Brazil

Brazil is going through a transitional period in its institutional arrangements for regulatory policy

Brazil’s regulatory framework and institutional arrangements are currently undergoing changes. As of May 2019, the Ministry of Economy took responsibility for the functions on regulatory policy along with the Office of the Chief of Staff. Now they are in charge of coordinating and promoting the regulatory practices established by the Programme for the Strengthening of Institutional Capacity for Regulatory Management (PRO-REG). Nevertheless, prior to these changes, there was a period where Brazil did not have a body responsible for regulatory policy. It is advisable for Brazil to ensure that the newly adopted changes are consolidated to continue with the promotion and strengthening of their regulatory policy.

Brazil has strengthened the requirements for stakeholder engagement for some regulators

Brazil requires stakeholders to be consulted for the development of subordinate regulations, although these consultations are not always conducted in practice. In addition, the Law of Federal Regulatory Agencies enacted in 2019 sets specific requirements on social participation in the decision-making process of the economic regulators prescribed. It indicates when those regulators have to engage with stakeholders, and establishes minimum parameters for deadlines, responses and transparency. For instance, some regulators are announcing in advance when a consultation is to take place; others are conducting consultations at an early stage of the regulatory-making process; whilst other regulators have diversified the use of mechanisms for social participation. Brazil would benefit from extending the diverse stakeholder engagement requirements and practices to all regulators.

Brazil is in the process of expanding the use of Regulatory impact assessment (RIA)

In 2018, new RIA guidelines were issued and they recommend all the federal public administration to perform RIA for the development of new regulations. More recently, since 2019, the Law of Economic Freedom made it mandatory for all entities of the federal administration to carry out RIA for proposals of subordinate regulations of general interest. In addition, the Law of Regulatory Agencies made mandatory for selected regulatory agencies to conduct RIAs for most of their subordinate regulations. Since all of these measures have been recently adopted, their application is to be closely monitored to guarantee their success, which could be done by a body in charge of the oversight and quality control of the RIAs conducted.

Brazil has adopted new ex post evaluation requirements

The recently established RIA guidelines also include recommendations for all the federal administration to perform ex post evaluations of existing subordinate regulations in some specific cases. For instance, regulations for which no RIA was undertaken should be evaluated two years after their enactment. Also, new regulations should include a revision deadline to assess whether they remain necessary. Brazil would benefit from continuing to promote and consolidate these relevant efforts to assess existing regulations, in order to complement ex ante assessments.

Spotlight: The Network of Articulation of Regulatory Agencies (RADAR)

RADAR is a network of regulatory agencies established in 2018 that aims at facilitating the exchange of experiences and knowledge on best practices of areas of common interest to regulators, as well as promoting those practices through working groups. Particularly, RADAR members share their practices and experiences of governance actions on good regulatory practices, including regulatory quality, risk assessment, challenges on performing RIA and the assessment of the quality of RIA.
Administrative simplification and review of existing regulations, 2019

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<th>Administrative simplification processes in the last four years</th>
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Source: OECD Indicators of Regulatory Policy and Governance (iREG) for Latin America 2019, [http://oe.cd/ireg-lac](http://oe.cd/ireg-lac)

### Stakeholder engagement and RIA during the development of subordinate regulations, 2019

#### iREG composite indicator: Stakeholder engagement during the development of subordinate regulations, 2016 and 2019

**IREG score**

![Graph showing stakeholder engagement and RIA during the development of subordinate regulations, 2019](image_url)

**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. Source: Indicators of Regulatory Policy and Governance for Latin America 2016 and 2019, [http://oe.cd/ireg-lac](http://oe.cd/ireg-lac)

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Source: OECD Indicators of Regulatory Policy and Governance (iREG) for Latin America 2019, [http://oe.cd/ireg-lac](http://oe.cd/ireg-lac)
Indicators of Regulatory Policy and Governance for Latin America 2019

The Indicators of Regulatory Policy and Governance (iREG) for Latin America 2019 provide an up-to-date overview of regulatory systems in selected Latin American and Caribbean (LAC) countries, by which they develop, implement and evaluate regulations. The indicators partially cover three principles of the 2012 OECD Recommendation on Regulatory Policy and Governance: 1) stakeholder engagement; 2) regulatory impact assessment (RIA); and 3) ex post evaluation and administrative simplification.

The composite indicator on stakeholder engagement for developing regulations measures the adoption of good practices to engage with interested parties when developing new regulations, including different methods and openness of consultations as well as transparency and response to comments received. It consolidates information into four equally weighted categories.

- **Systematic adoption** records formal requirements and how often and at what stage in the rulemaking process these requirements are conducted in practice.
- **Methodology** gathers information on the methods used to engage with stakeholders, e.g. forms of consultation and documents to support them.
- **Oversight and quality control** records the role of oversight bodies and publicly available evaluations of the consultation system.
- **Transparency** records information from the questions that relate to the principles of open government, e.g. whether consultations are open to the general public and if comments and responses by authorities are published.

The LAC iREG is based on the results of the 2015 and 2019 Indicators of Regulatory Policy and Governance Survey jointly conducted by the OECD and the Inter-American Development Bank (IDB). The survey gathers information from 7 countries for 2015 and 10 countries in 2019 in Latin America and the Caribbean, with a particular focus on stakeholder engagement. The data underlying the composite indicator reflect practices and requirements put in place at the national level of government, as of 31 March 2019.

Whilst the indicators provide an overview of a country’s regulatory 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.

Further analysis based on the LAC iREG and other indicators to benchmark government performance in the region can be found in the Government at a Glance - Latin America and the Caribbean 2020 publication.

An in-depth analysis of regulatory practices amongst OECD countries including composite indicators in the areas of stakeholder engagement, RIA and ex post evaluation can be found in the OECD Regulatory Policy Outlook 2018.

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**LINKS**

Indicators and underlying data
Regulatory policy in Latin America and the Caribbean
Regulatory Policy Outlook 2018
OECD work on regulatory policy
Government at a Glance - Latin America and the Caribbean 2020

**CONTACT**

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