

Ex post evaluation

All laws are experiments to some extent – there are often uncertainties about how regulations might actually affect citizens and businesses in practice. Ex post evaluation helps to assess whether laws are working as originally intended and, if not, to propose improvements. Evaluations can highlight unforeseen technological and other changes that may render laws ineffective. Left unchecked, the stock of laws will continue to grow unabated creating unnecessary red tape for citizens and businesses. Evaluations also operate as an important check to ensure that laws are still justified and in the public interest. In turn, this helps to build community support for laws and boost trust in government action as it increases the level of transparency and accountability.

Levels of evaluations across OECD countries remains low despite their importance in ensuring that regulations continue to improve societal wellbeing. Only one-third of OECD countries have systematic requirements in place to conduct ex post evaluations, with the number essentially unchanged since 2014. This represents a significant weakness as committed leadership is crucial to a well-functioning ex post evaluation system. To some extent this is unsurprising – governments are often concerned about the political and economic consequences of being shown to have made “bad” decisions previously. Yet this is an unduly narrow view of the benefits that a sound evaluation system provides. Evaluations may incidentally provide opportunities to learn from past mistakes, but this is in order to avoid repeating them, rather than to enter into some sort of “blame game”. Evaluations should be viewed as an opportunity to enhance the certainty and stability of the existing regulatory framework, foster greater competitiveness, and improve wellbeing.

Ensuring that planned evaluations actually take place is an important first step to overcoming a “set and forget” mentality that still persists in many countries. Only a handful of OECD countries have mechanisms to ensure that there are consequences if planned evaluations do not actually take place, such as public reporting on non-compliance (Figure 7.6). Cultural change is required to better appreciate that evaluations are an integral part of a system that assists to deliver good outcomes to its citizens. Assessing whether regulations have achieved their objectives ought to be at the heart of any evaluation. It is critical to learn if laws have worked as originally intended, and if not, to understand the reason or reasons why not. Results from the iREG survey show that more than 40 per cent of OECD countries are required to identify a process to

assess progress in achieving a regulation's goals at the time when it is first developed. However, OECD countries are less likely to have requirements in place when conducting evaluations to assess whether the underlying policy goals were in fact achieved (Table 7.7). This represents a missed opportunity to learn whether laws are delivering good outcomes in practice for citizens and businesses.

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. In 2021, the survey was responded to by 37 OECD countries, Costa Rica and the European Union. More information on the iREG indicators can be found at oe.cd/ireg.

Ex post evaluations refer to the process of assessing the effectiveness and efficiency of regulations once they are in force. They are undertaken to ascertain the extent to which regulations met their originally intended goals, do not impose unnecessary costs on citizens and/or businesses, and continue to deliver good outcomes for the community.

Primary laws are regulations which must be approved by the legislature. Subordinate regulations can be approved by the head of government, an individual minister or the cabinet.

Further reading

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

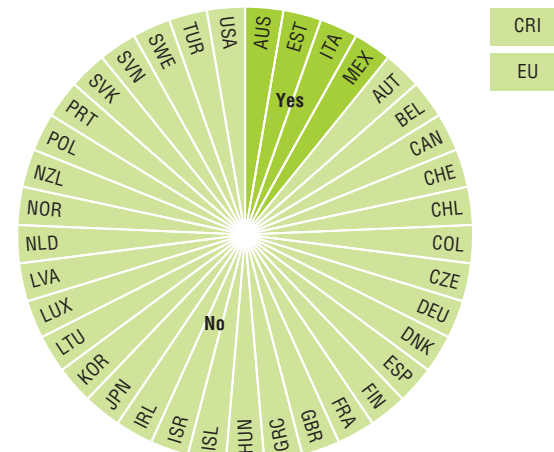
OECD (2020), *Reviewing the Stock of Regulation*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <https://doi.org/10.1787/1a8f33bc-en>.

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

Figure note

7.6. and 7.7. Data include Costa Rica and the European Union.

7.6. Mechanisms to ensure that planned ex post evaluations take place, 2021



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

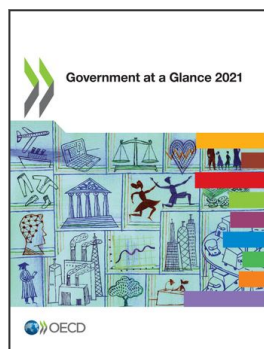
StatLink <https://doi.org/10.1787/888934258230>

7.7. Ex post evaluation of regulations against underlying goals, 2021

For all primary laws/subordinate regulations	For major primary laws/subordinate regulations	For some primary laws/subordinate regulations	Never	Not applicable
When designing laws, policy makers have processes in place to identify the achievement of a regulation's goals		Are evaluations required to assess whether the underlying policy goals have been achieved?		
	Primary laws	Subordinate regulations	Primary laws	Subordinate regulations
Australia				
Austria				
Belgium				
Canada				
Chile				
Colombia				
Czech Republic				
Denmark				
Estonia				
Finland				
France				
Germany				
Greece				
Hungary				
Iceland				
Ireland				
Israel				
Italy				
Japan				
Korea				
Latvia				
Lithuania				
Luxembourg				
Mexico				
Netherlands				
New Zealand				
Norway				
Poland				
Portugal				
Slovak Republic				
Slovenia				
Spain				
Sweden				
Switzerland				
Turkey				
United Kingdom				
United States				
OECD total				
For all primary laws/ subordinate regulations	10	9	6	6
For major primary laws/ subordinate regulations	6	6	2	3
For some primary laws/ subordinate regulations	10	7	7	9
Never	10	15	22	19
Costa Rica				
European Union				

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

StatLink <https://doi.org/10.1787/888934258249>



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