

Introduction: Conduct of the review

Peer review and country contributions

The review was conducted by a team consisting of members of the OECD Secretariat, and peer reviewers drawn from the administrations of other European countries with expertise in Better Regulation. The review team for Portugal was:

The OECD peer review team combined the OECD secretariat and two peer reviewers from other European countries:

- Caroline Varley, Project Leader for the EU 15 reviews, Regulatory Policy Division of the Public Governance Directorate, OECD.
- Sophie Bismut, Policy Analyst, EU 15 project, Regulatory Policy Division of the Public Governance Directorate, OECD.
- Michel Hainque, Head of Quality and Simplification Division, General Directorate for State Modernisation, Ministry of the Budget, Public Accounts and Civil Service, France.
- Mercedes Rubio, Deputy Director of Better Regulation, Ministry for Public Administration, Spain.

The current review of Portugal reflects contributions from the Portuguese government and discussions held in Lisbon by an OECD peer review team with Portuguese officials and external stakeholders on 28-30 April 2008 and 3-5 May 2008. Major initiatives and developments between these missions and clearance of the report for publication in May 2009 are referenced, but have not been evaluated.

The team interviewed representatives of the following organisations:

- Assembly of the Republic
- Associação Industrial Portuguesa (AIP)
- Bank of Portugal
- Energy Services Regulatory Authority (ERSE)
- *Federação Nacional das Cooperativas de Consumidores* (FENACOOP)
- Law Faculty, New University of Lisbon
- Law Faculty, University of Lisbon
- Legal Centre (Centro Jurídico, CEJUR), Presidency of the Council of Ministers
- Ministry of Economy and Innovation
- Ministry of Environment, Regional Planning and Regional Development
- Ministry of Finance and Public Administration
- Ministry of Foreign Affairs
- Ministry of Justice
- Municipality of Lisbon
- Municipality of Odivelas
- National Authority for Communications, ANACOM

- Portuguese Securities Commission
- Secretary of State for Administrative Modernisation (SEMA)
- Secretary of State for the Presidency of the Council of Ministers (SEPCM)
- SME representative
- *União Geral dos Trabalhadores* (UGT)

Within the OECD Secretariat, the EU 15 project is led by Caroline Varley, supported by Sophie Bismut. Elsa Cruz de Cisneros and Shayne MacLachlan provided administrative and communications support, respectively, for the development and publication of the report.

Structure of the report

The report is structured into eight chapters. The project baseline is set out at the start of each chapter. This is followed by an assessment and recommendations, and background material.

- *Strategy and policies for Better Regulation.* This chapter first considers the drivers of Better Regulation policies and the country's public governance framework seeks to provide a "helicopter view" of Better Regulation strategy and policies. It then considers overall communication to stakeholders on strategy and policies, as a means of encouraging their ongoing support. It reviews the mechanisms in place for the evaluation of strategy and policies aimed at testing their effectiveness. Finally, it (briefly) considers the role of e-Government in support of Better Regulation.
- *Institutional capacities for Better Regulation.* This chapter seeks to map and understand the different and often interlocking roles of the entities involved in regulatory management and the promotion and implementation of Better Regulation policies. It also examines training and capacity building within government.
- *Transparency through consultation and communication.* This chapter examines how the country secures transparency in the regulatory environment, both through public consultation in the process of rule-making and public communication on regulatory requirements.
- *The development of new regulations.* This chapter considers the processes, which may be interwoven, for the development of new regulations: procedures for the development of new regulations (forward planning; administrative procedures, legal quality); the *ex ante* impact assessment of new regulations; and the consideration of alternatives to regulation.
- *The management and rationalisation of existing regulations.* This chapter looks at regulatory policies focused on the management of the "stock" of regulations. These policies include initiatives to simplify the existing stock of regulations, and initiatives to reduce burdens which administrative requirements impose on businesses, citizens and the administration itself.
- *Compliance, enforcement, appeals.* This chapter considers the processes for ensuring compliance and enforcement of regulations, as well administrative and

judicial review procedures available to citizens and businesses for raising issues related to the rules that bind them.

- *The interface between the national level and the European Commission.* This chapter considers the processes that are in place to manage the negotiation of EU regulations, and their transposition into national regulations. It also briefly considers the interface of national Better Regulation policies with Better Regulation policies implemented at EU level.
- *The interface between sub national and national levels of government.* This chapter considers the rule-making and rule-enforcement activities of local / sub-federal levels of government, and their interplay with the national / federal level. It reviews the allocation of regulatory responsibilities at the different levels of government, the capacities of the local / sub-federal levels to produce quality regulation, and co-ordination mechanisms between the different levels.

Methodology

The starting point for the reviews is a “project baseline” which draws on the initiatives for Better Regulation promoted by both the OECD and the European Commission over the last few years:

- The OECD’s 2005 Guiding Principles for Regulatory Quality and Performance set out core principles of effective regulatory management which have been tested and debated in the OECD membership.
- The OECD’s multidisciplinary reviews over the last few years of regulatory reform in 11 of the 15 countries to be reviewed in this project included a comprehensive analysis of regulatory management in those countries, and recommendations.
- The OECD/SIGMA regulatory management reviews in the 12 “new” EU member states carried out between 2005 and 2007.
- The 2005 renewed Lisbon Strategy adopted by the European Council which emphasises actions for growth and jobs, enhanced productivity and competitiveness, including measures to improve the regulatory environment for businesses. The Lisbon Agenda includes national reform programmes to be carried out by member states.
- The European Commission’s 2006 Better Regulation Strategy, and associated guidelines, which puts special emphasis on businesses and especially SMEs, drawing attention to the need for a reduction in administrative burdens.
- The European Commission’s follow up Action Programme for reducing administrative burdens, endorsed by the European Council in March 2007.
- The European Commission’s development of its own strategy and tools for Better Regulation, notably the establishment of an impact assessment process applied to the development of its own regulations.
- The OECD’s recent studies of specific aspects of regulatory management, notably on cutting red tape and e-Government, including country reviews on these issues.

The report, which was drafted by the OECD Secretariat, was the subject of comments and contributions from the peer reviewers as well as from colleagues within the OECD Secretariat. It was fact checked by Portugal.

The reviews are also based on material provided by the country in response to a questionnaire, including relevant documents, as well as relevant recent reports and reviews carried out by the OECD and other international organisations on linked issues such as e-Government and public governance.

Regulation: What the term means for this project

The term “regulation” in this project is generally used to cover any instrument by which governments set requirements on citizens and enterprises. It therefore includes all laws (primary and secondary), formal and informal orders, subordinate rules, administrative formalities and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers. The term is not to be confused with EU regulations. These are one of three types of EC binding legal instrument under the Treaties (the other two being directives and decisions).



From:
Better Regulation in Europe: Portugal 2010

Access the complete publication at:
<https://doi.org/10.1787/9789264084575-en>

Please cite this chapter as:

OECD (2010), "Introduction: Conduct of the review", in *Better Regulation in Europe: Portugal 2010*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264084575-4-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.