Regulatory impact assessment

Governments in OECD countries face constant calls to intervene to protect consumers, workers, the environment and so on, particularly during the COVID-19 pandemic and ensuing crisis. At the same time, governments also face calls for policy making to be increasingly evidence-based and transparent, as a way to ensure inclusiveness and accountability. Regulatory impact assessment (RIA) provides policy makers with crucial evidence to develop more effective and efficient regulations.

RIAs help policy makers to identify the best solution, including not regulating. Officials should consider the current ("do nothing") scenario as well as alternative ways to solve policy problems, including non-regulatory means such as industry-led agreements. A number of OECD countries do not systematically consider the do nothing or alternative options, with most analysing only the preferred option (Figure 7.3). This suggests that decision makers are not always informed about the current situation before regulating and therefore do not always have a meaningful baseline against which to compare the various forms of proposed interventions. Analysing a range of alternative options also helps decision makers form a complete picture of the potential effects of a regulation, which some OECD countries are lacking.

Policy makers assess the economic impact of regulations (e.g. on competition and small businesses), but now increasingly consider other factors, such as poverty, gender equality and the environment (Figure 7.4). This is partially in response to global events and changes in community attitudes, especially as a result of the fight against climate change. Some OECD and accession countries could do more to consider the effects of regulations on social and environmental factors, especially as such impacts are often assessed disjointedly and as assessments based purely on economic criteria do not always identify potential unintended consequences.

Ill-informed or rushed laws can have negative consequences. In genuinely unforeseeable emergency situations the introduction of time-critical regulations may need to be accelerated. At the same time, RIA is of most benefit when potential impacts are large, as they are during crises. RIAs can identify better alternatives, avoid undesirable impacts and help to identify possible unintended consequences. At the onset of an emergency, there may not be much information to hand when introducing laws. Countries need flexibility in the application of RIA in emergency situations. For instance, Canada relaxed certain RIA requirements to monetise impacts for COVID-related laws (e.g. allowing for more qualitative vs. quantitative impacts for subordinate regulations), so that RIA could still be used in decision making. The lack of initial information and the time to collect it places more emphasis on monitoring and evaluation once laws take effect so that future amendments are evidence-based. However some OECD countries have avoided using RIA during emergencies, particularly during the COVID-19 pandemic (Figure 7.5). Scheduled reviews of laws introduced at the start of the pandemic may not take place for some years, potentially extending any adverse impact longer than necessary.

Methodology and definitions

The Indicators of Regulatory Policy and Governance (iREG) survey draws on responses from delegates to the OECD Regulatory Policy Committee and central government officials. The survey was responded to by 37 OECD countries in 2017 and 2021, and 34 OECD countries in 2014. Costa Rica replied in 2017 and 2021, and the European Union in all three rounds.

The data cover primary laws and subordinate regulations initiated by the executive. In most OECD and accession countries, a majority of primary laws are initiated by the executive. The exceptions are Colombia, Korea, Mexico, Portugal, Switzerland and Costa Rica, where a higher share of primary laws are initiated by the legislature. Questions on primary laws are not applicable to the United States, as the US executive does not initiate primary laws at all. More information on the iREG indicators can be found at *oe.cd/ireg*.

Regulatory impact assessment (RIA) is a systematic process used to identify and quantify the costs and benefits likely to flow from a regulatory or non-regulatory option for a policy under consideration. As a minimum, every RIA should include a description of the problem and the objective sought, identify potential solutions, analyse benefits and costs, and explain how the proposal will be monitored and evaluated.

Further reading

OECD (forthcoming), *Regulatory Policy Outlook 2021*, OECD Publishing, Paris.

Davidson, P., C. Kauffmann and M. de Liedekerke (2021), "How do laws and regulations affect competitiveness: The role for regulatory impact assessment", *OECD Regulatory Policy Working Papers*, No. 15, OECD Publishing, Paris, *https://doi.org/10.1787/7c11f5d5-en*.

