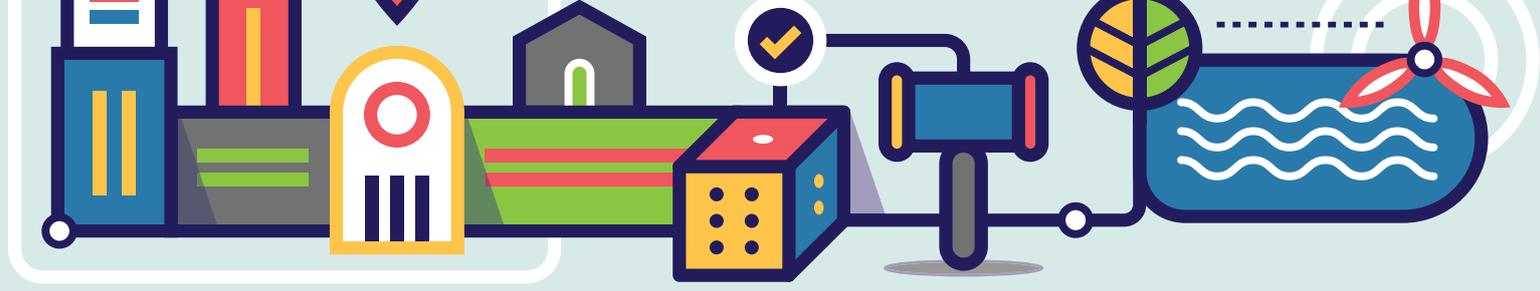




OECD Regulatory Policy Outlook 2021

# Evidence-based policy making and stakeholder engagement



## Chapter 2

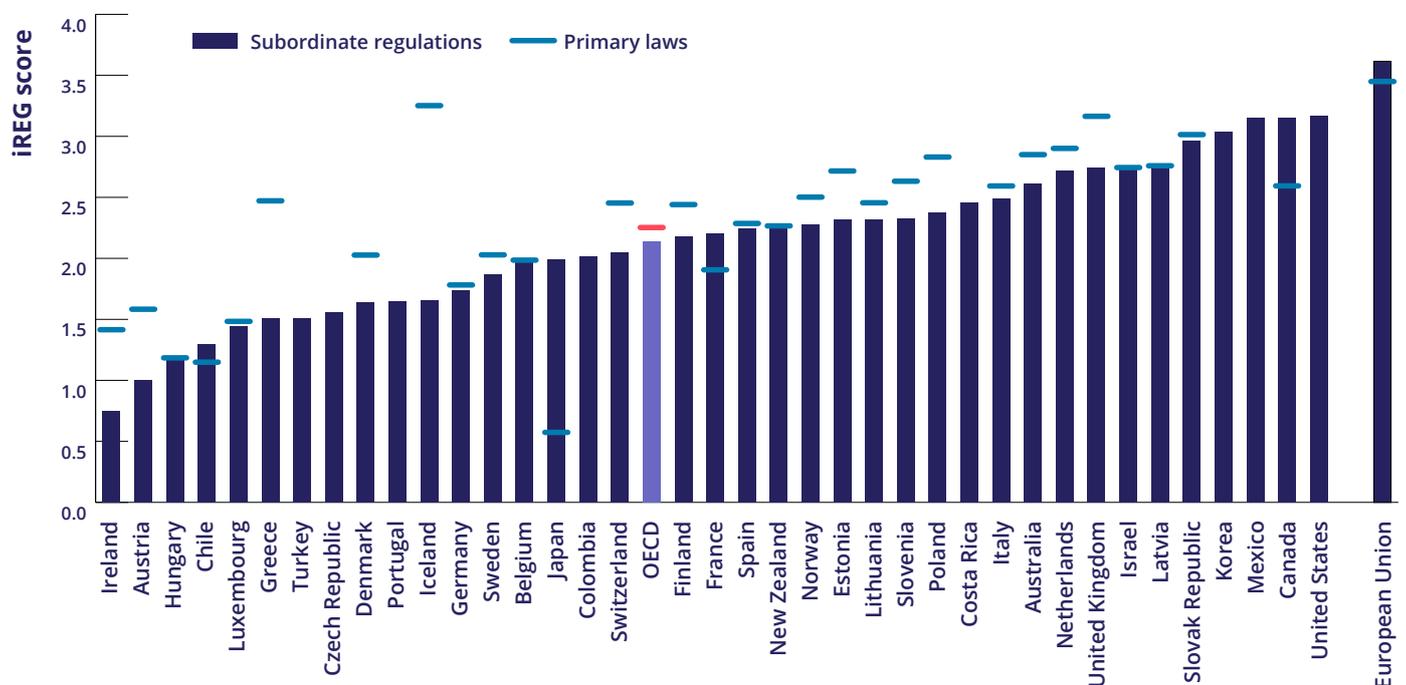
# Stakeholder engagement

## Laws and regulations are better when society is involved in making them

Citizens and businesses can provide valuable inputs on the feasibility and practical implications of laws and regulations, based on their day-to-day experience. Giving members of the public the opportunity to help shape, challenge, and reform rules is therefore important for improving their design and implementation. It also builds trust in government and strengthens democratic values.

However, **stakeholder consultation tends to be piecemeal**. OECD member countries generally consult with stakeholders only once a law or regulation has been drafted. This is a crucially important stage, as stakeholders can see what the proposed rule would look like