

Indicators of Regulatory  
Policy and Governance  
EUROPE 2022

# European Union



# European Union

## Overview and recent developments

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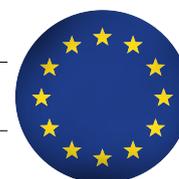
The 2016 Interinstitutional Agreement between the European Commission (EC), the European Parliament and the Council recognised stakeholder engagement, regulatory impact assessment (RIA), and *ex post* evaluation as core elements to improve regulatory quality. The EC is the executive of the European Union (EU). It develops and presents regulatory proposals in accordance with its Better Regulation Toolkit to the European Parliament and the Council for adoption. The Commission announced in the 2021 Policy Communication on Better Regulation to further streamline consultations particularly through the call for evidence, integrate foresight, introduce regulatory offsetting and to require policy makers to provide information about the attainment of long term goals such as climate change and the SDGs.

The Commission's Secretariat General ensures overall coherence of the Commission's work and oversees compliance with its commitment to Better Regulation and develops its policy. It reviews RIAs, stakeholder engagement processes and *ex post* evaluations, oversees burden reduction activities, provides capacity support and draft corporate guidance on better regulation. It also serves as Secretariat to the Regulatory Scrutiny Board (RSB), which consists of three Commission officials and three external experts and is chaired by a Commission's Director General. The RSB checks the quality of all impact assessments and selected evaluations and fitness checks. Its mandate was expanded in 2020 to include outreach activities and oversight regarding the one in-one out rule. The RSB's mandate has been enlarged to reflect the European Commission's decision to embed strategic foresight into its working methods, including to inform the design of new initiatives and the review of existing ones. The European Parliament's Directorate for Impact Assessment and European Added Value also reviews RIAs attached to draft legislation

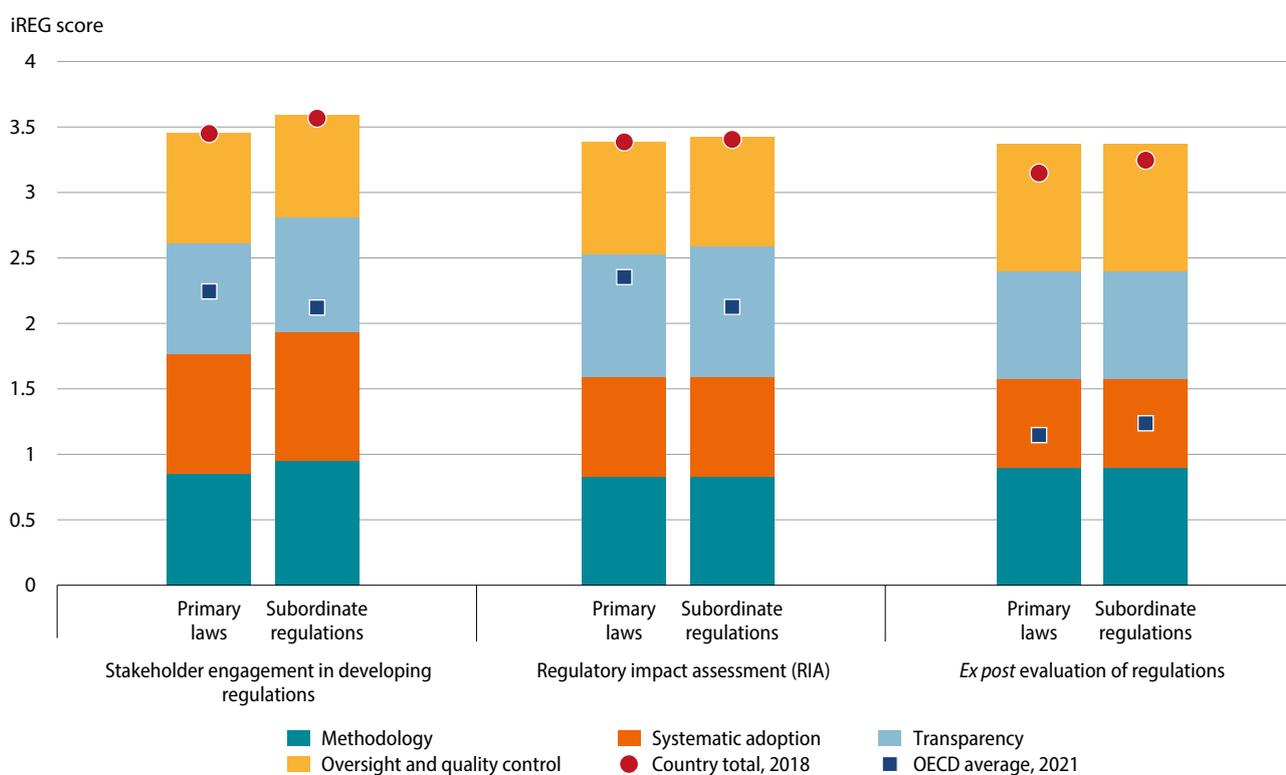
submitted by the Commission, and conducts in-depth analysis and impact assessments of amendments at the request of Parliamentary committees. The Council has also developed its capacity to assess impacts of their substantial amendments, but it has not used it so far.

