

5.3 Regulatory impact assessment

Regulatory impact assessment (RIA) is a tool that helps policy makers to identify and assess the potential costs and benefits of regulatory proposals to society. RIA can identify potential impacts on different sectors and groups among those likely to benefit and those likely to bear costs. It can assist policy makers in identifying the best solutions for responding to the problem at hand. By assessing the potential impact of regulations, governments can improve the regulatory environment and reduce regulatory uncertainty, ensuring that they strike a balance between economic growth and the long-term well-being of the planet and future generations. In addition, RIA promotes transparency in the regulatory process by publicly stating the evidence base behind regulatory decisions, in turn increasing the likelihood of compliance.

Since 2015, increasing numbers of Latin American and Caribbean (LAC) countries require policy makers to conduct RIAs for the development of subordinate regulations; however, there remains a gap regarding the implementation of these policies in practice. By 2022, the Dominican Republic, Ecuador, and Mexico required policy makers to conduct RIA for all subordinate regulation proposals. In practice, however, policymakers only in Mexico conduct RIA systematically, while seven LAC countries only conduct RIA for some regulatory proposals. In the Dominican Republic, implementation is in its initial stages and RIAs are not yet conducted; while Ecuador has recently extended the scope of RIAs, which might explain the gap between requirements and implementation. In 5 out of 11 surveyed LAC countries (45%), RIAs are only required and carried out for a limited range of subordinate regulations. For instance, in El Salvador, policy makers conduct RIAs for regulatory proposals that are expected to have compliance costs, and in Colombia they are limited to proposals relating to technical regulations (Figure 5.6).

The requirement for policy makers to conduct RIAs are established in binding laws, decrees or resolutions in 9 out of 11 countries surveyed (82%). By 2022, eight countries had primary laws that establish the obligation for policy makers to conduct RIAs for the development of subordinate regulations, three more than in 2019. In particular, Brazil updated its Economic Freedom Act, which requires RIAs to be conducted for most subordinate regulations, except decrees; and the Dominican Republic enacted the Law for Better Regulation mandating RIAs for the development of all subordinate regulations. In 6 out of 11 LAC countries (54%), there are decrees mandating RIAs for developing regulatory proposals, 3 more than in 2019. For instance, in Chile, a presidential decree enacted in 2021 differentiates the prescribed RIAs depending on whether the expected impact is moderate or high. Ecuador recently issued a decree mandating RIAs for all regulatory proposals. In

some countries the obligation to conduct RIA is contained in more than one binding document, which usually relates to subordinate regulations expanding on the implementation of primary laws (Figure 5.7).

RIAs do not only help policy makers to identify and assess evidence on the potential effect of regulations, but also show the evidence considered for developing final regulatory proposals. By 2022, four of the eight LAC countries that conduct RIAs make all of them publicly available, while two only make some of them public. Chile and Mexico publish all their RIAs on centralised portals; Chile moved from having each ministry publishing RIAs on their individual websites to a centralised portal. Mexico publishes them on the website of its National Commission for Better Regulation (CONAMER), where the public can see the assessed impacts and comment on the results. In Costa Rica, ministries publish RIAs on their own websites but the country is moving towards using a centralised one, Sistema Control Previo (SICOPRE) (Figure 5.8).

Methodology and definitions

iREG indicators for Latin America and the Caribbean draw on responses to the OECD-IDB iREG Surveys 2015-16, 2019 and 2022, and the OECD iREG Survey 2021. Responses were provided by government officials and reflect the situation as at 31 October 2022 for Argentina, Brazil, the Dominican Republic, Ecuador, El Salvador, Paraguay and Peru, and as at 1 January 2021 for Chile, Colombia, Costa Rica and Mexico. The data cover regulations initiated by the executive at the national level, with a focus on subordinate regulations. More information on iREG at oe.cd/ireg.

Regulation refers to the diverse set of instruments by which governments establish requirements on enterprises and citizens. Primary laws must be approved by the legislature. Subordinate regulations are created by the executive and are generally approved by the head of government, a minister or the cabinet.

Further reading

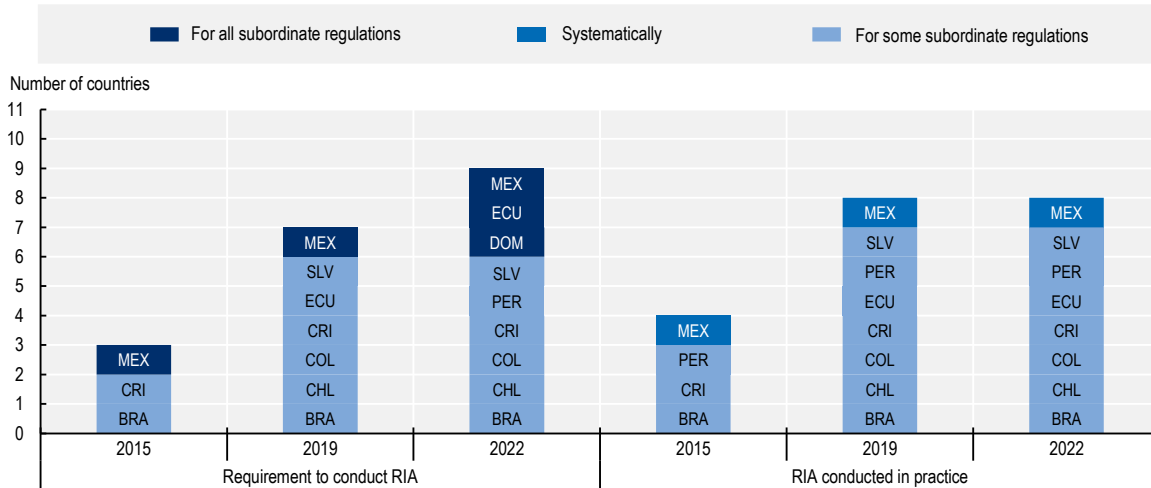
OECD (2021), *OECD Regulatory Policy Outlook 2021*, OECD Publishing, Paris, <https://doi.org/10.1787/38b0fdb1-en>.