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

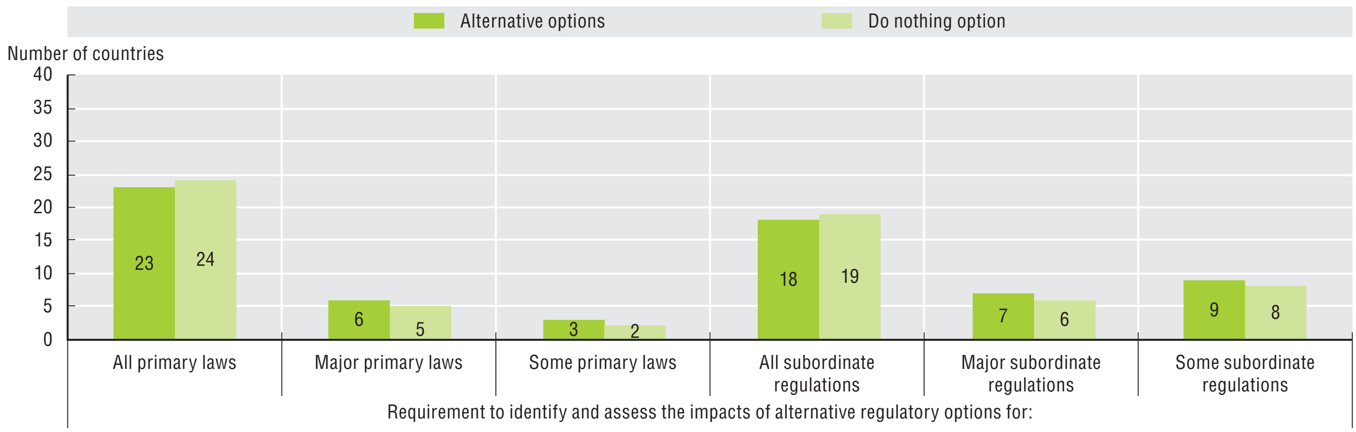
Figure notes

7.3. Data include Costa Rica and the European Union.

7.4. Data consider answers for reviews of impacts of both primary laws and subordinate regulations on a range of factors. The answer options are "Yes/ No". If a country answered differently for primary laws and subordinate regulations, the higher value ("Yes") of the two answers provided is shown for each country.

7.5. Data are based on 34 OECD countries and the European Union. Data for 2014 are not available for Colombia, Latvia and Lithuania.

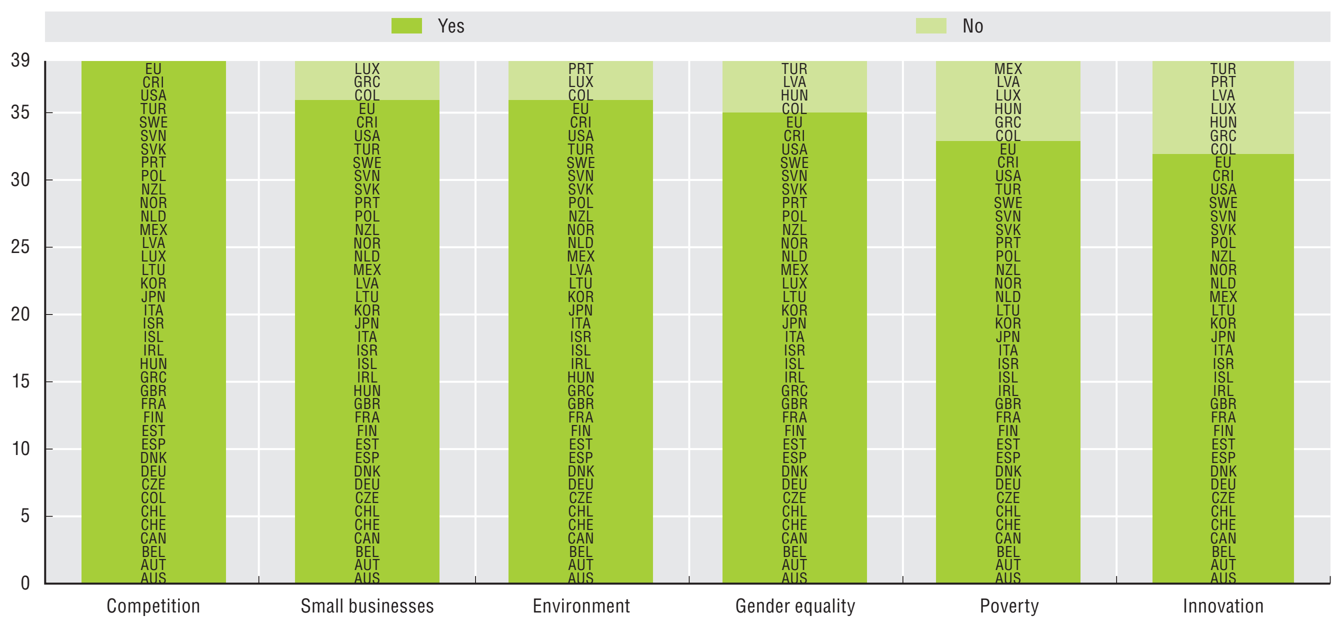
7.3. Assessment of alternative and current (i.e. "do nothing") options for laws and regulations, 2021



