

Ex post evaluation of regulation

Countries should regularly review their stock of existing regulations to ensure that regulations remain fit for purpose. Only after a regulation has been implemented in practice can governments assess its full effects, costs, benefits and unintended consequences. Given the rapid pace of societal change and technological advancement, even regulations that are fit for purpose may become outdated over time and increase unnecessary regulatory burden that complicates the life of citizens and the efficient operation of businesses. *Ex post* evaluations can provide important insights for improving the design of regulations and create a feedback loop into regulatory planning and the development of new regulations. They can also enhance trust in government by increasing the transparency and accountability of regulatory performance.

OECD countries still underinvest in *ex post* evaluation, leaving the regulatory policy lifecycle incomplete. Countries focus their better regulation efforts much more on the design of laws and regulations than their enforcement and evaluation. This picture looks largely similar for the *ex post* evaluation of primary laws and subordinate regulations. Australia and the United Kingdom have invested most in implementing the systematic adoption, methodology, transparency and oversight and quality control of *ex post* evaluations in line with the OECD Recommendation on Regulatory Policy and Governance. Other OECD countries, however, have not evaluated the effectiveness and fitness for purpose of their regulations in practice yet, including Greece and Turkey.

A majority of OECD countries still lacks a systematic approach to *ex post* evaluation, including broad requirements and a well-established methodology. As of 2017, only Austria, Germany, Italy, Korea and the United Kingdom report to have a systematic requirement to conduct *ex post* evaluations for primary laws and subordinate regulations and assess whether a regulation has achieved its goals when conducting *ex post* evaluations. Oversight and quality control of *ex post* evaluation is still the weakest area in most OECD countries despite some improvements in a few jurisdictions. In contrast, OECD country practices are most advanced in the area of transparency, i.e. if *ex post* evaluations are conducted, they are frequently made public. Progress in the use of *ex post* evaluation has been marginal in most OECD countries over the past three years. Some individual countries have undertaken more substantive reforms of their *ex post* evaluation practices since 2014. The greatest improvements were made in the systematic adoption of *ex post* evaluation as well as in the area of oversight and quality control. For example, Austria, Japan and Spain introduced a criteria for identifying regulations for which *ex post* evaluations are mandatory. In Japan for instance, this criteria determines that, for regulations which are subject to *ex ante* impact assessment, an *ex post* evaluation has to be carried out. The Danish Business Forum for Better Regulation conducted in-depth reviews

of the cumulative impact of the regulatory framework in different policy areas, including transport, digitization and the circular economy. Italy and Korea improved oversight of their *ex post* evaluation systems by preparing regular reports on the performance of their *ex post* evaluation systems.

The iREG indicator for *ex post* evaluation is based on the practices described in the 2012 OECD Recommendation on Regulatory Policy and Governance. The more of these practices a country has adopted, the higher its indicator score. The composite indicator is composed of four equally weighted categories: *methodology* gathers information on different assessments used in *ex post* evaluations; *oversight and quality control* records mechanisms to monitor the quality of *ex post* evaluations; *systematic adoption* records formal requirements and the use of different types of *ex post* evaluations; *transparency* records the openness of *ex post* evaluations. The maximum score for each category is 1, and the total score for the composite indicator ranges from 0 to 4.

Methodology and definitions

The Indicators of Regulatory Policy and Governance (iREG) draw upon responses provided by delegates to the OECD Regulatory Policy Committee and central government officials to the 2017 and 2014 OECD Indicators of Regulatory Policy and Governance Survey for 38 OECD member and accession countries and the European Union. More information on the iREG indicators can be found in Annex E and at oe.cd/ireg.

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

Further reading

OECD (forthcoming), *OECD Best Practice Principles for Regulatory Policy: Reviewing the Stock of Regulation*, OECD Publishing, Paris.

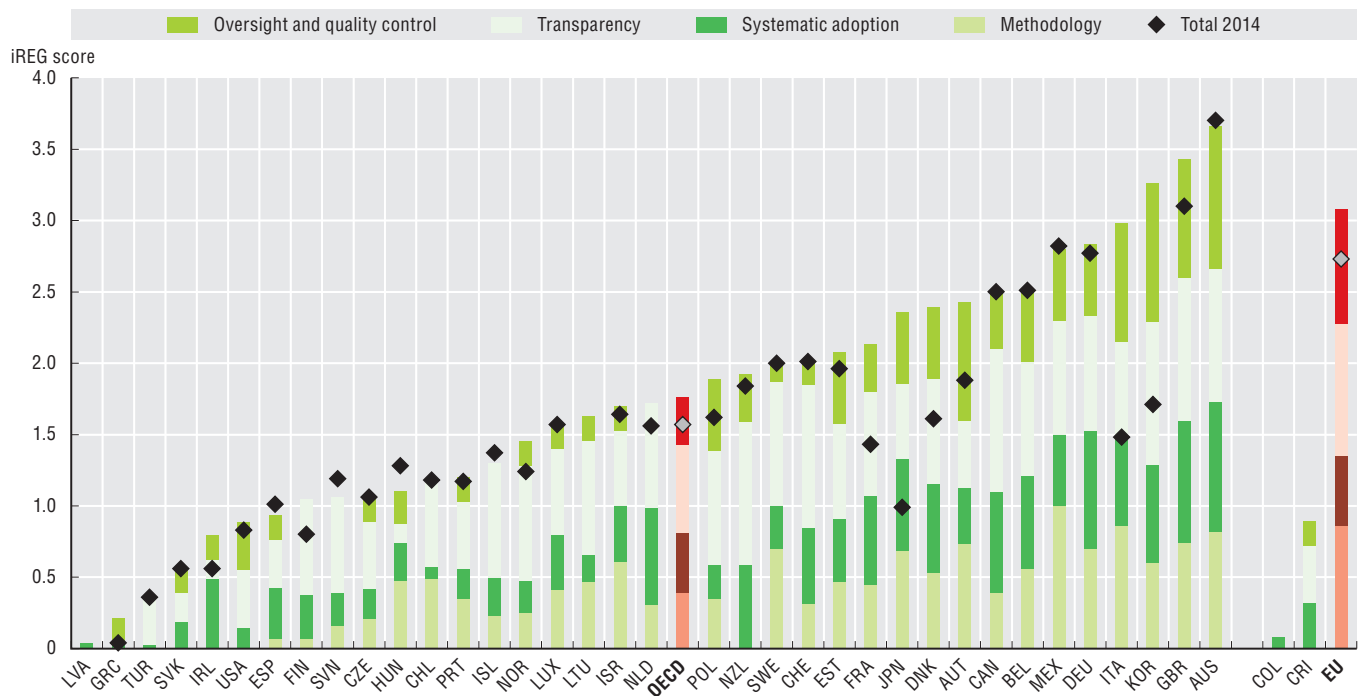
OECD (2018), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264303072-en>.

OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0390>.

Figure notes

On data for Israel, see <http://doi.org/10.1787/888932315602>. Data for Latvia, Lithuania, Colombia and Costa Rica are not available for 2014.

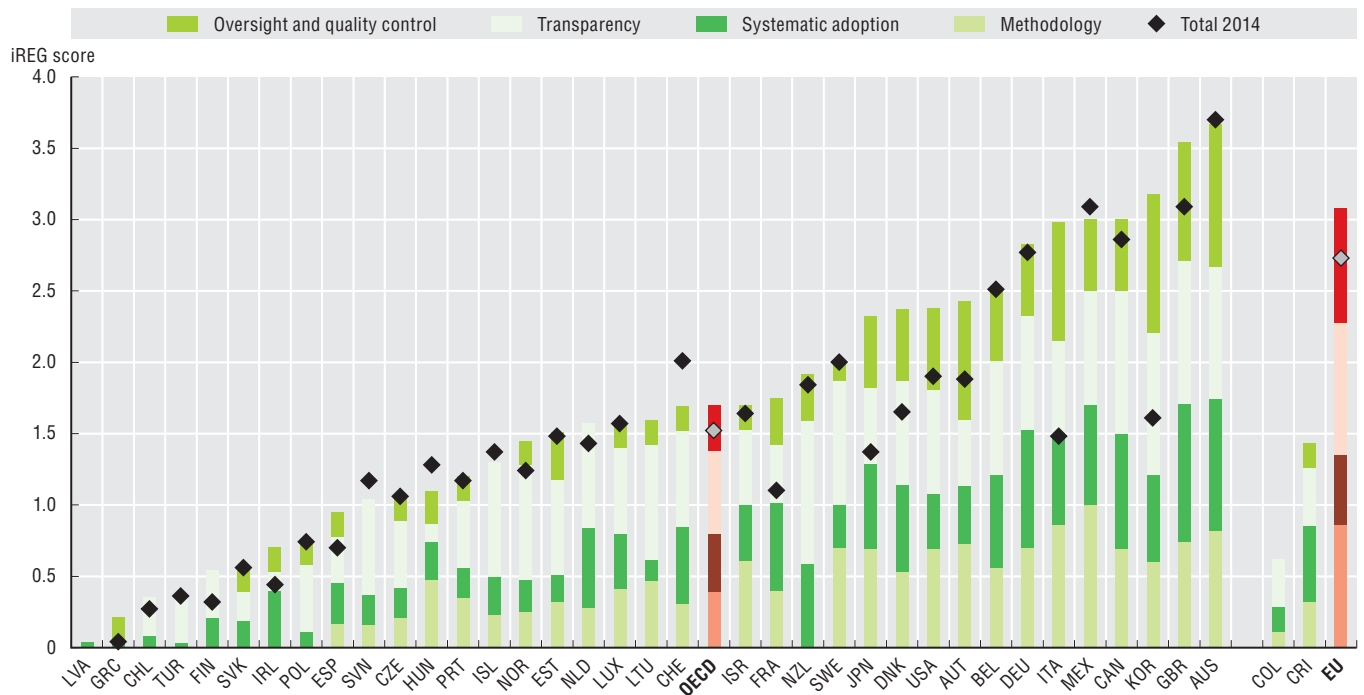
7.5. Ex post evaluation for primary laws, 2014 and 2017



Source: OECD Indicators of Regulatory Policy and Governance (iREG) 2015 and 2018, <http://oe.cd/ireg>.

StatLink <https://doi.org/10.1787/888934032738>

7.6. Ex post evaluation for subordinate regulations, 2014 and 2017



Source: OECD Indicators of Regulatory Policy and Governance (iREG) 2015 and 2018, <http://oe.cd/ireg>.

StatLink <https://doi.org/10.1787/888934032757>



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