Costa Rica

Regulatory Policy in Costa Rica remains closely tied to the reduction of regulatory burdens

The regulatory policy reform agenda continues to be strongly linked to the National Strategy on Simplification and Better Regulation 2014-2018 (Estrategia Nacional de Simplificación de Trámites y Mejora Regulatoria) which chiefly focuses on red tape reduction mechanisms. In this sense, regulatory management tools like stakeholder engagement, RIA and ex post evaluation have been established to improve the quality of administrative procedures and reduce red tape. The strategy is tied to the government’s efforts to strengthen competitiveness and to foster the functioning of and access to markets.

Costa Rica has taken important steps towards systematically engaging with stakeholders

Following a reform of Law 8220 on Protection from the Excess of Requirements and Administrative Procedures in 2016, the Preliminary Control System (SICOPRE) was implemented. The SICOPRE is a centralised webpage that enhances the transparency of RIAs and consultations by making them publicly available and allowing for comments to which regulators respond. This is now part of the Digital System for Administrative Procedures established in 2017. In addition, through this system, all entities of the executive are required to make available for public consultation their Plans for Better Regulation that indicate the administrative procedures that are planned to be modified every year.

It will be important to adopt a broader approach towards regulatory quality

Having set the building blocks, Costa Rica would benefit from broadening the scope of its regulatory policy agenda to go beyond administrative procedures, and communicating with stakeholders on the progress made so far. For instance, RIA is still only required for regulations that establish administrative procedures. This requirement could be broadened to include all subordinate regulations. Likewise, even though in some cases existing regulations are evaluated to determine whether the objective of a regulation has been achieved, this is not yet systematically conducted in Costa Rica.

Institutional responsibility for regulatory policy is spread amongst multiple units

The central bodies mandated with promoting the regulatory agenda in Costa Rica are the Better Regulation Unit, in charge of overseeing the evaluation of subordinate regulation ex ante and ex post; and, the Quality Unit, mandated with overseeing the process of developing technical regulation. Both are located at the Ministry of Economy, Industry and Trade (MEIC). The third unit in charge of overseeing regulatory management is the Unit of Laws and Decrees in the Legislative Assembly which scrutinises laws for legal quality and oversees public hearings that are carried out for all primary laws and economic impact assessments for some primary laws.

Spotlight practice: Institutional Regulatory Capacity Index (ICMR)

In 2019, the Ministry of Economy of Costa Rica developed the ICMR, an index to compare municipalities on their institutional regulatory capacity. This index evaluates the set of conditions for the implementation of the central government’s Regulatory Improvement Policy at the sub-national governments’ level, following the principles laid out in Law 8220 and Executive Decree 40910-MP-MEIC. The index has a maximum score of 100 and considers four components: i) the degree of institutional capacity supporting the implementation of the policy; ii) the tools and instruments that allow the application of the principles in existing regulations and in the development of new regulations; iii) the administrative simplification actions implemented; and; iv) the results on the institutional performance associated with the regulatory improvement. Results from the first application of the index in 2019 show 50% of values are between 24 and 46, reflecting a compliance of less than half of the conditions to implement the government’s Regulatory Improvement Policy.
iREG composite indicator: Stakeholder engagement during the development of subordinate regulations, 2016 and 2019

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

Administrative simplification and review of existing regulations, 2019

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

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.

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.