Source: OECD *Indicators of Regulatory Policy and Governance (iREG)* survey, 2021.

StatLink https://doi.org/10.1787/888934258173

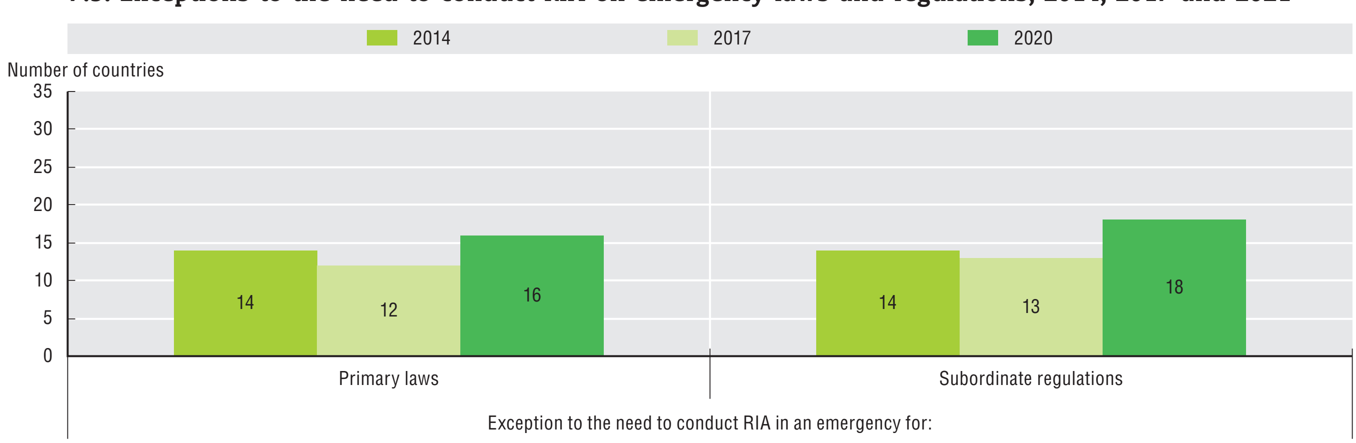
7.4. Types of impacts required to be assessed in RIA for primary laws and subordinate regulations, 2021



Source: OECD *Indicators of Regulatory Policy and Governance (iREG)* survey, 2021.

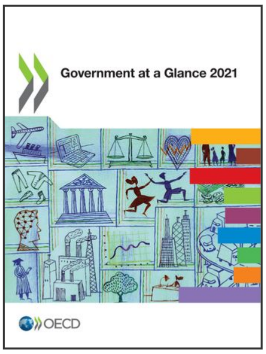
StatLink https://doi.org/10.1787/888934258192

7.5. Exceptions to the need to conduct RIA on emergency laws and regulations, 2014, 2017 and 2021



Source: OECD *Indicators of Regulatory Policy and Governance (iREG)* survey, 2014, 2017, and 2021.

StatLink https://doi.org/10.1787/888934258211



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