OECD (2020), *Regulatory Impact Assessment*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <https://doi.org/10.1787/7a9638cb-en>.

Figure notes

Figure 5.6, Figure 5.7 and Figure 5.8. Data for Chile, Colombia, Costa Rica, and Mexico are for 2021 instead of 2022.

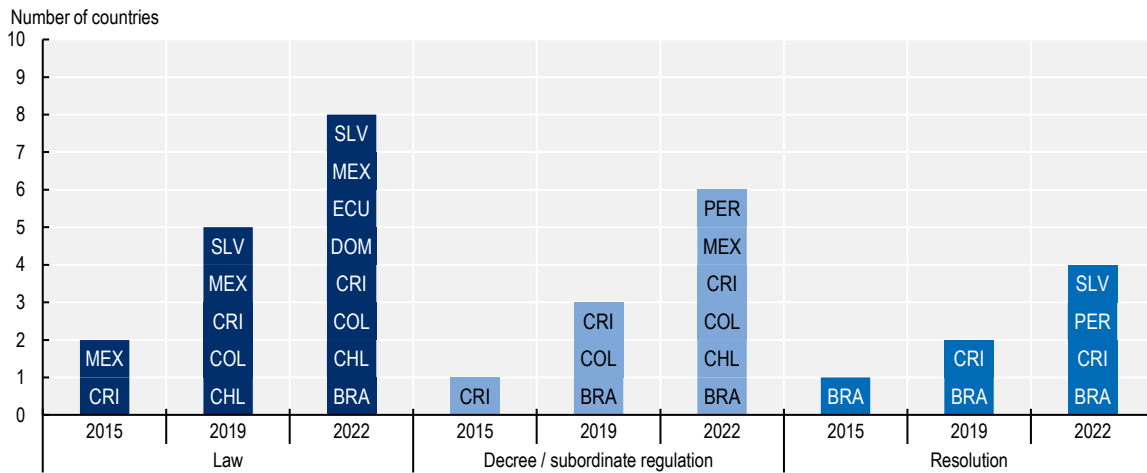
Figure 5.6. Requirement to conduct RIA and RIAs conducted in practice, 2015, 2019 and 2022



Source: OECD-IBD Indicators of Regulatory Policy and Governance (iREG) for Latin America and the Caribbean Surveys 2015, 2019 and 2022, www.oecd.org/gov/regulatory-policy/ireg-lac.htm; OECD iREG Survey 2021, oe.cd/ireg.

StatLink <https://stat.link/2i8g3m>

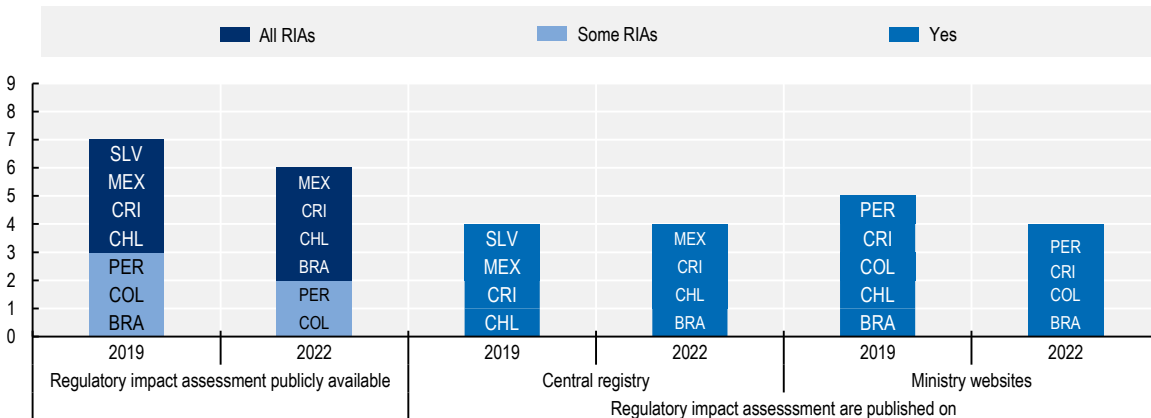
Figure 5.7. Legal instruments that establish the requirement to conduct regulatory impact assessment for developing subordinate regulations, 2015, 2019 and 2022



Source: OECD-IBD Indicators of Regulatory Policy and Governance (iREG) for Latin America and the Caribbean Surveys 2015, 2019 and 2022, www.oecd.org/gov/regulatory-policy/ireg-lac.htm; OECD iREG Survey 2021, oe.cd/ireg.

StatLink <https://stat.link/amgrs3>

Figure 5.8. Publication of regulatory impact assessments, 2019 and 2022



Source: OECD-IBD Indicators of Regulatory Policy and Governance (iREG) for Latin America and the Caribbean Surveys 2019 and 2022, www.oecd.org/gov/regulatory-policy/ireg-lac.htm; OECD iREG Survey 2021, oe.cd/ireg.

StatLink <https://stat.link/1t107b>



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