and mean for them in practice. But governments also have opportunities to engage stakeholders earlier in the process to gather data and ideas on possible solutions to identified problems.

### Stakeholder engagement across the OECD

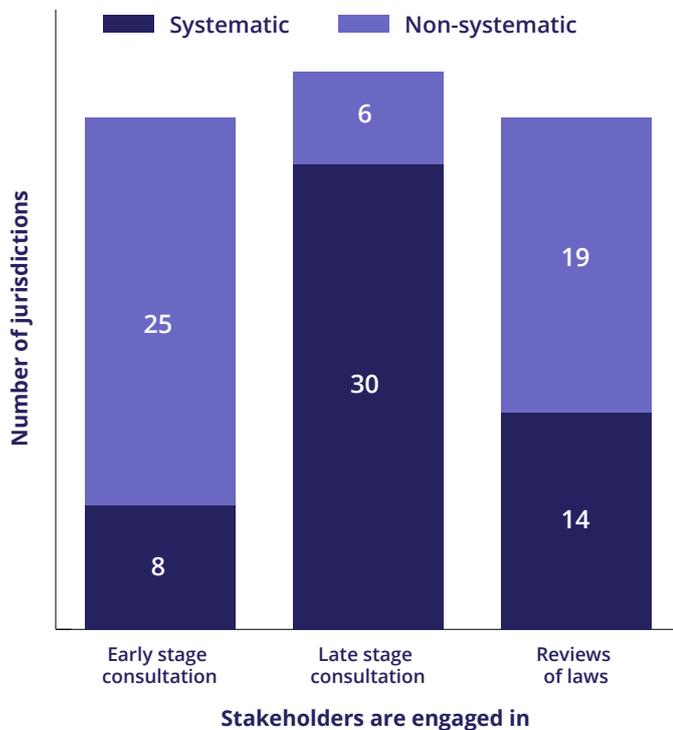


Note: Data are based on 38 OECD members and the European Union. The information presented for primary laws only covers the processes of developing laws that are carried out by the executive branch of the national government. Results are displayed for those member countries where the executive is responsible for creating the majority of primary laws.

Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

Similarly, stakeholders can be more involved in the review of rules after they have been implemented. Affected parties can help identify the actual costs of complying with regulations, as well as provide input on aspects that are working well and on challenges that remain.

