions. In other words, EU Member States have pooled their sovereignty in joint institutions (including the European Commission, the Council of the EU, the European Parliament and the European Court of Justice) and empowered them to adopt and interpret legislation (OECD, 2013[17]). Resultant legislation can be binding on national authorities (European Commission, 2021[18]). For an order of magnitude, the EU adopted 806 directives and 1042 regulations since 1992 (by basic or amending legislative acts). Uneven information is available on the levels of transposition across EU Member States (EUR-Lex, 2021[19]).

Multilayered IRC engagement in (a) given area(s) to achieve co-operation objectives is common practice across all OECD member countries, often resulting in an overlapping of their features or form continuums (OECD, 2013[17]). Facilitated by the EU framework, the forms of co-operation between EU Member States

("intra-EU IRC") range from harmonisation of rules to more informal dialogues and exchanges on a regular basis, and from the design to the implementation and enforcement of rules – a broad panorama that is rarely visible in a single regional or multilateral co-operation framework and which makes the EU the largest regulatory and economically integrated region worldwide (OECD, 2016[20]). Harmonisation of rules exists in areas where the EU has exclusive legislative competencies, i.e. in areas in which the EU alone is able to legislate and adopt binding acts. Where the EU only has shared competencies, supporting competencies, or no competencies at all, harmonisation of rules between EU Member States is more uneven, leaving space for complementary IRC mechanisms. For instance, mutual recognition agreements (MRAs) are largely used to close gaps in non-harmonised areas, such as pharmaceutical products or medical devices, where technical specifications are regulated and certification is mandatory (OECD, 2013[17]). Facilitated by the EU framework, its Member States also engage with each other in transgovernmental networks and recognise common technical standards. Enhancing co-operation between national energy regulators, for example, is one the primary means through which the EU seeks to fulfil objectives in the energy sector (OECD, 2013[21]).

Second, the EU has the ability to sign international treaties in the areas of its attributed powers or to join international organisations. As such, the European Commission catalyses its Member States' international engagement to the international stage beyond EU borders ("external EU IRC"), that then also adds to EU law and the *acquis* applicable to EU Member States (EUR-Lex, 2022[22]). The European Commission participates in or interacts with multiple intergovernmental organizations or international fora (e.g. International Monetary Fund, World Bank, OECD, G7, G20, and the European Bank for Reconstruction and Development), including the development of joint instruments, memoranda of understanding (MoUs) or other agreements, and engages in constant dialogue and informal exchanges of information such as the Transatlantic dialogues instituted by the EU and the United States through the Transatlantic Economic Council and the EU-Canada Comprehensive Economic and Trade Agreement (CETA) (OECD, 2013[17]). As such, in the areas where the EU has competence and is active in international fora, the European Commission acts as an enabler for IRC between the EU as a whole and non-EU members. In parallel, and de facto, some commentators have qualified the EU as a global regulatory power deploying a "Brussels effect" via market forces, with EU standards adopted at the global level without the EU imposing them on other jurisdictions (Bradford, 2020[23]). Broadly speaking, this "Brussels effect" can result in integration with non-EU jurisdictions.

The EU Better Regulation Agenda includes some elements to support Member States' consideration of "external EU IRC" when new initiatives are prepared and when existing legislation is managed and evaluated at the European level. For instance, the European Commission's *Better Regulation Toolbox* (2021[9]) suggests a "screening of options against the EU's international legal commitments" in external trade and investment when designing policy options, notably the World Trade Organisation (WTO) Agreements and EU trade agreements with third countries (European Commission, 2021, p. 219[9]). Where the European Commission has sector specific international agreements in place with third countries, such as Agreements on Conformity Assessment and Acceptance of Industrial Products (ACAAs) with EU neighbouring countries and Mutual Recognition Agreements (MRAs) with trade partners, the *Better Regulation Toolbox* (2021[9]) suggests to consider them additionally when designing policy options. It also notes that international organisations can provide valuable sources for gathering data and indicators relating to impacts and contextual information of policies (European Commission, 2021, p. 363[9]). The case to consider the international environment also beyond the EU borders when regulating is therefore recognised by the European Commission and paves the way for further efforts to support co-ordination with international peers to work together and avoid duplication. The *Compendium for International Organisations' Practices* (2021[24]) provides some key elements, building on the responses to an international organisations' survey in 2018, to help identify and map potential partners, establish common objectives, and select appropriate instruments, stages and procedures for co-ordination.

Finally, where EU Member States develop their own regulations, they co-operate with EU Member States and non-EU jurisdictions individually ("residual EU Member States' IRC"). EU Member States each engage in "residual EU Member State IRC" of relevance to them for a good reason: although there is a growing number of rules originating from EU legislation, there remains space for regulatory divergence in many areas. This concerns, first and foremost, areas that are not under the exclusive competency of the EU and are thus not fully harmonised. For instance, the EU only has "supporting competency" in the areas of health, education or tourism (European Commission, 2021[18]). Where the EU has exclusive competency (e.g. the customs union, competition in the internal market, or trade policy), the level of harmonisation essentially depends on how the competency is exercised respectively, i.e. what type of EU law is used. Although the adoption of EU directives has declined in the last years (only 5 EU directives have been adopted in 2020 compared to 33 in 2019 and 47 in 2014 (EUR-Lex, 2021[19])), the fact that EU Member States have discretion when transposing EU directives inevitably leads to the issue of how to ensure that domestic regulations implementing EU law are fully coherent with the underlying common policy objectives in protecting citizens and do not create trade barriers (OECD, 2010[25]). While policy coherence and united action is particularly evident to maintain supply chains and protect citizens in times of crisis, initial regulatory responses to the COVID-19 pandemic in EU Member States were still mostly inward-looking (Russack and Blockmans, 2020[26]) (OECD, 2020[27]).

Looking at each EU Member States' engagement in IRC, the following findings from the iREG survey illustrate that EU Member States mostly engage in "intra-EU IRC" and that "residual" EU Member States' IRC efforts still matter, to reap the full benefits of international co-operation for domestic rule-making.

General State of Play in three layers of IRC practice in EU Member States

IRC starts with a systematic whole-of-government policy/strategy and a dedicated governance structure promoting it. This is highlighted in the *2021 OECD Best Practice Principles on International Regulatory Co-operation* (2021[16]) as a *sine qua non* condition to evoke ambitious IRC together with by the embedment of international considerations throughout the domestic regulatory design, development and delivery, and leveraging bilateral and multilateral co-operation on regulatory matters to support national policy objectives (OECD, n.d.[28]). As a broad strategic document or other instrument, a dedicated IRC policy/strategy is an opportunity to build a holistic IRC vision with clearly identified roles and responsibilities that ideally feeds into the broader strategic priorities of the government.

Box 1.3. Examples of IRC policies/ strategies across EU Member States

The Cabinet Regulations No. 707 and 96 in **Latvia** provide a whole-of-government policy/strategy on IRC as they govern the cross-government engagement with international organisations and the institutions of the European Union, respectively. These provide strategic direction to Latvia's IRC activities in these fora, by establishing procedures for the initiation, development, co-ordination, approval and update of regulatory documents.

In **Germany**, Article 25 of the Constitution represents a "partial" legal basis on IRC to the extent that it incorporates certain international instruments, i.e. "the general rules of public international law", as an integral part of federal law. In addition, the German Constitutional Court has developed a principle of *Völkerrechtsfreundlichkeit (*friendliness to international law*)* according to which the German Basic Law "presumes the integration of the state it creates into the international legal order of the community of States". As a result, German Law is to be interpreted as consistently as possible with international law. This illustrates that jurisprudence and legal principles developed by domestic courts can promote IRC in domestic legislation and regulation.

To inform domestic rule making with international evidence, regulators in **Estonia** are required to examine available international practices regarding the issue under consideration during the drafting of legislative proposals. If information from foreign legislation contributed to the preparation of a draft, this must be included in the accompanying explanatory letter.

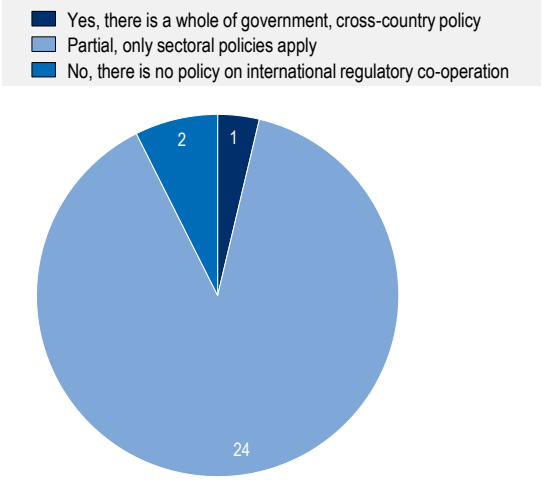
The One-Stop Shop for New Business Models launched by **Denmark** in 2018 requires the Danish Business Authority (DBA) to collaborate with neighbouring countries to analyse how EU Directives are implemented in different ways across jurisdictions. It has a particular substantive focus on the sharing economy, the circular economy, e-commerce and data and new technology. Anchored in the Strategy for Denmark's Digital Growth, under the pillar of agile regulation, this aims to reduce digital barriers to trade and support an innovation-friendly internal market in the EU.

