

Regulation in EU Member States - Is It Getting "Better"?

Written by Miranda Lovell-Prescod



Better Regulation (BR) has become a buzz word in Europe as policy makers are pressed to do better! In the last ten years, many EU countries have introduced BR strategies that resemble those used by the European Commission. That is because, according to the **OECD regulatory outlook**, the Commission is one of the top five performers in all composite indicators of BR. In the era of multiple crises, pressure for urgent climate action and the ongoing COVID-19 pandemic, regulatory reform has gained even greater importance.

What is Better Regulation?

BR means that policies and laws need to be **fit for purpose, simple, and evidence-informed**, as well as **open and transparent**. Crucially, BR covers all stages of the policy cycle (from agenda setting to evaluation) and can be applied to all types of policy issues. It uses three main tools:

- **Regulatory Impact Assessments (RIAs)**, which evaluate the impacts of

potential policy options at the beginning of the policy cycle;

- **Ex post evaluations**, which assess whether the policy had the expected effects at the end of the policy cycle;
- **Stakeholder participation**, which involves those affected by the policy across the whole of the policy cycle.

How is Better Regulation working in EU countries?

Even though BR is still evolving, some countries already use the main BR tools frequently and produce high-quality results. The following examples may be considered illustrations of good practice:

1. **Regulatory Impact Assessments (RIAs)**

About half of EU governments have designed their BR systems in a way that strikes **a balance between the need to assess broader social and environmental impacts and administrative constraints in terms of capacity, budget and time**. The Austrian government, for example, uses a threshold test, which determines whether the legislation gets a simplified RIA (that measures financial impacts) or a full RIA (that measures financial, social, environmental impacts among others). This is a good example of how to maintain proportionality, which is necessary because of the administrative constraints.

Ex ante analysis of the potential impacts of a proposed policy initiative ensures better regulation. While it is mandatory in all EU countries for government proposals of (at least) primary law to be accompanied by an RIA, this is not the case for all their parliamentary proposals. The Finnish and the Swedish Parliaments set a great example of how to maximize capacity for conducting RIAs. They maintain a parliamentary research service, which is a non-partisan body serving political

groups, and prioritising those from the opposition. For example, when estimating the annual budget cycle, the service usually makes strong efforts to support the opposition parties' calculation of alternative budgets.

2. *Ex post* evaluation:

Some countries conduct *ex post* evaluations not purely as an administrative exercise, but rather to influence policy. This ensures there is evidence for amendments to legislation, or provides an argument for repeal, or inaction. Thirty percent of EU national parliaments conduct their own full *ex post* evaluations. The French Parliament, for example, has numerous bodies working on evaluations, and is one of the few parliaments in which the information from *ex post* evaluations effectively feeds into amendments of legislation.

Similarly, the Dutch government has a clear mechanism for *ex post* evaluations to feed into amendments. Moreover, it is among the 30 percent of all EU national governments which is obliged to conduct *ex post* evaluations for specified legislation instead of making the decision *ad hoc*. In other words, the Netherlands has a transparent system for choosing which legislation must be evaluated in order to ensure better regulation.

3. Stakeholder engagement

In most cases stakeholders are only consulted at the later stages of the preparation/adoption of legislation, after the policy options have already been developed. However, a few countries (Italy, Sweden, France and the Netherlands) manage to conduct stakeholder **consultation both in the beginning and at the end of the policy cycle**. Furthermore, these countries all conduct an essential part of public consultations on websites encouraging the public to answer

questions on proposals, which gets the citizens more involved in the policy process and increases transparency.

4. Involvement of the legislative branch

The BR agenda is mostly led by the executive branch, the government. Only about 40 percent of EU national parliaments scrutinise the quality of government-produced RIAs, and only about 20 percent produce their own RIAs for legislation that they themselves propose. However, parliaments are demonstrating a growing interest in using the BR tools across the policy cycle. This is an important improvement because parliaments themselves propose a large portion of new legislation.

The Better Regulation agenda has not yet been implemented as extensively and thoroughly in EU countries as it has in the European Commission. However, there are many examples of useful ways that the BR tools such as *ex post* evaluations, RIAs and stakeholder consultation have been implemented in EU countries in a more transparent and participatory policy process.

EIPA is organising a series of hands-on trainings on Better Regulation instruments and European Commission practices aiming to enhance skills of trainees, and disseminate information on best practices at the national and EU level.

More information on these trainings can be found [here](#).

*This blog is written by **Miranda Lovell-Prescod and Yordalina Metodieva**.*

The views expressed in this blog are those of the authors and not necessarily those of EIPA.