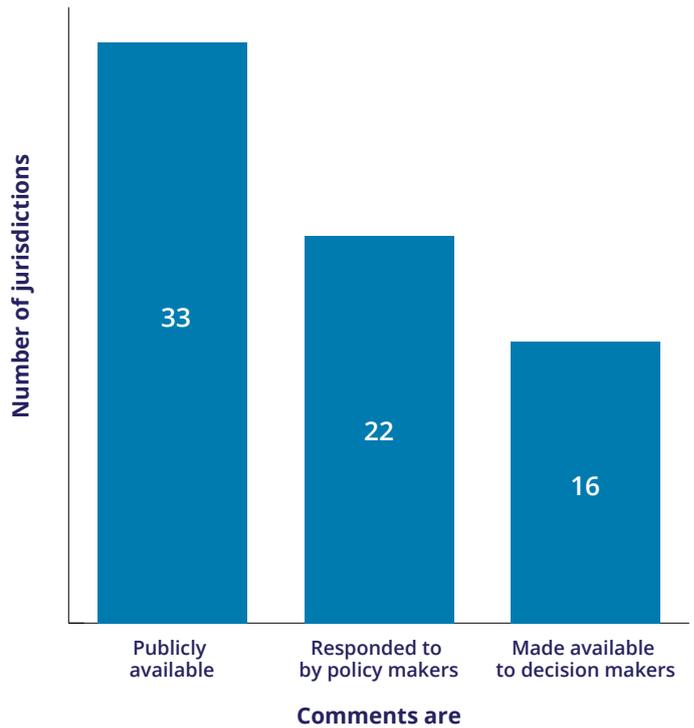
### Governments can more systematically call for stakeholder input



Note: Data are based on 38 OECD members and the European Union. Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

**Governments should also explain to stakeholders how they have helped to shape rules.** Responding to comments received is an integral part of robust stakeholder engagement. Such feedback helps to build a sense of shared ownership and trust in any resultant rules – leading to higher levels of compliance. Policy makers’ treatment of stakeholders’ input can either encourage or discourage stakeholders’ decisions to participate in future consultations. Despite its importance, OECD member countries have yet to systematically provide feedback on how stakeholder input has helped improve laws and regulations.

### What happens to comments received during stakeholder consultation?



Note: Data are based on 38 OECD members and the European Union. Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

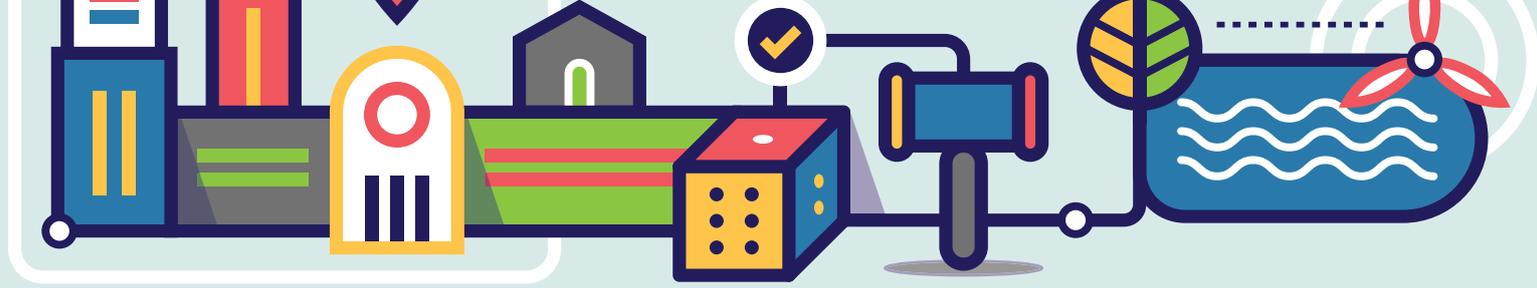
### Continuous engagement, feedback, and improvement

The **Colombian** Environment Ministry publishes responses to stakeholders’ comments online. They indicate if a comment is accepted or rejected with an explanation as to the decision, and if accepted, how it is taken into account in the regulatory proposal.

**Icelandic** policy makers publish consultation conclusions on the government’s consultation portal. A report highlights the main points raised by stakeholders as well as their suggestions for improvement and areas of concern.

After a comment on a draft regulation open for public consultation in the **Slovak Republic** reaches 500 reactions from other stakeholders, the regulator is required to react to the comment, and furthermore is required to talk to these stakeholders. In addition, policy makers indicate for every comment whether it is major or minor and whether it has been accepted, rejected, or partly accepted with the corresponding reasoning for the decision.

Source: Indicators of Regulatory Policy and Governance Survey 2021.



## Chapter 2

# Regulatory impact assessment

Using evidence and analysis when developing laws and regulations

Laws and regulations enacted by governments are most effective if they are based on available evidence and if their impacts on citizens and businesses are well understood.

