OECD Services Trade Restrictiveness Index (STRI)

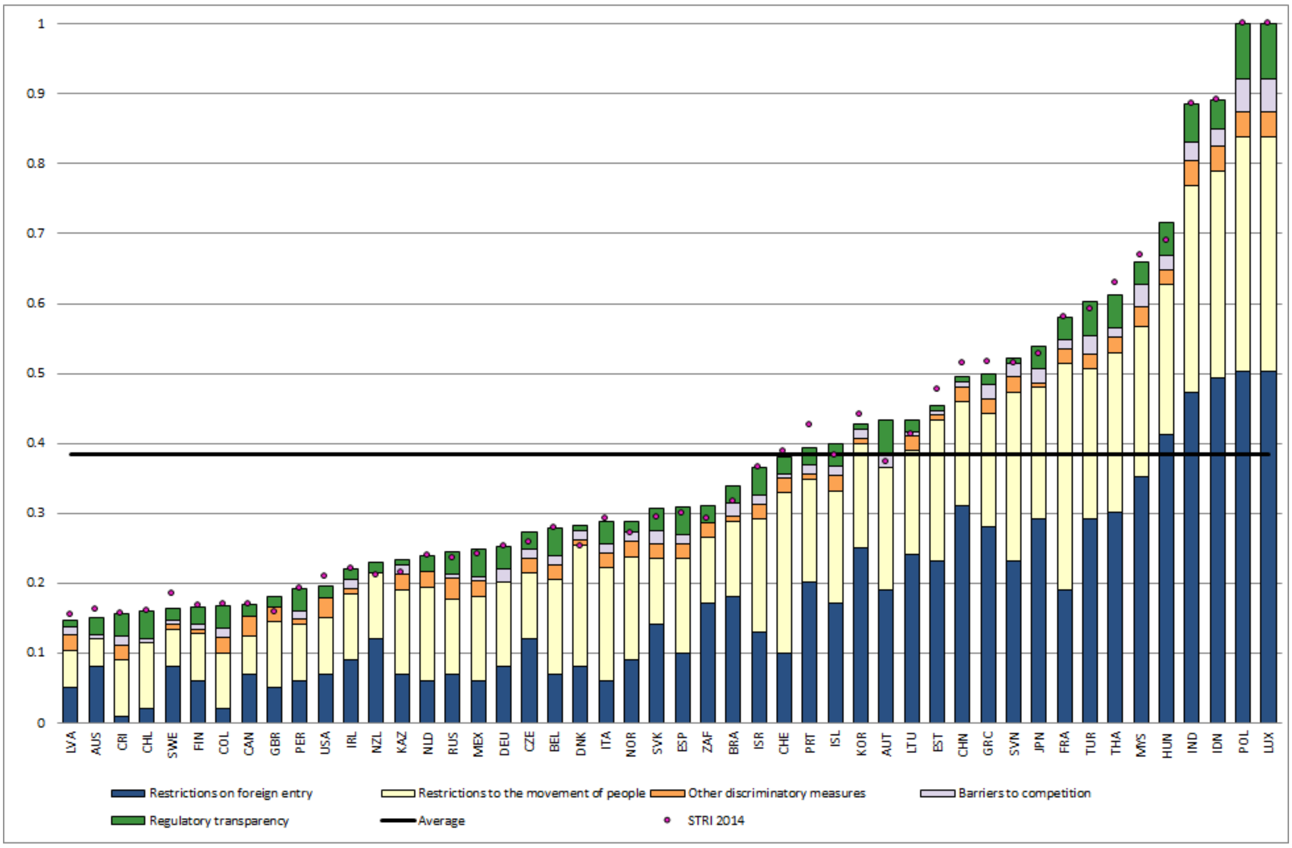
STRI SECTOR BRIEF: LEGAL SERVICES

2020

This note presents the Services Trade Restrictiveness Indices (STRIs) for the 37 OECD countries and Brazil, the People's Republic of China, Costa Rica, India, Kazakhstan, Indonesia, Malaysia, Peru, the Russian Federation, South Africa and Thailand for legal services in 2020.

Legal services (ISIC Rev 4 code 691) cover advisory and representation services in domestic and international law, and where relevant measures are entered separately for each of them. International law includes advisory services in home country law, third country law, international law, as well as a right to appear in international commercial arbitration. Domestic law extends to advising and representing clients before a court or judicial body in the law of the host country.