*Ex ante* impact assessments continue to be carried out for major primary laws and subordinate legislation. Calls for evidence, including an initial assessment of possible impacts and options to be considered, are prepared and consulted on before a full RIA is conducted. Following or simultaneously with this initial feedback period, the EC conducts public consultations during the development of initiatives with an impact assessment. Legislative proposals and the accompanying full RIA are then published online for feedback following approval of the proposal by the College of Commissioners. Draft subordinate legislation is consulted on publicly. Transparency could be further improved by making RIAs on subordinate legislation available at this stage with the opportunity to comment on the analysis.

The *ex post* evaluation system, combining systematic evaluations of individual regulations with comprehensive "Fitness checks" of policy sectors, invites comment on evaluation Call for evidence and on the main elements of all evaluations. The RSB now provides quality indicators on evaluations which are made publicly available along with compliance statistics. The Fit for Future Platform brings together representatives of Member States and stakeholders (business, civil society, and non-government stakeholders) to make suggestions for simplification and modernisation (including digitalisation) of EU legislation. Indicators below mainly represent practices of the European Commission. The other EU institutions and in particular the Council seems to be lagging behind in terms of the implementation of the 2016 Interinstitutional Agreement.



## INDICATORS OF REGULATORY POLICY AND GOVERNANCE (iREG): EUROPEAN UNION, 2021



Note: The more regulatory practices as advocated in the *OECD Recommendation on Regulatory Policy and Governance* a country has implemented, the higher its iREG score. Results presented apply to all legislation (regulations, directives and implementing and delegated acts) initiated by the European Commission, who is the sole initiator of legislation in the EU system.

Source: Indicators of Regulatory Policy and Governance Surveys 2017 and 2021, <http://oe.cd/iereg>.

## NEGOTIATING AND IMPLEMENTING EU LEGISLATION

**Negotiation stage:** Most EU directives and EU regulations are adopted by the Council of the EU and the European Parliament through the ordinary legislative procedure. Throughout this process, the Council and the European Parliament separately review the Commission's legislative proposal. In the Council and its sub-committees, Member States' governments propose amendments and negotiate a common position on the legislative draft. Each Member State may undertake stakeholder engagement and regulatory impact assessment to help inform its negotiation position. The Council's role in conducting impact assessments on amendments made in its committees has so far remained limited. EU legislation is adopted once the Council and the Parliament agree on a joint text.

**Transposition stage:** Member States are required to transpose EU directives, i.e. to incorporate them into their national laws, by adopting dedicated transposition measures. The transposition of EU directives provides EU countries with considerable latitude on the process and method of implementation. Many directives are designed such that they provide scope for Member States to include additional provisions. Governments usually transpose directives through domestic legislative procedures and may consult stakeholders and conduct regulatory impact assessment throughout this process. Each directive is required to be transposed to a specific deadline set in each directive. The Commission monitors the timely and legally accurate transposition of directives and can initiate infringement procedures where the transposition of directives is delayed.

## THE OECD REGULATORY INDICATORS SURVEY AND THE COMPOSITE INDICATORS

The data presented in the *Better Regulation Practices across the European Union 2022* report are the results of the 2014, 2017, and 2021 indicators of Regulatory Policy and Governance (iREG) surveys. The results from these surveys for OECD member countries as well as the European Union have also been presented in the 2015, 2018, and 2021 OECD Regulatory Policy Outlooks. Composite indicators and country profiles for the five EU countries that are not members of the OECD were published for the first time and are based on the data from the 2017 and 2021 iREG surveys.

The Regulatory Indicators Survey investigates in detail three principles of the *2012 OECD Recommendation of the Council on Regulatory Policy and Governance*: stakeholder engagement, regulatory impact assessment (RIA) and *ex post* evaluation. Three composite indicators were developed based on information collected through the surveys for these areas. Each composite indicator is composed of four equally weighted categories:

- **Systematic adoption** which records formal requirements and how often these requirements are conducted in practice;
- **Methodology** which gathers information on the methods used in each area, e.g. the type of impacts assessed or how frequently different forms of consultation are used;
- **Oversight and quality control** records the role of oversight bodies and publicly available evaluations; and
- **Transparency** which records information from the questions that relate to the principles of open government e.g. whether government decisions are made publicly available.

The data underlying the composite indicators reflect practices and requirements in place at the national level of government, as of 1 January 2021. The indicators for stakeholder engagement and RIA relate to regulations initiated by the executive, while the indicator on *ex post* evaluation relates to all regulations. Whilst the indicators provide an overview of a country's regulatory policy system, they cannot fully capture the complex realities of its quality, use and impact. In-depth country reviews are therefore required to complement the indicators and to provide specific recommendations for reform. A full score on the composite indicators does not imply full implementation of the *Recommendation*. To ensure full transparency, the methodology for constructing the composite indicators and underlying data as well as the results of sensitivity analysis are available publicly on the OECD website (<http://oe.cd/ireg>).

### Related links:

- Full report: [Better Regulation Practices across the European Union 2022](#)
- [Better Regulation Practices across the European Union 2019](#)
- [Indicators and underlying data and methodology](#)
- [Regulatory Policy Outlook 2021](#)
- [Recommendations and Guidelines on Regulatory Policy](#)
- [OECD Measuring Regulatory Performance Programme](#)
- [OECD work on regulatory policy](#)

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 <http://oe.cd/ireg>