Regulatory impact assessment (RIA) helps policy makers identify and consider the most efficient ways to resolve a policy issue before a decision is made. It does so by prompting governments to collect necessary evidence and to assess the costs and benefits likely to flow from the policy under consideration.

- ▶ Over the past decade, governments throughout the OECD have made greater use of evidence when developing policies. However, the pace of improvement has recently decreased, still leaving room for further advancements.
- ▶ Nearly half of OECD member countries do not pre-emptively assess the effects of regulations introduced in response to an emergency. The consequences of not assessing the impacts of such regulations, however, remain opaque as these exemptions are often not scrutinised or published.
- ▶ Analysis undertaken by OECD members covers a broader range of social factors such as the effects of regulations on gender equality and on poverty, yet policy makers' concerns remain on economic impacts.

### Examples of OECD member countries assessing how regulations impact social factors

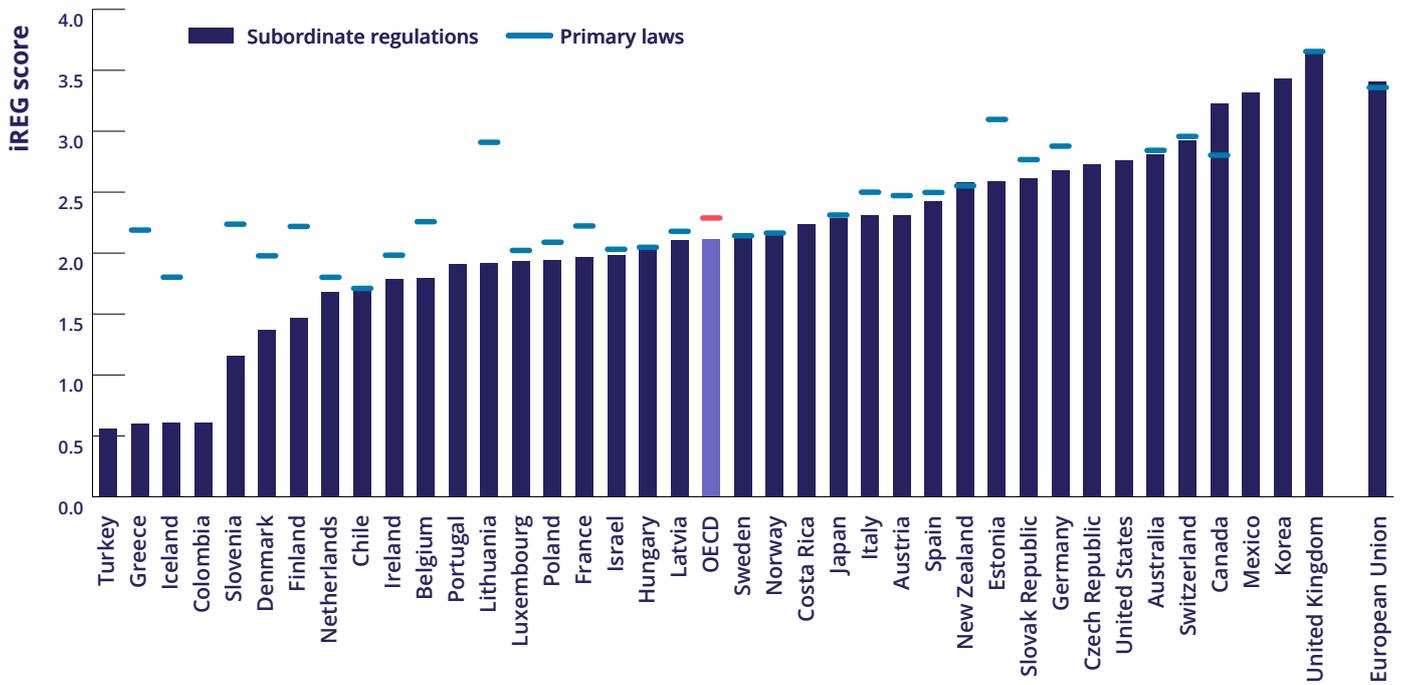
**Canada** reinforced requirements for the analysis of environmental and gender-based impacts in 2018. The impacts that policies may have on indigenous groups as well as on the environment, health, social, and economic factors are key considerations.

