

Rule of law

Rule of law is one of the foundations of democratic societies as it relates to the exercise of power and the relationship between individuals and the state. It refers to the idea that the same rules, standards and principles are applied to all individuals and organisations, including government itself. The rule of law requires everyone to be treated in accordance with the law, with dignity, equality and rationality, and to have the opportunity of fair procedures before independent and impartial courts (Venice Commission, 2011). A multitude of statutes, laws, codes and procedures ensure these requirements are implemented. Strengthening the rule of law is considered a priority of any governance reform, as well as a key indicator of good public governance. It is an essential prerequisite for ensuring the provision of public goods and services, economic development, maintaining peace and order, and the effective control of corruption.

The World Justice Project assesses countries' rule of law, scoring them on eight factors: 1) constraints on government powers; 2) absence of corruption; 3) open government; 4) fundamental rights; 5) order and security; 6) regulatory enforcement; 7) civil justice; and 8) criminal justice. Scores in most OECD countries have been relatively high and stable during last decade, although the 2020 Rule of Law index, published in March 2020, reflects the situation prior to the COVID-19 outbreak and does not capture the potential impact of restrictions and emergency measures related to the pandemic (WJP, 2020).

The factor *constraints on government powers* measures whether different branches of government have the ability to exercise checks and controls on other branches (i.e. effective horizontal accountability), and whether the government is accountable to other non-governmental checks. It also assesses whether government officials are accountable and sanctioned if need be, and if the transition of power is subject to the law. The OECD average for this factor lies at 0.74 (on a scale from 0, the lowest, to 1, the highest), slightly below that in 2019 (0.76) (OECD, 2019). However, there is wide variation among countries. In Scandinavian countries, such as Denmark (0.94), Norway (0.94) and Finland (0.92), adherence to the rule of law is particularly strong for this factor, while Turkey (0.30) and Hungary (0.40) perform more weakly (Figure 13.10).

The factor *fundamental rights* focuses on respect for the core human rights that are firmly established under the United Nations Universal Declaration of Human Rights, including rights to equal treatment and absence of discrimination, to life and security, and to freedom of opinion and expression. Similar to the previous factor, OECD countries score relatively high, reaching an average of 0.75, slightly below the average in 2019 (0.76). Variation among countries is also wide, ranging from 0.92 in Denmark to 0.32 in Turkey (Figure 13.11). Both factors are strongly and positively correlated, pointing to the fact that countries which have

established checks and balances on government power also tend to guarantee fundamental rights (Figure 13.12).

The COVID-19 outbreak has meant several restrictions, mainly because of the adoption of emergency measures, including the recurrent use of exceptional government powers. These have challenged fundamental rights, the idea of legal certainty and accountability (Council of Europe, 2020). In this regard, it will be extremely important to closely monitor these factors, as well as the state of the rule of law more widely, in the aftermath of the COVID-19 pandemic crisis, to ensure that legal certainty and fundamental rights are effectively restored.

Methodology and definitions

The World Justice Project collects data via a set of questionnaires based on the Rule of Law Index's conceptual framework. The questionnaires are administered to representative samples of the general public and to legal experts who frequently interact with their national state institutions. For the general population, a probability sample of 1 000 respondents in each of the 136 countries is selected while on average 30 experts per country are surveyed. All questionnaires are administered by leading local polling companies. Data are available for 29 OECD countries as well as 1 accession country, Costa Rica, and 6 strategic partners. All variables are transformed into factors normalised to range between 0 (lowest) and 1 (highest). For more information on the variables used for building the composite index, see WJP (2020).

Further reading

Council of Europe (2020), *Respecting Democracy, Rule of Law and Human Rights in the Framework of the COVID-19 Sanitary Crisis: A Toolkit for Member States*, Council of Europe, <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>.

OECD (2019), *Government at a Glance 2019*, OECD Publishing, Paris, <https://doi.org/10.1787/8ccf5c38-en>.