In **Slovenia**, regulators – when developing laws and regulations – are required to use information from EU regulations, decisions of the Court of Justice of the European Union, analysis of regulation in the EU acquis, analysis of regulation in at least three legal systems of EU Member States, as well as beyond the EU, from international agreements and analyses of regulation in other legal systems.

Source: (OECD, n.d.[28]) (OECD, 2021[1]), see also: Mutual Legal Assistance Agreement between the Federal Republic of Germany and the Republic of Austria on Legal and Administrative Assistance in Customs, Excise and Monopoly Matters, Order of the German Constitutional Court from 22 March 1983 (BVerfGE 63, 343-380 (370)).

OECD data show that IRC policies/strategies may have varying scope and legal underpinnings across countries, ranging from statutory obligations, over established legal principles to more flexible approaches (Box 1.3). In the EU, most Member States have a range of legal provisions in place to frame their participation in the EU, which can be considered as "partial" IRC policies, given their geographical focus on regional partners (OECD, 2021[1]) – with "partial" implying no value judgement on their level of scope or ambition. By virtue of their membership obligations and of various EU treaties, the Member States therefore intrinsically have an active regulatory co-operation mechanism built into their processes (OECD, 2018[29]). In some cases, "partial" IRC policies in EU Member States also apply to certain sectors or to specific types of co-ordination. EU Member States thus tend to focus their IRC engagement to a geographic region or a specific sector (see examples, Box 1.3). In comparison, six OECD member countries have a whole-of-government, cross sector policy on IRC in place (OECD, 2021[1]). Individual IRC approaches of EU Member States to co-operate internationally also beyond the EU when regulating are less common (Figure 1.2).

Figure 1.2. While almost all EU Member States set up legal provisions to frame their participation in the EU, a systematic whole-of-government policy or a legal basis on IRC is still the exception

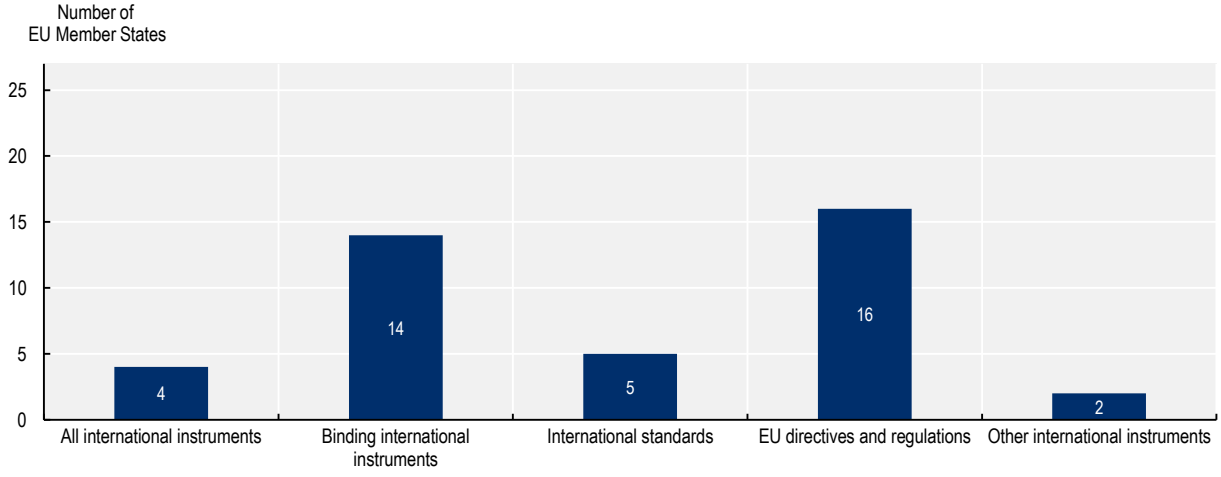


Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Facilitation of a whole-of-government strategy around IRC is further impeded through a fragmentation of responsibilities in EU Member States, as the oversight of IRC practices is almost exclusively organised either amongst multiple central government bodies or without any governance structure at all. Similarly, only seven EU Member States reported that the authority in charge of regulatory oversight in general is also in charge of ensuring the consideration of international instruments in the development process of regulations.

The iREG survey results suggest that a number of formal requirements exist in EU Member States to consider recognition and incorporation of international instruments when developing domestic regulations or revising existing ones (Figure 1.3). Such formal requirements are a common way to ensure that international experience and expertise are considered in domestic rule making (OECD, 2021[1]). Leveraging usage and considerations of evidence from foreign policy makers and international organisations may prove valuable in building the body of evidence for a particular regulation, inform a greater range of options for policy action, and help to develop an evidence-based and transparent narrative around the chosen measure (OECD, 2021[16]). The majority of EU Member States have specific formal requirements in place to consider EU regulations and directives when developing or reviewing domestic laws which is particularly beneficial in areas where the EU has exclusive legislative competence and thus a large stock of regulations and directives, most notably in trade (i.e. the customs union). While the increasing use of IRC and good regulatory practices (GRPs) to reduce unnecessary barriers to trade is in line with the general trend in OECD countries, analytical work confirms that IRC offers critical tools for achieving national and international policy objectives well beyond trade liberalisation. The COVID-19 pandemic and climate change are only two examples of complex global challenges whose public management would benefit from better implementation of IRC tools addressing cross-border policy challenges more effectively and efficiently (OECD, 2021[1]). Yet, formal requirements in EU Member States to consider international instruments beyond the consideration of EU law focus on binding international instruments and only a few survey respondents have formal requirements in place for international standards or international instruments as a whole. This suggests that EU Member States often fail to apply their knowledge and experience of systematic IRC practices gained in the EU context (through “intra-EU IRC”) beyond the EU framework.

Figure 1.3. Where formal requirements to consider international instruments when developing or reviewing domestic law exist in EU Member States, they rarely go beyond EU legislation and binding international instruments

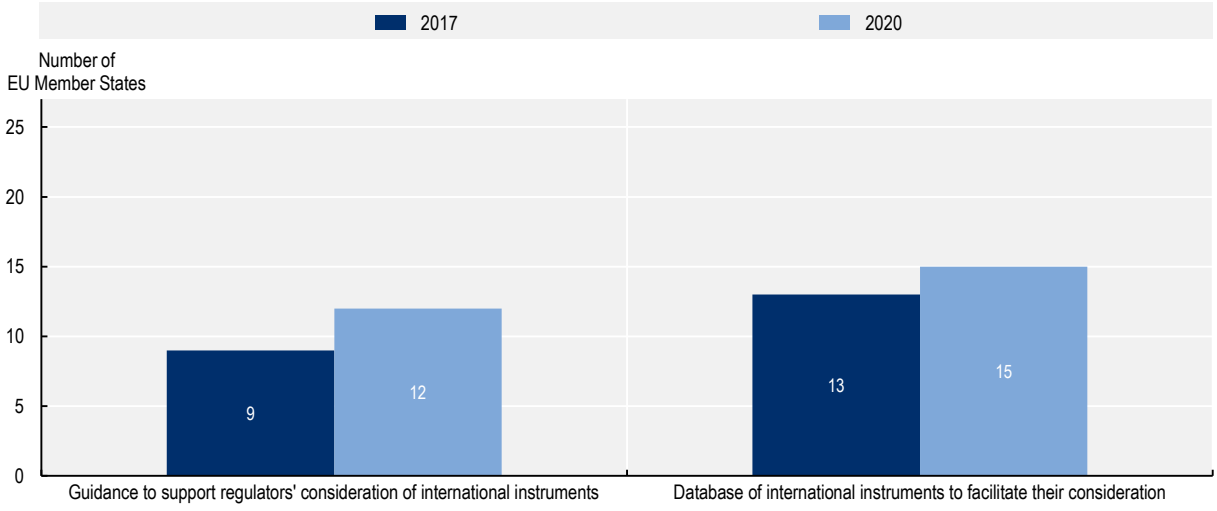


Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

The consideration of international instruments can be supported by practical guidance or databases, as highlighted in the *Best Practice Principles on International Regulatory Co-operation* (OECD, 2021[16]). This may reduce burdens for regulators and to consider more systematically the international environment and engage in fruitful IRC. While EU Member States increasingly provide supporting tools to policy makers and regulators (e.g. specific guidance documents or online databases to underpin regulatory processes with international evidence), in line with the general OECD trend, they are usually sector specific (e.g. on climate change or quality infrastructure) or instrument specific (e.g. for binding international law) and only apply infrequently (Figure 1.4).

The EU's expertise as the most integrated regional framework is reflected in its Better Regulation Agenda that sets out key elements on IRC as an important pillar of regulation. Member States of the EU therefore have the experience and tools to improve individual IRC objectives and practices when regulating, in order to close gaps that emerge from the still significant regulatory divergences across the EU, resulting from discretion that remains in the transposition of directives and areas of national competence. EU Member States also have the opportunity to improve their IRC with non-EU countries, particularly EU neighbouring countries, with whom they lack the same legal and institutional framework as with EU Member States but still share policy objectives. They can therefore work closer with both EU and non-EU members to ensure effective and efficient responses to common policy challenges.