The **Netherlands'** guidelines to policy makers on evidence-based analysis now include advice on assessing the impacts of regulations on border regions, gender equality, developing countries and the UN's Sustainable Development Goals.

In **Portugal**, assessing non-economic impacts – such as the impacts on gender equality, on poverty and on people with disabilities – is mandatory and forms an important component of evidence-based analysis.

Source: Indicators of Regulatory Policy and Governance (IREG) Survey 2021.

## Regulatory impact assessment across the OECD



Note: Data are based on 38 OECD members and the European Union. The information presented for primary laws only covers the processes of developing laws that are carried out by the executive branch of the national government. Results are displayed for those member countries where the executive is responsible for creating the majority of primary laws.

Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

### Policy makers tend not to examine alternatives to regulation.

Policy makers should comprehensively consider all alternative options when developing proposals and particularly examine solutions that avoid the enactment of laws or regulations. Little progress has been made since 2014: if governments are required to assess alternative policy options that avoid regulation, there is generally only one such option considered. Doing so reinforces the idea that regulation is always warranted and may result in unnecessarily burdensome policies.

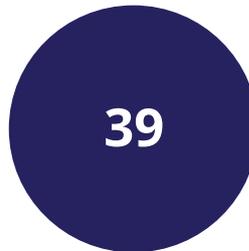
### Analysis continues to focus on economic issues, even though more policy makers identify the impacts of laws and regulations on social factors.

OECD member countries increasingly examine how regulations affect social factors such as gender and poverty, in response to global events and changes in community attitudes. Economic considerations, such as impacts on competition and small businesses, nonetheless remain at the core of the analysis undertaken by policy makers, indicating that they may not fully understand how policies affect the whole of society.

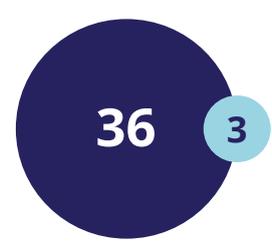
### The impact of laws and regulations on social factors is increasingly being analysed by policy makers

Jurisdictions: ● Yes ● No

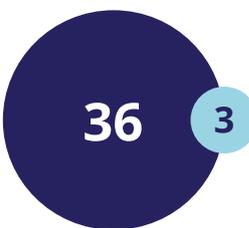
#### Competition



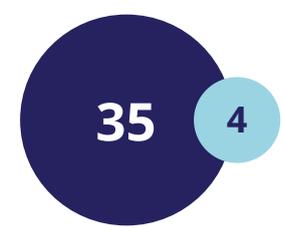
#### Small businesses



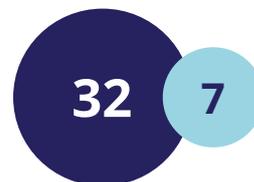
#### Environment



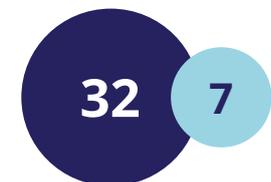
#### Gender equality



#### Poverty

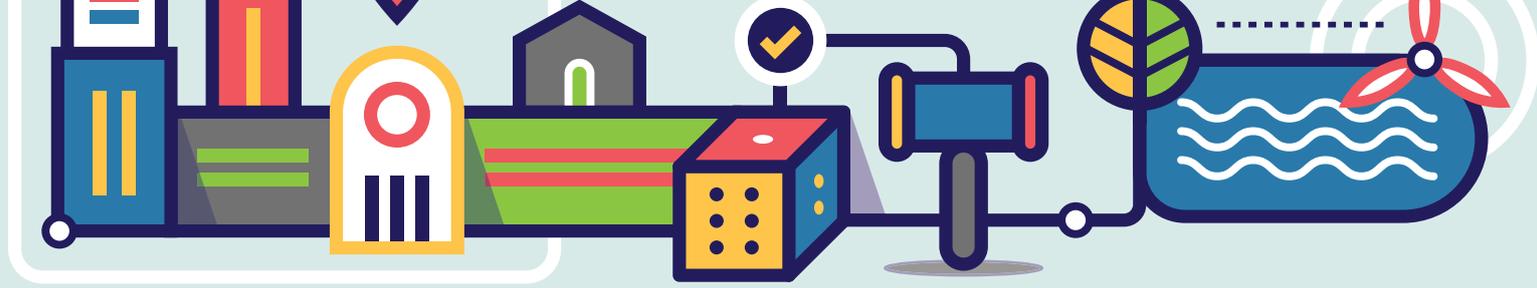


#### Innovation



Note: Data are based on 38 OECD members and the European Union.

Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.



## Chapter 2

# Ex post evaluation

Laws and regulations should be checked to see if they are working as intended

Reviewing rules provides an opportunity to build on successes and to learn from mistakes.

Regular check-ups – whether they be for personal health, automobile road-worthiness or rules and regulations – are important. Carrying out such check-ups does not imply that anything is wrong; rather, their purpose is to verify whether everything is working as well as it could be and to prevent something going wrong in the future by gathering information. Such information allows us to make decisions now that could avoid costly consequences later on.

Reviews allow for the rejuvenation and realignment of regulations, and provide reassurance that where governments step in, they are doing so for the right reasons – and that those reasons remain valid. However, many basic steps for ensuring that rules continue to deliver for the community are simply absent from government decision making.

- ▶ A “set and forget” mentality to rule-making prevails in many OECD member countries.
- ▶ Many governments do not provide information on how to conduct reviews.
- ▶ Reviews are largely done out of compliance and are not used as a vehicle for improvement.

### The importance of reviewing rules

A **European Union** “fitness check” of the air quality regulatory framework found that it established a sound and comparable information base for monitoring and standard setting, and contributed to a downwards trend in air pollution. The review did note that improvements could be made in order to help harmonise monitoring, information gathering, and air quality plans, measures, and data reporting approaches.

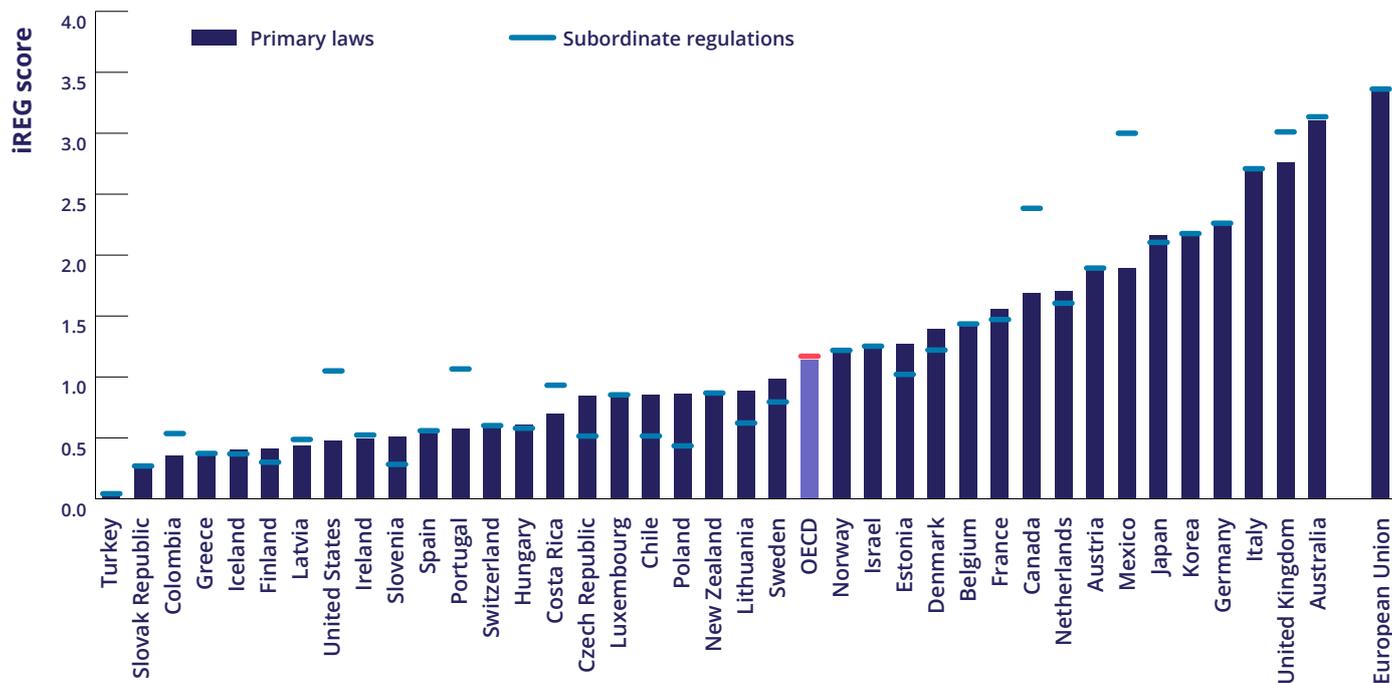
A review of the policy framework for tertiary education in **New Zealand** found that the sector was too constrained by government settings and lacked innovations needed to meet societal needs. Recommendations were made in relation to information to support new models, financing arrangements and regulation, including in relation to quality assurance, access to courses, entry to the sector and the balance between research and teaching.