STRI by policy area: Legal services (2020)



Note: The STRI indices take values between zero and one, one being the most restrictive. They are calculated on the basis of the STRI regulatory database which records measures on a Most Favoured Nations basis. Preferential trade agreements are not taken into account. The indices are based on laws and regulations in force on 31 October 2020.

The 2020 scores in this sector range between 0.15 and 1 with an average of 0.39, highlighting significant variation in trade restrictiveness among the countries covered in the analysis. The distribution according to restrictiveness is somewhat skewed towards the lower end, as there are 29 countries below and 19 countries above the average, including two countries with a score of one.

The measures in the STRI database are organised under five policy areas as indicated in the chart. In the legal services sector, the results are driven by two policy categories: *Restrictions on the movement of people* and *Restrictions on foreign entry*. This reflects the characteristics of the sector and the policy environment in which it operates. Legal services are skilled labour intensive and subject to licensing in a number of countries.

Though foreign equity limits are rarely used in legal services, most countries restrict the ownership of law firms to locally-qualified lawyers, particularly in the area of domestic law. Ownership restrictions are often coupled with requirements that the majority of the board (or equity partners in the case of partnerships) and the manager of law firms be locally qualified.

Lawyers are subject to economy-wide limitations on natural persons seeking to provide services on a temporary basis as intra-corporate transferees, contractual services suppliers or independent services suppliers. In fact, all the countries in the database limit market access for natural persons providing services on a temporary basis as intra-corporate transferees, contractual services suppliers or independent services suppliers either by quotas, economic need test or limitation of duration of stay for less than 3 years. In addition, the movement of lawyers across borders is significantly affected by licensing and recognition of foreign qualifications procedures. These include nationality and residency requirements to practice, as well as requirements to pass local examination or exercise local practice prior recognition of qualification. Additional limitations include restrictions on fee-setting and advertising. It is notable that 25 countries do not require a license to practice international law. In Latvia, Russia, Sweden and Finland licensed lawyers do not have exclusive rights to provide services and appear in court, except for a few specific duties.

The requirements for obtaining a license to practice and the activities reserved for licensed professionals largely define market access for foreign suppliers. In cases where only nationals can obtain a license, and a license is required to practice and to hold shares in law firms, market access for foreign suppliers is very limited. When these apply to both domestic and international law, and are coupled with non-availability of temporary licensing as an additional channel for entry into the market, the sector is completely closed (apart from any preferential trade). This is the case for the two countries in the sample which have an STRI score of one.

Other discriminatory measures contain regulation related to taxes, subsidies and public procurement. Three countries report areas where national treatment is not fully granted regarding taxes or subsidies, while 22 countries limit non-discriminatory access to public procurement to free trade agreement or WTO government procurement agreement (GPA) partners. *Barriers to competition* do not appear widespread or particularly pernicious in this sector. The most common measure under this policy area is minimum capital requirements found in 28 countries. The *regulatory transparency* policy area builds on information from administrative laws and regulations, information from the migration authorities on requirements for obtaining a business visa and the World Bank Doing Business Survey. The latter records time, cost and number of procedures required for establishing a company. These measures are benchmarked against a global threshold set at the 40 best performing countries. There are 25 countries included in the STRI database that are not among the 40 best performing countries on one or more of these measures. The score in the regulatory transparency area is largely attributed to this. In addition lengthy, costly and complex regulatory procedures related to obtaining a business visa contribute to the index for 32 countries.

Compared to 2014, denoted by the pink dots in the chart, the STRI is unchanged for 14 countries, 15 countries have a lower (less restrictive) score, and 19 countries record a higher value of the STRI index (more restrictive) in 2020. A regulation requiring that one board of directors is resident was repealed in Japan in 2015, however such requirement was introduced in New Zealand. In Italy partnership and proprietorship were the only legal form admitted, since 2017 also corporation is allowed. As of 2020, Austria has uniformed the maximum foreign equity ceiling of 25% applicable for both – domestic and international law practice. The country that reduced the STRI index the most was Portugal largely due to economy-wide changes affecting the temporary movement of people, including professionals. Most of the increase in the index stems from tightening of regulations related to the movement of people and other discriminatory measures particularly measures on public procurement applicable to legal services.

More information

» Access all of the country notes, sector notes and interactive STRI tools on the OECD website at http://oe.cd/stri
» Read more about services trade policies and their impacts in this publication: Services Trade Policies and the Global Economy
» Contact the OECD Trade and Agriculture Directorate with your questions at stri.contact@oecd.org.

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