Figure 1.4. Guidance and databases to support the consideration of international instruments in domestic rule making are increasingly common, but usually only for specific sectors or instruments



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

Institutional setting and regulatory oversight across EU Member States

Regulatory oversight bodies (ROBs) are essential to help governments deliver on their Better Regulation goals. They can do so by promoting the systematic and consistent use of evidence and stakeholder engagement in the design and revision of rules, as well as by fostering strong institutional co-ordination and risk-based, forward-looking and innovative approaches to regulation. If they have adequate powers, resources and capacity, ROBs can also help ensure that rules are fit for the future by adopting a holistic perspective in their scrutiny of regulatory management tools and acting as knowledge brokers vis-à-vis

ministries and regulatory agencies. The *OECD Recommendation of the Council on Regulatory Policy and Governance* (2012[3]) stresses the importance of establishing mechanisms and institutions to provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality. The recently adopted *OECD Recommendation of the Council for Agile Regulatory Governance to Harness Innovation* (2021[30]) acknowledges the critical role of regulatory oversight in addressing many emerging regulatory challenges.

As this section will show, EU Member States' clear acknowledgement of the importance of regulatory oversight contrasts with the pace of reform measures undertaken to further strengthen and develop oversight systems, which remains slow in key areas such as the quality control of *ex post* evaluations and stakeholder engagement (including across borders). This mismatch is also observed for the OECD membership as a whole.

In line with the *OECD Regulatory Policy Outlook* (OECD, 2021[1]), the present section defines ROB as a body undertaking at least one "core" function of regulatory oversight on a systematic basis. Core functions are: quality control of regulatory management tools; guidance on the use of regulatory management tools; co-ordination on regulatory policy, and systematic evaluation of regulatory policy (see Box 1.4 for more details). The section discusses the institutional organisation of regulatory oversight in EU Member States, with special attention to oversight and quality control mechanisms for regulatory management tools, and identifies priorities for oversight systems in the years to come.

Box 1.4. "Core" functions of regulatory oversight

While previous analytical work by the OECD pertaining to regulatory oversight was broad in scope in order to capture a wide variety of situations, this section focuses on selected core functions. These have been identified in previous work carried out by the Secretariat based on analysis by Andrea Renda and Rosa J. Castro (Renda, Castro and Hernandez, forthcoming[31]) as being essential for effective regulatory oversight.

The functions considered as core are:

- Quality control of regulatory management tools (i.e. reviewing the quality of individual regulatory impact assessments, stakeholder engagement processes, and *ex post* evaluations);
- Issuance or provision of relevant guidance on the use of regulatory management tools;
- Co-ordination on regulatory policy; and
- Systematic evaluation of regulatory policy.

Although relevant actors of regulatory policy, a number of bodies' contribution is ancillary to core regulatory oversight functions. For the sake of consistency, bodies that do not perform core oversight functions or do so only on an *ad hoc* basis are therefore not considered for analytical purposes. Below is a list of bodies that are excluded on those grounds:

- Better regulation units inside ministries/departments;[5]
- Public think tanks and advisory bodies;
- Behavioural Insights Teams;
- Competition authorities;
- Ad hoc task forces;
- Permanent consultation bodies;
- Public training schools for civil servants;
- Budget and investment ministries/agencies;

- Trade ministries/units;
- Ministries of foreign affairs.

Source: OECD (2021[1]), OECD Regulatory Policy Outlook 2021, OECD Publishing, https://doi.org/10.1787/38b0fdb1-en; (Renda, Castro and Hernandez, forthcoming[31]), Defining and Contextualising Regulatory oversight and Co-ordination, OECD Publishing, Paris.

Regulatory oversight landscape in the EU: an overview

All EU Member States continue to have at least one dedicated body in charge of promoting and monitoring regulatory reform and quality in the national administration from a whole-of-government perspective. This arguably reflects their awareness of the importance of robust regulatory oversight for Better Regulation. ROBs also exist at the EU level that play an important role in implementing the Better Regulation agenda.

As of end 2020, EU Member States reported 64 ROBs as being in charge of performing at least one core regulatory oversight function on a systematic basis. This amounts to an average of nearly 2.4 ROBs per Member State, which is comparable to the OECD average. As shown in Table 1.1, this figure conceals, however, important differences. For example, **Denmark** has five ROBs and **Lithuania**, **Poland**, the **Netherlands**, and **Slovenia** have four bodies each, whereas other Member States (e.g. **Portugal**, **Finland**, **Romania**, and the **Slovak Republic**) have a single ROB each. More generally, there continues to be broad variety of institutional settings for regulatory oversight across Member States.

Table 1.1. Number of ROBs in each EU Member States

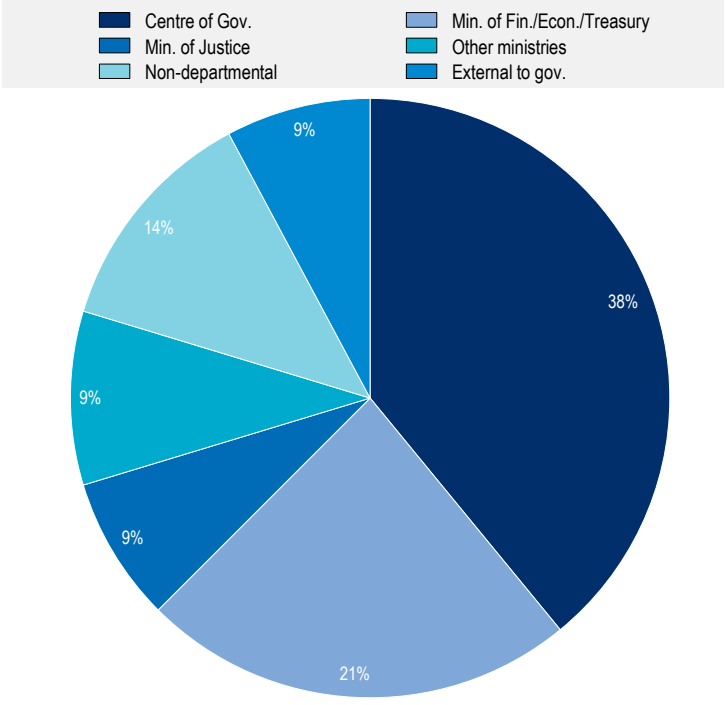
EU Member State	Number of regulatory oversight bodies in each EU Member State				
	1	2	3	4	5
Austria		✓			
Belgium		✓			
Bulgaria	✓				
Croatia		✓			
Cyprus	✓				
Czech Republic			✓		
Denmark					✓
Estonia		✓			
Finland	✓				
France			✓		
Germany			✓		
Greece		✓			
Hungary	✓				
Ireland			✓		
Italy			✓		
Latvia		✓			
Lithuania				✓	
Luxembourg	✓				
Malta			✓		
Netherlands				✓	
Poland				✓	
Portugal	✓				
Romania	✓				
Slovak Republic	✓				
Slovenia				✓	

EU Member State	Number of regulatory oversight bodies in each EU Member State				
Spain			✓		
Sweden		✓			
European Union			✓		

Note: Data is based on 27 EU Member States and the European Union.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

As shown in Figure 1.5, approximately three-quarters of ROBs are located within government. Forty percent of these are at the centre of government, i.e. within a body that provides direct support and advice to the Head of Government and the Council of Ministers, such as Prime Minister's Offices, Cabinet Secretaries, or Secretaries-General of the Government. Bodies at this location are ideally placed to foster a whole-of-government approach to regulatory policy and ensure effective co-ordination.

Figure 1.5. A large majority of ROBs across all EU Member States (in % of the total) are located within government



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

A strong legal anchoring and a stable mandate are important for ROBs' influence and autonomy. In line with findings for OECD members, the mandates of the majority of ROBs in EU Member States are established in either law or statutory requirement or, alternatively, in a presidential or cabinet directive. Twenty two Member States also indicated having a ROB in charge of RIA scrutiny whose mandate is established in a legally binding document. Since the beginning of 2018, several ROBs had their mandate renewed or made permanent. Among OECD members, the latter include **Denmark**'s Government Economic Committee, the two bodies within **Greece**'s Secretariat General of Legal and Parliamentary Affairs, **Latvia**'s State Chancellery, **Portugal**'s Technical Unit for Legislative Impact Assessment, and **Spain**'s Regulatory Coordination and Quality Office. In addition, **Bulgaria**, **Croatia**, **Cyprus**, **Malta** and