Source: OECD research based on responses to the indicators of Regulatory Policy and Governance Survey 2021.

### Countries spend little effort checking whether rules are working in practice.

A fundamental part of any check-up is to determine whether things are going as expected. Not doing so could lead to a misdiagnosis, which could cause further problems. Governments need to check how rules are working in practice. Nevertheless, the external environment may have changed significantly since the rule was originally introduced, so updates may be necessary even if things are working well.

## Ex post evaluation across the OECD

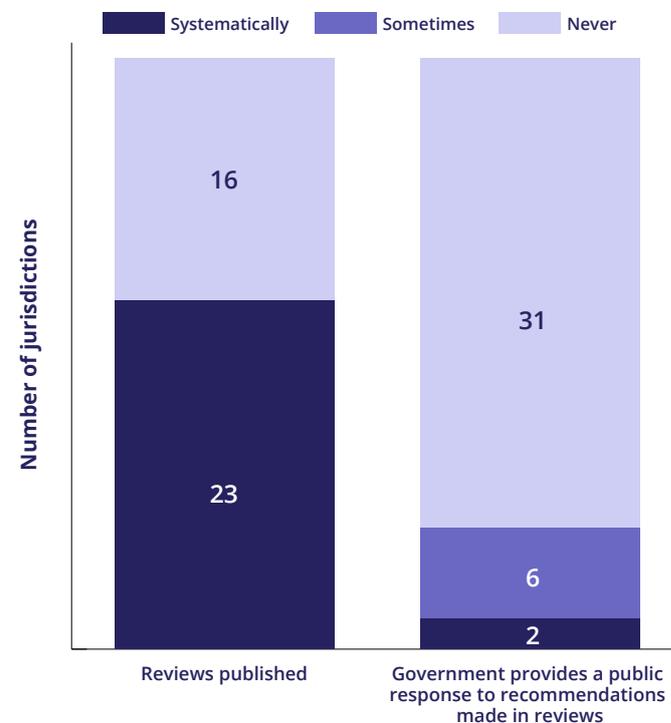


Note: Data are based on 38 OECD members and the European Union.  
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.

## Reviews are the beginning of the cycle, not the end.

Usually following a check-up, some action needs to be taken. Even if everything is fine, it is important to maintain that standard over time. In the event that a problem is detected, treatment may be required. If a course of remedial action is recommended, it should be followed up. Otherwise, the problem will remain. Some governments publish reviews to demonstrate what has worked and where improvements can be made; yet, recommendations made in reviews are rarely responded to.

## Reviews are generally published, but governments do not respond to recommendations made within them



Note: Data are based on 38 OECD members and the European Union.  
Source: Indicators of Regulatory Policy and Governance (iREG) Survey 2021.



## Related links

- ▶ [OECD Regulatory Policy Outlook 2021](#)
- ▶ [OECD 2012 Recommendation on Regulatory Policy and Governance](#)
- ▶ [Indicators of Regulatory Policy and Governance](#)
- ▶ [Regulatory Impact Assessment](#)
- ▶ [OECD Best Practice Principles for Regulatory Policy: Reviewing the Stock of Regulation](#)

For further information, please contact the Measuring Regulatory Performance programme at [mrp@oecd.org](mailto:mrp@oecd.org)