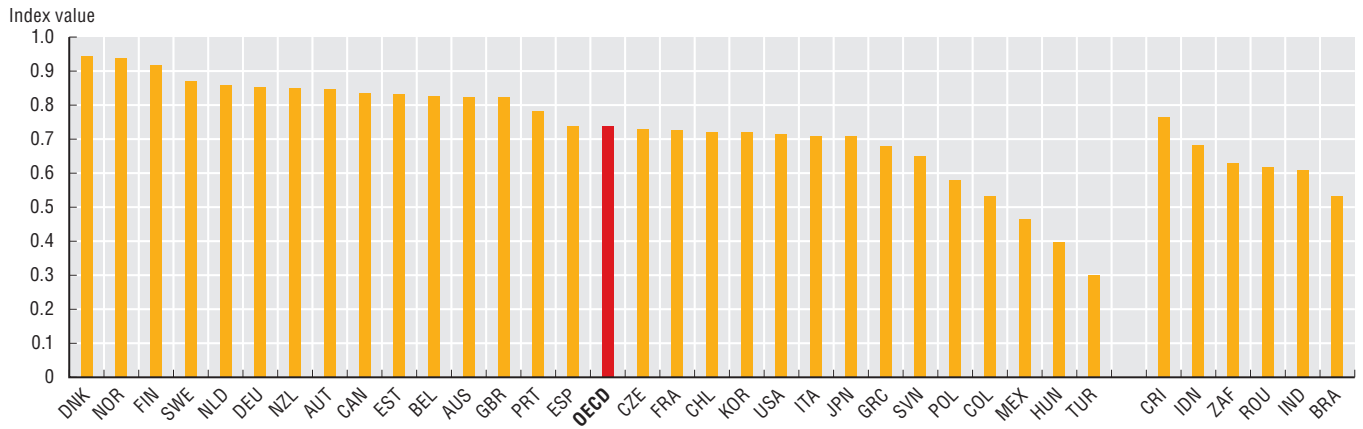
Venice Commission (2011) *Report on the Rule of Law*, Venice Commission of the Council of Europe, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)003rev-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)003rev-e).

WJP (2020), *Rule of Law Index 2020*, World Justice Project, Washington, DC, https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf.

Figure notes

Data for Iceland, Ireland, Israel, Latvia, Lithuania, Luxembourg, the Slovak Republic and Switzerland are not available.

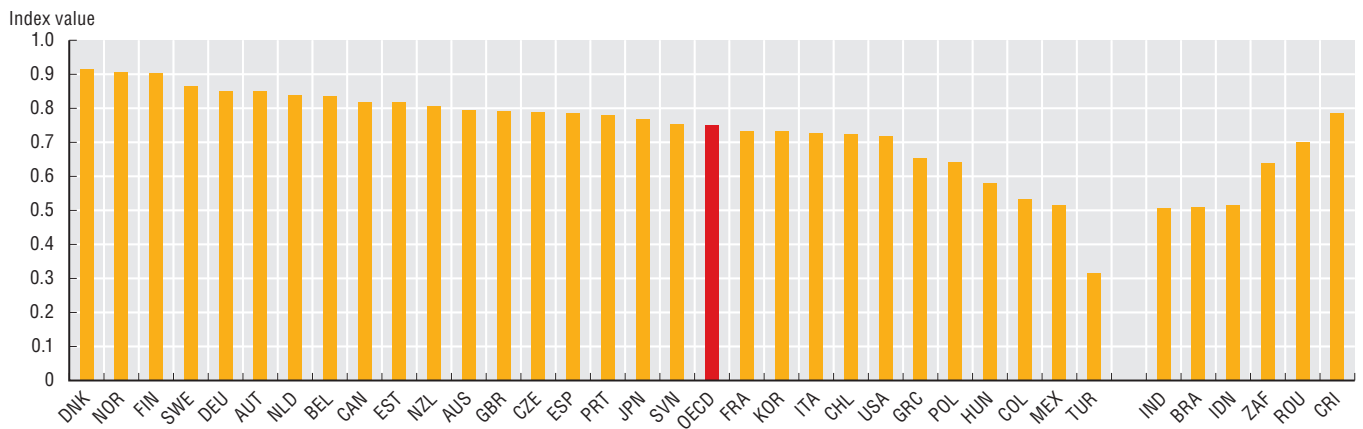
13.10. Limited government powers, 2020



Source: WJP (2020), Rule of Law Index 2020.

StatLink <https://doi.org/10.1787/888934259294>

13.11. Fundamental rights, 2020



Source: WJP (2020), Rule of Law Index 2020.

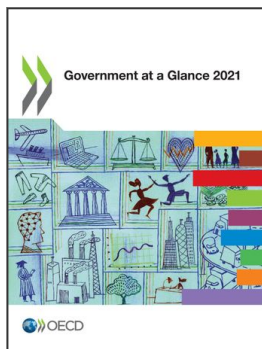
StatLink <https://doi.org/10.1787/888934259313>

13.12. Limited government powers versus fundamental rights, 2020



Source: WJP (2020), Rule of Law Index 2020.

StatLink <https://doi.org/10.1787/888934259332>



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