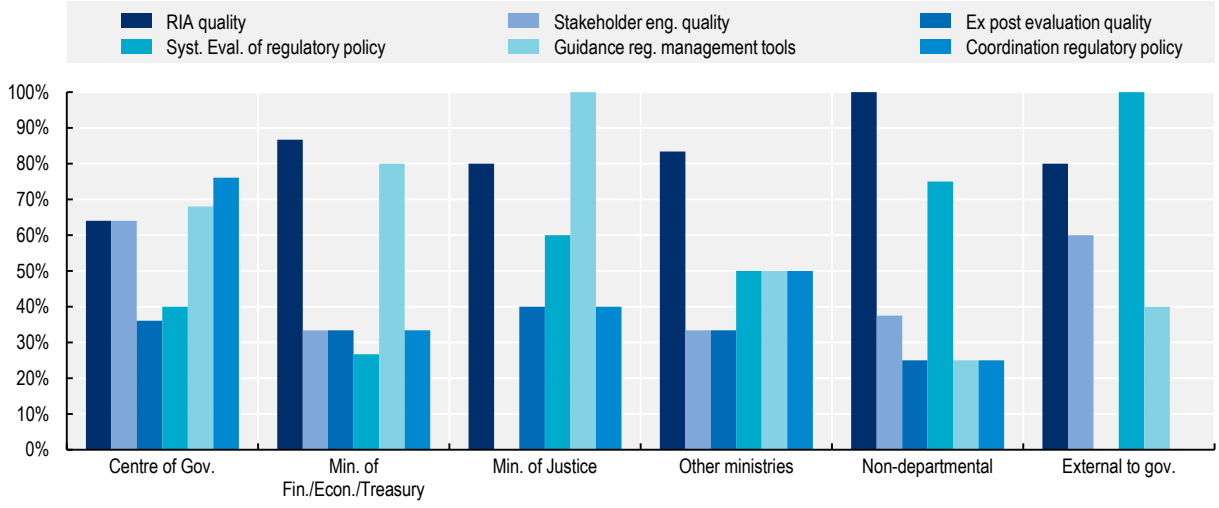
Romania have at least one ROB each whose mandate is permanent. In a number of EU Member States, ROBs have also assumed new responsibilities, such as new functions or additional areas for scrutiny. This may signal these governments' willingness to embed oversight further in the wider regulatory policy environment.

An uneven coverage of core regulatory oversight functions in EU Member States

When considering core regulatory oversight functions in EU Member States, there is a contrast between, on the one hand, well-covered functions such as RIA quality control and guidance on regulatory management tools and, on the other hand, equally relevant yet less widespread functions, such as quality control of *ex post* evaluations. In addition, EU Member States have institutional arrangements in place to oversee other elements of regulatory policy that are not covered systematically by the OECD Indicators of Regulatory Policy and Governance, such as the transposition of EU law (OECD, 2019[2]).

Figure 1.6 presents the percentage of ROBs in various locations that are tasked with each core oversight function across all EU Member States. ROBs at the centre of government are entrusted with a relatively broad range of functions, and they are typically tasked with co-ordination-related functions as well as the provision of guidance on regulatory management tools. ROBs at Ministries of Economy, Finance or Treasury tend to focus on quality control of regulatory management tools (chiefly RIA) and guidance provision. ROBs located at Justice Ministries focus on guidance, legal quality review and support to the quality control of RIA. Non-departmental bodies, in turn, have a clear focus on RIA quality control as well as on evaluating regulatory policy. In most cases, these are arm's length bodies, which are not subject to the direction on individual decisions by the executive government but may be supported by government officials (OECD, 2018[32]). ROBs external to government (within Parliament or the Judiciary) have a similar focus. For additional insights on oversight by parliamentary bodies, see Box 1.5 later in this section.

Figure 1.6. ROBs at the centre of government tend to perform a broad range of oversight functions and are by far the preferred choice for co-ordination on regulatory policy



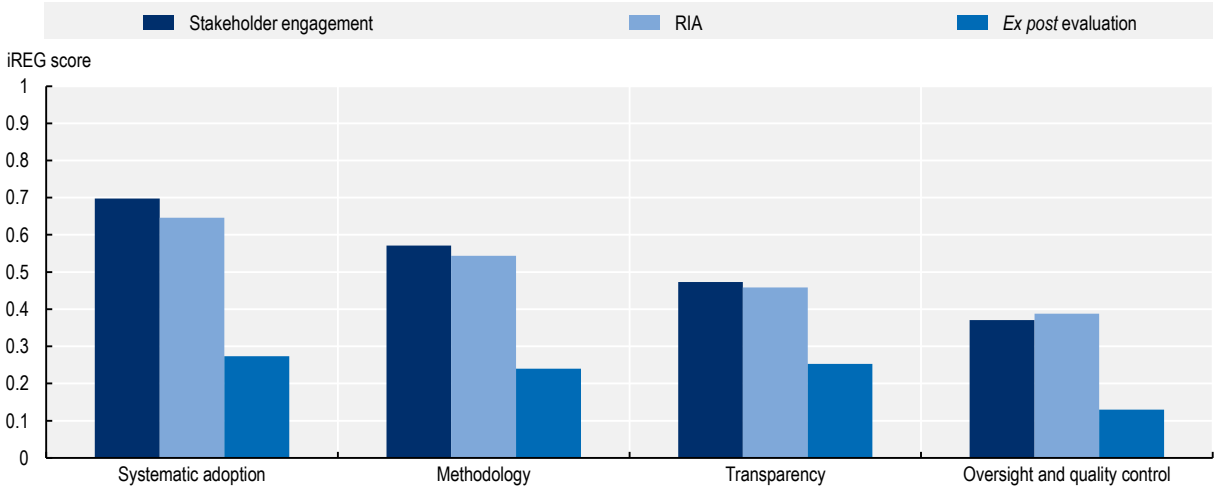
Note: Data is based on 27 EU Member States. Figures refer to the share (in %) of ROBs in a given location performing each core function (across all EU Member States).
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Oversight of regulatory management tools: RIA-only is not enough

Out of the four dimensions covered by the OECD composite indicators, *oversight and quality control* of regulatory management tools, which accounts for the role and attributions of ROBs as well as for publicly available evaluations, is the least developed (see Figure 1.7). Over the 2017-2020 period, this dimension

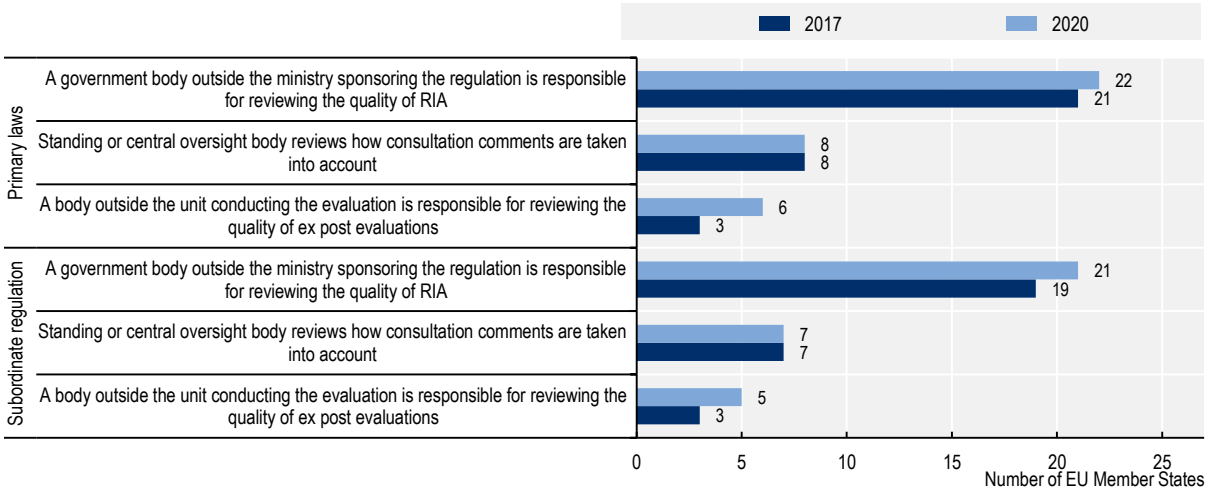
has shown the lowest scores in each composite indicator, which highlights the need for stepping up efforts in this area. Particularly in the case of *ex post* evaluations, quality control is not progressing fast enough to ensure that this regulatory management tool is used appropriately and systematically. The significantly lower *oversight and quality control* score for *ex post* evaluations is also related to the latter's low uptake (as shown also by the *systematic adoption* score). Moreover, Figure 1.8 shows that relatively few EU Member States have an oversight body in charge of systematically reviewing the quality of either *ex post* evaluations or stakeholder consultation processes.

Figure 1.7. As a general rule, *oversight and quality control* of regulatory management tools remains weak in EU Member States



Note: Scores represent the average of primary laws and subordinate regulations. The maximum score per dimension for each regulatory management tool is one. Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Figure 1.8. Few EU Member States have set up institutions for the quality control of all regulatory management tools



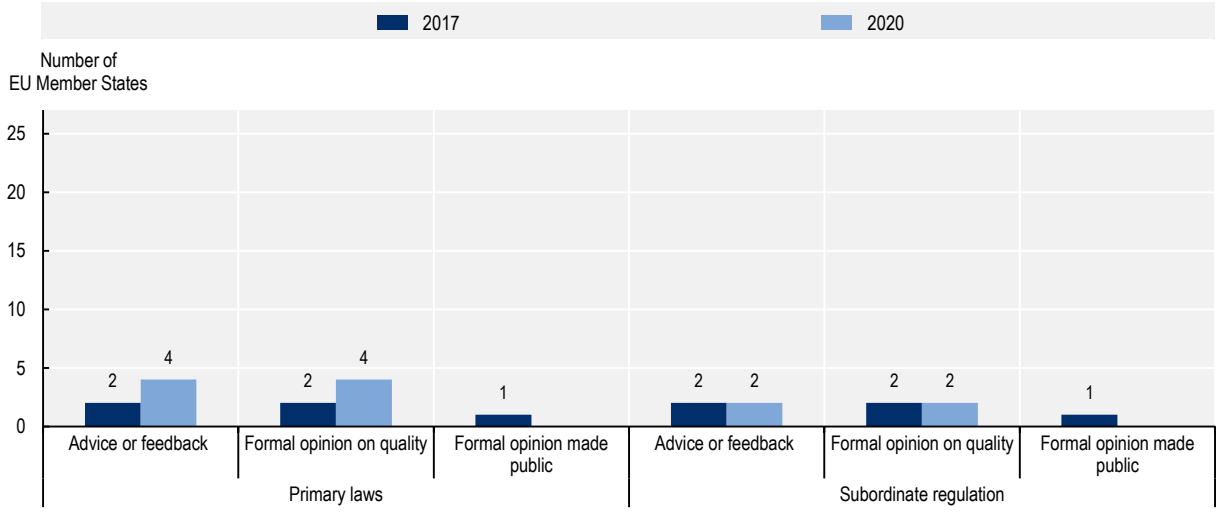
Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

Oversight of ex post *evaluations: still lagging behind*

Even though they are crucial for regulatory quality and despite recent improvements (see Chapter 4 for further information), systematic oversight of *ex post* evaluations continues to be the exception rather than the rule in EU Member States; even more so when considering Member States with a body responsible for reviewing the quality of *ex post* evaluations of packages of legislation (only **Austria**, **Italy** and the **Netherlands**) as well as *ad hoc* reviews of the regulatory stock, such as administrative burden or in-depth reviews (only the **Netherlands** does). Strengthening oversight in these areas is essential to foster a more holistic approach to regulatory analysis.

In the few EU Member States where oversight of *ex post* evaluations does happen, ROBs (generally located at the centre of government) provide feedback or advice during the preparation of *ex post* evaluations and/or issue formal opinions on their quality. These opinions are seldom published (see Figure 1.9).

Figure 1.9. Quality control of *ex post* evaluation is still the exception rather than the rule in EU Member States



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

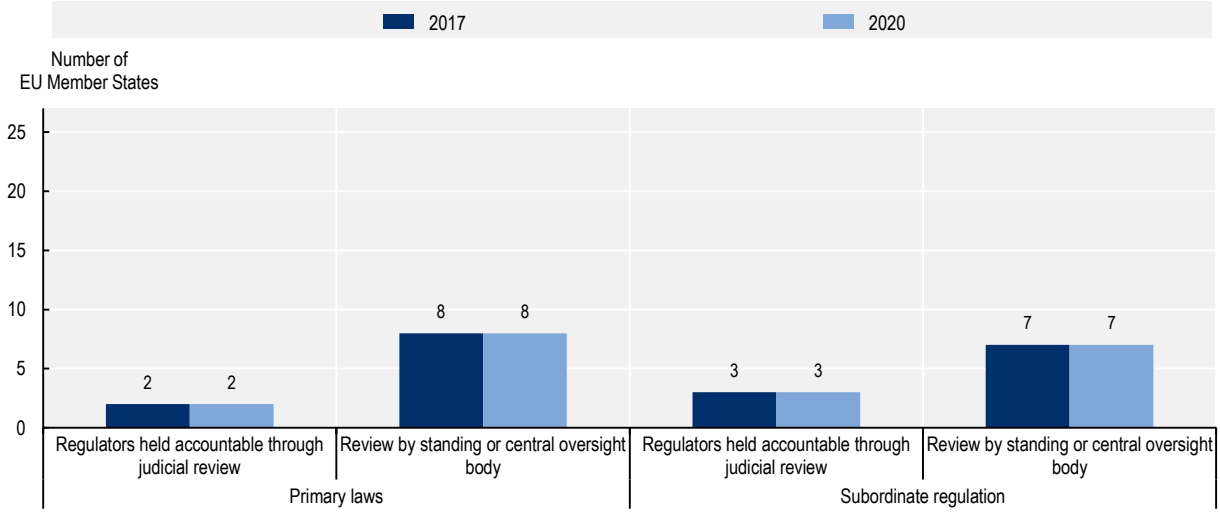
Some EU Member States have however taken steps in recent years to strengthen oversight of *ex post* evaluations of legislation. One of them is **Germany**, which in November 2019 introduced a requirement for independent quality assurance of all *ex post* evaluations of legislative proposals exceeding EUR 5 million in annual compliance costs. In the same vein, in 2020 **Lithuania** institutionalised the *ex post* assessment of regulations and designated the Ministry of Justice as dedicated function for *ex post* evaluation co-ordination.

Oversight of stakeholder consultation

Although nearly two-thirds of EU Member states have formal requirements to consider consultation comments when developing laws and regulations, fewer than one third have a standing or central oversight body whose mandate consists of reviewing how consultation comments are taken into account for rule making. This proportion applies to both primary laws[6] and subordinate regulation.[7] ROBs with this function tend to carry it out together with RIA scrutiny. They are usually at the centre of government

although bodies external to government and non-departmental bodies may also be involved. As shown in Figure 1.10, a minority of EU Member States also resort to judicial reviews to hold regulators accountable in this regard. For both approaches, uptake has not progressed compared with 2017.

Figure 1.10. About two thirds of EU Member States do not have an oversight body in charge of reviewing how consultation comments are taken into account for rule making



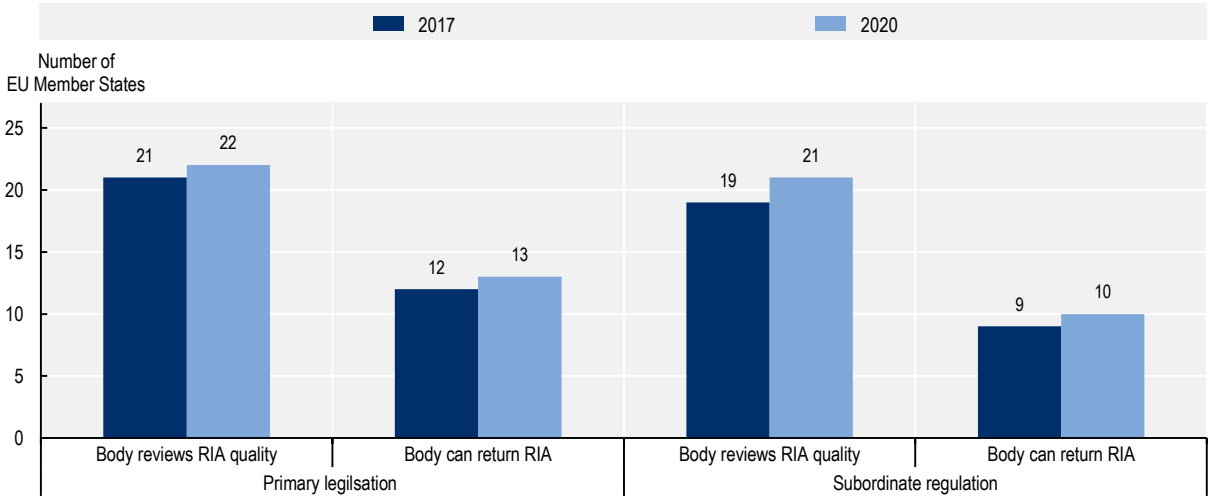
Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

RIA oversight

RIA scrutiny remains the main area of focus of most regulatory oversight systems in the EU. As of end 2020, about 80% of Member States declared to have a body outside the ministry sponsoring the regulation that is responsible for reviewing RIA quality: 21 and 22 for primary laws and subordinate regulation respectively. Most ROBs tasked with RIA quality control are located within government and often share this function with non-departmental bodies.

The ROBs in charge of RIA scrutiny have some sort of gatekeeping function (i.e. they can return a RIA for revision if it deems it inadequate) in 13 and 10 EU Member States for primary laws and subordinate regulations, respectively. This represents an increase compared with 2017 (Figure 1.11). For example, the *Conseil d'État* in **France** has the power to disjoint a legislative provision or even to refuse to give an opinion on a law if the RIA is inadequate. ROB's decision to return a RIA can however be overturned through an active decision (e.g. from cabinet, a minister or a high-ranking official) in nearly all EU Member States. Only **Croatia** reported that, for primary laws, it cannot be overturned (as the competent oversight body can request to postpone the law). In certain cases, however, RIA quality control takes place in more consensus-oriented settings whereby ROB's review suggestions or recommendations are generally adhered to even if legislative proposals cannot be formally prevented from moving forward. For example, the networking efforts of **Portugal**'s Technical Unit for Legislative Impact Assessment within the administration help improve RIAs analytical quality even in the absence of formal sanctions. In **Denmark**, co-operation and consensus plays an important role in the dynamic between the ministries and regulatory oversight bodies, even if the Danish Business Authority's Better Regulation Unit can stop a proposal from being published for consultation. In addition, a recent review concluded that ministries are making significant and increasingly frequent changes to the draft legislative proposal on the basis of the recommendations from the country's Secretariat for digital-ready legislation (Agency for Digitisation, 2021[33]).

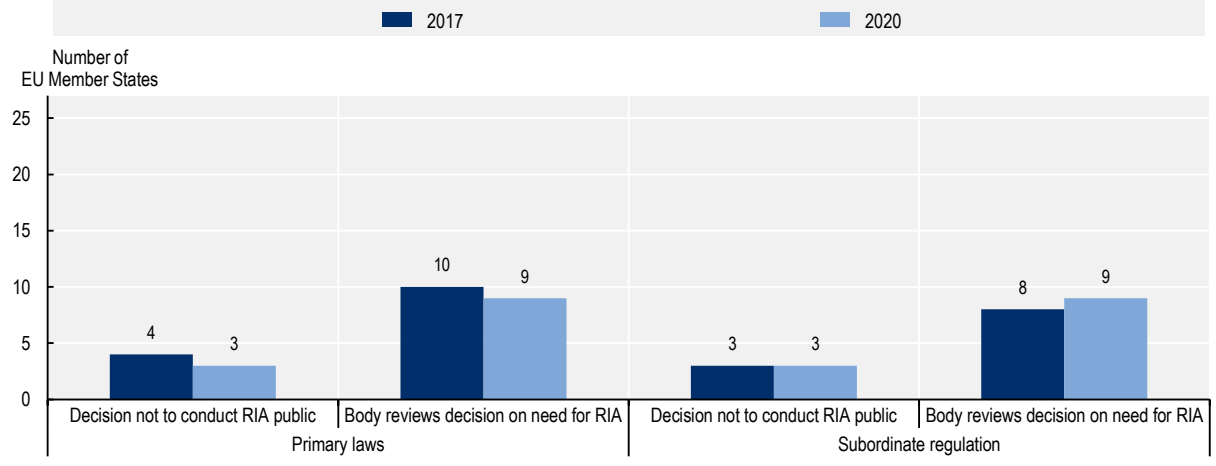
Figure 1.11. The share of EU Member States whose ROBs in charge of RIA scrutiny can act as "gatekeepers" has slightly increased compared to 2017



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

As will be discussed in Chapter 3, there may be cases where exceptions to conducting RIAs can be a proportionate response to significance of a regulatory policy. Excepting a legislative proposal from RIA requirements should however only be undertaken in cases of genuine unforeseen emergencies or when a policy has truly negligible impacts. RIA systems will be ineffective if legislative proposals are arbitrarily exempted from *ex ante* impact assessment or if RIA obligations can be easily avoided. Therefore, decisions to waive RIA must be exceptional, transparent and subject to oversight. A majority of EU Member States contemplate some sort of exemption to RIA. Only **Austria**, **Estonia**, **Finland**, **Germany**, **Lithuania** and **Spain** report that RIA is conducted without exception. In half of them, this applies to both primary legislation and subordinate regulation. However, only approximately one-third of EU Member States have a body responsible for reviewing the decision made by officials about whether a RIA is required – and few of these bodies publish their conclusions in that respect (see Figure 1.12). Exceptions to RIA in the context of proportionate regulatory analysis across EU Member States are discussed in more depth in Chapter 3.

Figure 1.12. There is still limited scrutiny of decisions not to conduct RIA, and those decisions are seldom published



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2017 and 2021.

Regulatory oversight by parliaments in EU Member States

Although Parliaments have a crucial role to play in regulatory oversight and Better Regulation more generally (OECD, 2015[34]), their involvement in this respect remains limited. Based on the definition applied in this report, only one ROB located in parliament has been included in the present analysis: **Germany**'s Parliamentary Advisory Council for Sustainable development. Although not considered for analytical purposes, four and six EU Member States also reported having a parliamentary committee in charge of reviewing the quality of individual RIAs and overall RIA systems respectively.

Furthermore, since data for this report focuses and relies primarily on reporting by government entities, bodies outside the executive branch of government may be underrepresented as a result. A comprehensive study by the European Parliamentary Research Service (EPRS) provides complementary insights on the role of national parliaments of all 27 European Union Member States and 11 further Council of Europe countries with respect to RIA and *ex post* evaluation, including regarding oversight. Box 1.5 summarises some of its key findings.

Box 1.5. Better Regulation practices in national parliaments from the EU and Council of Europe countries: an analysis by the EPRS

According to the EPRS' study, there is a wide diversity of settings and approaches across parliamentary bodies engaging in regulatory oversight and regulatory policy more generally. These functions can be carried out either *ad hoc* (e.g. via parliamentary questions, consideration at committee level or resolutions) or systematically (with the help of dedicated tools, methods and capacities). Dedicated regulatory policy structures may be located at the political or administrative level, or include a combination of both.

Depending on the specific setting, parliaments' better regulation engagement may involve the scrutiny of RIAs and *ex post* evaluations prepared by the executive and/or the use of regulatory management tools. Concerning RIA, certain parliaments focus on *scrutiny* of formal and procedural aspects, notably by verifying that the regulatory proposal is accompanied by a complete RIA (e.g. the Italian Senate and the Slovenian Parliament). Legal quality scrutiny is also commonplace. In other cases, parliamentary bodies conduct more substantial scrutiny, such as in-depth checks on RIA quality. The study indicates that this is the case for the EPRS (for nearly all RIAs), as well as the Parliaments in France and Norway (which has power to return a draft legal proposal if the underpinning RIA is deemed inadequate and has used this power in the past). Certain parliaments, in turn, focus on specific elements, such as budget implications (e.g. Canada, Austria, Portugal and Sweden). In addition, some parliaments review the entire regulatory framework or carry out audits, sometimes in co-operation with national audit institutions, as is the case in the UK. Only a few legislatures have embedded RIA in their *legislative function* and assess the impact of either draft legislation initiated by parliament (e.g. Poland) or of selected legislative amendments tabled at the committee stage (e.g. Estonia and the European Parliament).

As a complement to scrutiny, parliamentary bodies can play a valuable information-brokering role by providing parliamentary committees with key elements for informed decision-making in a suitable format, such as synthetic documents summarising the results of scrutiny work. Again, a good example is the EPRS, which, compared to the RSB (the European Commission's scrutiny body), steps in at a later stage in the law-making process by verifying, among other things, coherence and due consideration of RSB remarks. It also provides committees with a condensed assessment of the content and quality of the European Commission's impact assessments, and can provide further impact assessment work upon request by committees.

Turning to the other end of the policy cycle, a number of parliaments, including the European Parliament, make systematic use of *ex post* evaluation as an oversight tool. The scope and depth of parliaments' engagement may vary substantially, from a purely legalistic approach to fully-fledged evaluations. For instance, the Canadian Parliament has a long heritage of formal post-enactment scrutiny, its scope being limited to a legal conformity check on delegated regulations. In comparison, policy evaluation has reached a particularly high degree of institutionalisation in the parliaments of France, Sweden and Switzerland, whose evaluation function is constitutionally mandated. According to the EPRS study, the Swiss Parliament's evaluation system stands out with its wide-reaching rights to obtain information from the executive and related follow-up requirements.

Source: European Parliamentary Research Service (2020[13]), Better Regulation practices in national parliaments, http://dx.doi.org/10.2861/06573 and (2021 MRP Conference, forthcoming), https://www.oecd.org/gov/regulatory-policy/Measuring-Regulatory-Performance-events.htm.

ROBs can help governments to maximise the benefits from regulatory reform by improving monitoring and evaluation

Principle 6 of the *Recommendation* (OECD, 2012[3]) encourages members to monitor and assess regulatory policy reform efforts, including the practical functioning of tools such as RIA, stakeholder engagement and reviews of existing regulations. Despite some progress in recent years, the performance assessment of regulatory management tools in the EU is however not yet fully transparent or systematic.

In this context, ROBs can enhance governments' ability to reap the benefits from regulatory reform and target limited public resources by improving how the performance of regulatory management tools, and regulatory policy more broadly, is assessed and communicated upon. Doing so notably involves promoting the adoption of the OECD's *Framework for Regulatory Policy Evaluation* (OECD, 2014[35]) and ensuring that measurement and assessment efforts encompass all relevant domains of regulatory reform instead of focusing exclusively on certain aspects such as the cost of complying with administrative obligations (Radaelli, 2012[36]). Certain ROBs may also contribute to this goal by engaging in evaluative work in their own right.

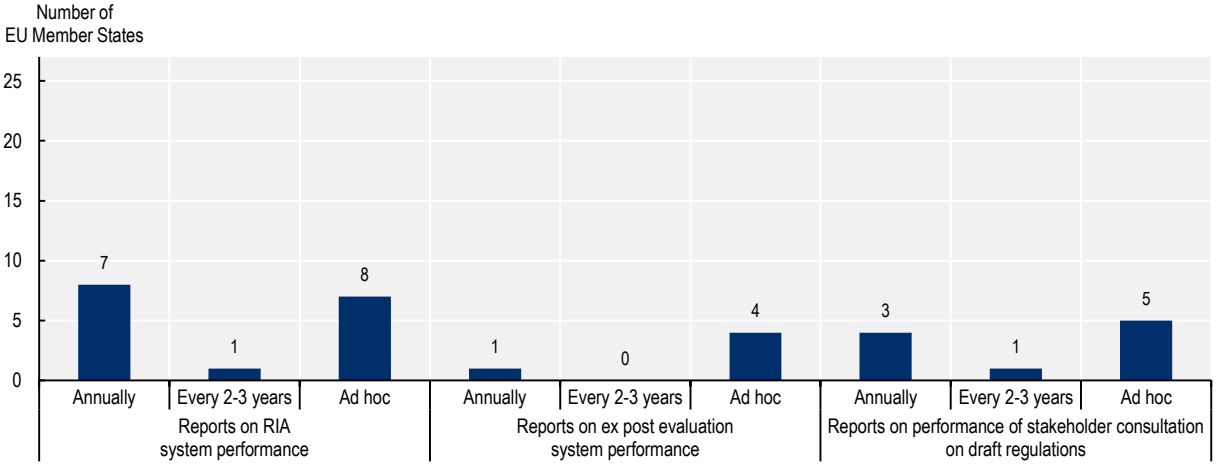
As shown in Figure 1.13, only a minority of EU Member States publish online reports on the performance of their *ex post* evaluation system or stakeholder consultation practices on draft regulations – mostly on an *ad hoc* basis. No EU Member State reported evaluating consultation with foreign stakeholders, although the European Union does so. In addition, only **Austria** reported to have assessed the effectiveness of *ex post* evaluations in improving the regulatory stock in the past five years and published the results. Efforts by the EU's Regulatory Scrutiny Board to draw forward-looking conclusions from its scrutiny of *ex post* evaluations illustrate, however, the benefits of conducting this kind of assessment on a systematic basis. Such benefits include identifying recurrent design flaws to improve methodological approaches and helping to prevent potential biases and conflicts of interest (Regulatory Scrutiny Board, 2019[37]).

Reporting on the performance of RIA systems is comparatively more widespread. For example, as of end 2020, 12 EU Member States had assessed the effectiveness of RIA in leading to modifications of regulatory proposals (compared to 10 in 2017). However, despite RIA's prominence in most Member State's regulatory policy frameworks, approximately 40% of them still fail to publish reports on the performance of their RIA system, and only seven do so annually.

A similar picture emerges when considering how indicators are used to monitor the appropriate functioning of regulatory management tools. Indicators on the percentage of RIAs compliant with formal requirements or guidelines are available in a few EU Member States: **Bulgaria**, **Czech Republic**, **Hungary**, **Italy**, **Poland**, **Portugal**, **Slovenia**, **Slovak Republic** and **Sweden**. Five Member States reported availability of indicators on the percentage of compliant stakeholder consultations: **Bulgaria**, **Italy**, **Latvia**, **Lithuania**

and **Slovenia**, and none reported compiling equivalent indicators for *ex post* evaluations (although such indicators are available at the EU level). Only the **Netherlands** reported compiling (internally available) indicators based on survey results regarding the usefulness or quality of stakeholder consultations.

Figure 1.13. Efforts to assess and report on the performance of regulatory management tools can contribute decisively to regulatory reform and quality, but they remain limited and unsystematic



Note: Data is based on 27 EU Member States.
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Better performance assessment is essential to strengthen regulatory oversight

Ensuring the effectiveness and continuous relevance of regulatory oversight processes and institutions involves assessing their performance on a regular basis, including, to the extent possible, in terms of regulatory improvement. A majority of EU Member States say they publish reports on the effectiveness of at least one ROB responsible for quality control of regulatory management tools; e.g. containing information on its activities, the fulfilment of its mission, or results of perception surveys on its performance and value added. However, as is the case across OECD members, many ROBs' reporting activity in EU Member States still focuses relatively little on effectiveness and outcomes and prioritises implementation (e.g. number of items scrutinised, turnaround times) and compliance with formal requirements (usually easier to track and measure) instead.

Despite the overall need for improvement, there are valuable examples in the EU and beyond of efforts to monitor and evaluate ROBs' work in greater depth, including through the involvement of external evaluators (see Box 1.6). In addition, new tools and technologies can improve our understanding of ROBs' performance and its determinants. For instance, a recent study uses machine learning to identify major change requests in RSB opinions and text similarity measures to identify changes between draft and final versions of impact assessment reports (Senninger and Blom-Hansen, 2021[38]). In the same vein, **Australia**'s Office for Best Practice Regulation are developing an IT system for RIA that they will notably use to understand what kind of feedback is more effective at each stage of the policy cycle and target their efforts accordingly.

Box 1.6. Selected examples of monitoring and evaluation of ROB's work

In May 2021, **Denmark** published an evaluation of the effort to make legislation digital-ready. This evaluation examines whether regulatory reform efforts deployed in this area have had the desired effect. It includes an assessment of the value added through co-operation with the Secretariat for Digital-Ready legislation, an oversight body set up in 2018 and in charge of screening draft legislation (with a focus on public implementation impacts), and providing guidance and support to ministries.

In its 2019 annual report, **Norway**'s Better Regulation Council published performance indicators seeking to capture, among other aspects, the effect of the Council's statements in which it had deemed RIAs not to be fit for purpose. This report also included and assessment of the general trends and developments regarding RIAs within the Council's remit and any recurring problems, as well as an overview of the Council's guidance and information activities to foster effective regulations. In 2021, the Council underwent an external evaluation concluding that it contributes to improving the quality of regulatory impact assessments for legislative proposals and proposing a number of recommendations.

Sweden's Better Regulation Council surveys, on an ad-hoc basis and with varying scopes, ministries' and government agencies' perception of its opinions and their impacts and publishes results in its annual reports. **The Netherlands'** Advisory Board on Regulatory Burden (ATR) also gathers feedback from mechanisms, e.g. on the fast-track procedure it introduced in 2019.

The **European Commission**'s Regulatory Scrutiny Board publishes key performance indicators including on quality improvements subsequent to interactions with European Commission services in its oversight capacity. In Korea, white papers for Regulatory Reform are published on an annual basis including a regulatory reform satisfaction index. **Mexico**'s CONAMER has, in turn, developed an "indicators for results" approach encompassing indicators to assess its contribution to reducing regulatory burden.

Source: Comisión Nacional de Mejora Regulatoria (2019[39]), Informe de avances en la implementación de la Estrategia Nacional de Mejora Regulatoria y de la Comisión, https://www.gob.mx/conamer/documentos/informe-de-avances-de-en-la-implementacion-de-la-estrategia-nacional-de-mejora-regulatoria-y-de-la-comision-nacional-de-mejora-regulatoria; Agency for Digitisation (2021[33]), Evaluation of the effort to make legislation digital-ready, https://en.digst.dk/media/24344/evaluation-of-the-effort-to-make-legislation-digital-ready-accessible-version.pdf; ATR (2019[40]), Dutch Advisory Board on Regulatory Burden. Annual report 2019, https://www.atr-regeldruk.nl/wp-content/uploads/2020/06/2019-ATR-annual-report.pdf (accessed on 5 March 2021); and OECD (2018[32]), Case Studies of RegWatchEurope regulatory oversight bodies and of the European Union Regulatory Scrutiny Board, https://www.oecd.org/gov/regulatory-policy/regulatory-oversight-bodies-2018.htm.

Looking ahead: regulatory oversight for the 21st Century

The *OECD Recommendation of the Council for Agile Regulatory Governance to Harness Innovation* (2021[30]) and its accompanying Practical Guidance highlight the importance of ensuring that the mandate, capacity and functioning of oversight bodies allow them to effectively support agile and forward-looking regulatory policy and governance. This notably involves embedding anticipatory approaches into ROB's working methods and mandate. The EU has already shown the way by expanding the mandate of its Regulatory Scrutiny Board to include foresight (European Commission, 2020[41]).

Moreover, the *Recommendation* (2021[30]) stresses that addressing emerging regulatory challenges notably requires using regulatory management tools in a more dynamic, adaptive and iterative manner. ROBs in EU Member States can be instrumental in that context by fostering systematic linkages and complementarities between these tools, so that they can meaningfully inform the adaptation of regulatory and policy approaches. Moreover, they can actively ensure that regulatory impacts on innovation are duly

taken into account throughout the policy cycle. For example, the Danish Business Authority is in charge of verifying that new regulation does not impose unnecessary burdens on businesses' ability to innovate. The associated Danish Business Regulation Forum performs a similar function with regard to existing regulations.

It will likewise be important to define ROBs' roles and attributions, as well as additional capacity and skills needed, with regard to new regulatory approaches for dealing with innovation, such as regulatory exemptions and experiments (e.g. sandboxes) and soft law instruments (e.g. self-regulation). Regulatory exemptions, for example, are likely to require careful oversight to ensure a reliable assessment of their results and prevent regulatory capture. It may also be useful to explore options to enable closer interaction between ROBs and stakeholders in situations where this can substantially improve regulatory quality (e.g. if access to external knowledge and expertise is required for meaningful scrutiny).

A number of ROBs' mandates already reflect some of these emerging priorities; e.g. eight EU Member States reported having a body in charge of overseeing regulatory quality during a crisis (emergency rule making), and ten have one focusing on innovation-friendly regulation, e.g. by helping ministries and regulators take into account the impacts of regulation on innovation. It should be borne in mind that appropriate execution of regulatory oversight functions, *old* and *new*, will require appropriate capacity and resourcing, especially in light of the increased number and complexity of requests received by ROBs, increased time pressure and additional needs in terms of analytical depth.

Notes

[1] "Stakeholder engagement" refers to the process by which the government informs all interested parties of proposed changes in regulation and receives feedback (OECD, 2018, p. 250[29]).

[2] The term "regulatory impact assessment (RIA)" is defined as a systematic process of identification and quantification of benefits and costs likely to flow from regulatory or non-regulatory options for a policy under consideration. A RIA may be based on benefit-cost analysis, cost-effectiveness analysis, business impact analysis etc. Regulatory impact assessment is also routinely referred to as regulatory impact analysis, sometimes interchangeably (OECD, 2018, p. 250[29]).

[3] "*Ex post* evaluation" refers to the process of assessing the effectiveness of policies and regulations once they are in force. It can be the final stage when new policies or regulations have been introduced and it is intended to know the extent of which they met the goals they served for. It can also be the initial point to understand a particular situation as a result of a policy or regulation in place, providing elements to discuss the shortcomings and advantages of its existence. *Ex post* evaluation should not be confused with monitoring, which refers to the continuous assessment of implementation in relation to an agreed schedule (OECD, 2018, p. 248[29]).

[4] On 25 January 2022 the OECD Council decided to open accession discussions with Argentina, Brazil, Bulgaria, Croatia, Peru and Romania.

[5] While these units are tasked with the oversight of better regulation activities in their own administration and they play a co-ordinating role, they are not responsible for overseeing the quality of the overall

regulatory governance cycle (or any parts thereof) or for co-ordination on regulatory policy from a whole-of-government perspective. They are thus not considered as ROBs.

[6] Primary laws are defined as “regulations which must be approved by the parliament or congress”. This category further distinguishes between primary laws initiated by parliament and those initiated by the executive.

[7] Subordinate regulations are defined as “regulations that can be approved by the head of government, by an individual minister or by the cabinet – that is, by an authority other than the parliament/congress”. Examples include regulations, rules, orders, decrees, etc. Please note that many subordinate regulations are subject to disallowance by the parliament/congress.

References

Agency for Digitisation (2021), *Evaluation of the effort to make legislation digital-ready*, https://en.digst.dk/media/24344/evaluation-of-the-effort-to-make-legislation-digital-ready-accessible-version.pdf. [33]

ATR (2019), *Dutch Advisory Board on Regulatory Burden. Annual report 2019*, https://www.atr-regeldruk.nl/wp-content/uploads/2020/06/2019-ATR-annual-report.pdf. [40]

Bradford, A. (2020), *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, https://doi.org/10.1093/oso/9780190088583.001.0001. [23]

Business Europe (2018), *Strategy Paper - Transparency of trilogues*, https://www.businesseurope.eu/sites/buseur/files/media/position_papers/internal_market/2018-07-17_transparency_of_trilogues_-_strategy_paper.pdf. [15]

Comisión Nacional de Mejora Regulatoria (2019), *Informe de avances en la implementación de la Estrategia Nacional de Mejora Regulatoria y de la Comisión*, https://www.gob.mx/conamer/documentos/informe-de-avances-de-en-la-implementacion-de-la-estrategia-nac. [39]

EUR-Lex (2022), *Glossary of summaries - The European Union’s External Action*, https://eur-lex.europa.eu/summary/glossary/external_responsibilities.html. [22]

EUR-Lex (2021), *Legal acts – statistics*, https://eur-lex.europa.eu/statistics/legislative-acts-statistics.html. [19]

European Commission (2021), *Better Regulation Guidelines*, https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf. [8]

European Commission (2021), *Better Regulation Toolbox*, https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf. [9]

European Commission (2021), *Better Regulation: Joining forces to make better laws*, https://ec.europa.eu/info/sites/default/files/better_regulation_joining_forces_to_make_better_laws_en_0.pdf. [7]

European Commission (2021), *Webpage of the European Commission*, https://ec.europa.eu/info/law/law-making-process/types-eu-law_en (accessed on 6 December 2021). [18]

European Commission (2020), *Strategic foresight*, https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/strategic-foresight_en (accessed on 15 December 2020). [41]

European Commission (2005), *Better Regulation for Growth and Jobs in the European Union*, https://eur-lex.europa.eu/legal-content/en/txt/pdf/?uri=celex:52005dc0097&from=en. [6]

European Commission (2002), *European governance - A white paper*, https://eur-lex.europa.eu/legal-content/en/txt/?uri=celex:52001dc0428. [5]

European Court of Auditors (2020), *Law-making in the European Union after almost 20 years of Better Regulation*, https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=54353. [11]

European Parliamentary Research Service (2021), *Impact Assessment and European Added Value*, https://www.europarl.europa.eu/eprs/eprs-impact-assessment-european-added-value-presentation.pdf. [12]

European Parliamentary Research Service (2020), *Better Regulation practices in national parliaments*, https://doi.org/10.2861/06573. [13]

European Union (2016), *Interinstitutional Agreement of 13 April 2016 on Better Law Making*, https://eur-lex.europa.eu/legal-content/en/txt/pdf/?uri=celex:32016q0512(01)&from=en. [10]

Goldberg, E. (2018), *'Better Regulation': European Union Style*, https://www.hks.harvard.edu/centers/mrcbg/publications/awp/awp98. [4]

OECD (2021), *Compendium of International Organisations' Practices: Working Towards More Effective International Instruments*, OECD Publishing, Paris, https://doi.org/10.1787/846a5fa0-en. [24]

OECD (2021), *International Regulatory Co-operation*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, https://doi.org/10.1787/5b28b589-en. [16]

OECD (2021), *OECD Regulatory Policy Outlook 2021*, OECD Publishing, Paris, https://doi.org/10.1787/38b0fdb1-en. [1]

OECD (2021), *Recommendation of the Council for Agile Regulatory Governance to Harness Innovation*, OECD Publishing, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0464. [30]

OECD (2020), *International organisations in the context of COVID-19: adapting rulemaking for timely, evidence-based and effective international solutions in a global crisis Summary Note of COVID-19 Webinars of the Partnership of International Organisations for Effective International Rule-making*, https://www.oecd.org/gov/regulatory-policy/international-organisations-in-the-context-of-covid-19.pdf (accessed on 1 June 2021). [27]

OECD (2019), *Better Regulation Practices across the European Union*, OECD Publishing, Paris, https://doi.org/10.1787/9789264311732-en. [2]

OECD (2018), *Case Studies of RegWatchEurope regulatory oversight bodies and of the European Union Regulatory Scrutiny Board*, https://www.oecd.org/gov/regulatory-policy/regulatory-oversight-bodies-2018.htm. [32]

OECD (2018), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, https://doi.org/10.1787/9789264303072-e. [29]

OECD (2016), *International Regulatory Co-operation: The Role of International Organisations in Fostering Better Rules of Globalisation*, OECD Publishing, Paris, https://doi.org/10.1787/9789264244047-en. [20]

OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, https://doi.org/10.1787/9789264238770-en. [34]

OECD (2014), *OECD Framework for Regulatory Policy Evaluation*, OECD Publishing, Paris, https://doi.org/10.1787/9789264214453-en. [35]

OECD (2013), *International Regulatory Co-operation: Case Studies, Vol. 2: Canada-US Co-operation, EU Energy Regulation, Risk Assessment and Banking Supervision*, OECD Publishing, Paris, https://doi.org/10.1787/9789264200500-en. [21]

OECD (2013), *International Regulatory Co-operation: Addressing Global Challenges*, OECD Publishing, Paris, https://doi.org/10.1787/9789264200463-en. [17]

OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing, Paris, https://doi.org/10.1787/9789264209022-en. [3]

OECD (2010), *Regulatory Policy and the Road to Sustainable Growth Regulatory Policy and the Road to Sustainable Growth*, OECD Publishing, Paris, https://www.oecd.org/regreform/policyconference/46270065.pdf (accessed on 26 November 2021). [25]

OECD (n.d.), *OECD Best Practice Principles for Regulatory Policy*, OECD Publishing, Paris, https://doi.org/10.1787/23116013. [28]

Radaelli, C. (2012), *Radaelli, Claudio and Oliver Fritsch (2012), "Measuring Regulatory Performance – Evaluating Regulatory Management Tools and*, http://www.oecd.org/gov/regulatory-policy/2_Radaelli%20web.pdf (accessed on 1 March 2021). [36]

Regulatory Scrutiny Board (2019), *Annual Report 2019*, https://ec.europa.eu/info/sites/info/files/rsb_report_2019_en.pdf (accessed on 5 March 2021). [37]

Renda, A., R. Castro and G. Hernandez (forthcoming), *Defining and Contextualising Regulatory oversight and Co-ordination*, Working Paper No. 17, OECD, Paris. [31]

Russack, S. and S. Blockmans (2020), *How is EU cooperation on the Covid-19 crisis perceived in member states?*, CEPS, https://www.ceps.eu/ceps-publications/how-is-eu-cooperation-on-the-covid-19-crisis-perceived-in-member-states/ (accessed on 26 November 2021). [26]

Senninger, R. and J. Blom-Hansen (2021), "Meet the critics: Analyzing the EU Commission's Regulatory Scrutiny Board through quantitative text analysis", *Regulation & Governance*, Vol. 15, pp. 1436–1453, https://doi.org/10.1111/rego.12312. [38]

Simonelli, F. and N. Iacob (2021), “Can We Better the European Union Better Regulation Agenda?”, *European Journal of Risk Regulation*, Vol. 12, pp. 849-860, https://doi.org/10.1017/err.2021.40. [14]