



Assessment of the links between the European National Recovery and Resilience Plans and the OECD Product Market Regulation Indicators



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Note by Türkiye: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognizes the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Türkiye shall preserve its position concerning the "Cyprus issue".

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Introduction

Well-designed product market regulation (PMR) can promote competition by removing unnecessary barriers to the entry, as well as by facilitating the efficient allocation of resources across firms. Competition allows more efficient firms to enter markets and gain market share at the expense of less efficient ones. Businesses facing competition tend to be better managed. As a result, competition fosters productivity and economic growth. Indeed, evidence from empirical studies suggests that pro-competition PMR reforms can have a positive effect on productivity, as well as on innovation, employment and inequality.¹

To measure the extent to which a country's PMR promotes competition through well-designed and proportionate regulation, the OECD has developed a set of indicators suitable for international comparisons.² These PMR indicators are based on information on the regulatory framework in a broad range of cross-sector policy areas, ranging from the governance of state owned enterprises, and administrative burdens on firms, to public procurement and lobbying regulation. The indicators also reflect information on the regulatory framework in a number of key service and network sectors, including professional services, retail trade, energy and transport. This information is scored against internationally accepted best practice and aggregated. The result is a composite indicator whose value ranges between 0 and 6, from most to least competition-friendly regulatory regimes.

These PMR indicators were first calculated in 1998 and have been updated every five years since. The last vintage was released in 2018.³ Over the years, these indicators have become an essential element of the policy analysis toolkit of national governments, research institutions and international organizations as they help identify areas where PMR is not aligned with international best practice and to track pro-competition reforms over time.

¹ Égert (2017), [The quantification of structural reforms in OECD countries: A new framework](#), OECD Economics Department Working Papers No. 1354; Franco et al. (2016). [Product market regulation and innovation efficiency](#). *Journal of Productivity Analysis*, 45(3), 299-315; Bourléset al. (2013), [Do product market regulations in upstream sectors curb productivity growth? Panel data evidence for OECD countries](#). *Review of Economics and Statistics* 95, no. 5; Fiori et al. (2012). [Employment effects of product and labour market reforms: are there synergies?](#). *The Economic Journal*, 122(558), F79-F104; Bouis et al. (2012), [The Short-Term Effects of Structural Reforms](#), OECD Economics Department Working Papers No. 949; Guadalupe, M. (2007). [Product market competition, returns to skill, and wage inequality](#). *Journal of Labor Economics*, 25(3), 439-474.

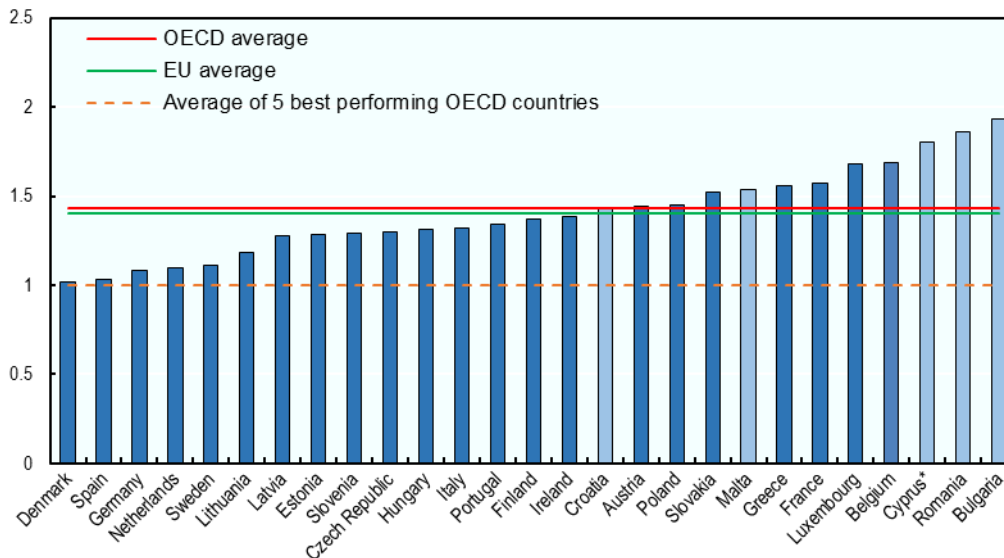
² More information on the content and the structure of the PMR indicators can be found in the [PMR indicators methodological note](#).

³ Vitale et al. (2020), [The 2018 edition of the OECD PMR indicators and database: Methodological improvements and policy insights](#). OECD Economics Department Working Papers No. 1604.

Most EU countries perform relatively well in the PMR indicators: the majority of them scores below the OECD average (Figure 1).⁴ As many areas covered by the PMR indicator are at least partially regulated at the EU level, it is clear that EU regulation supports the adoption of pro-competition PMR by its member countries.

Figure 1. Latest PMR indicator scores for EU countries

EU Countries ranked in ascending order from most (0) to least (6) competition friendly.



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Note: The EU average includes the 27 member countries. The OECD average includes all 38 member countries. The average of the 5 best performing countries includes the 5 OECD member states that perform best in the overall economy-wide PMR indicator, namely United Kingdom, Denmark, Spain, Germany and the Netherlands. The blue bars capture the 2018 PMR indicator score for each country in ascending order. The darker bars represent EU member countries that are also OECD members, while the lighter ones identify those EU member countries that are not part of the OECD.

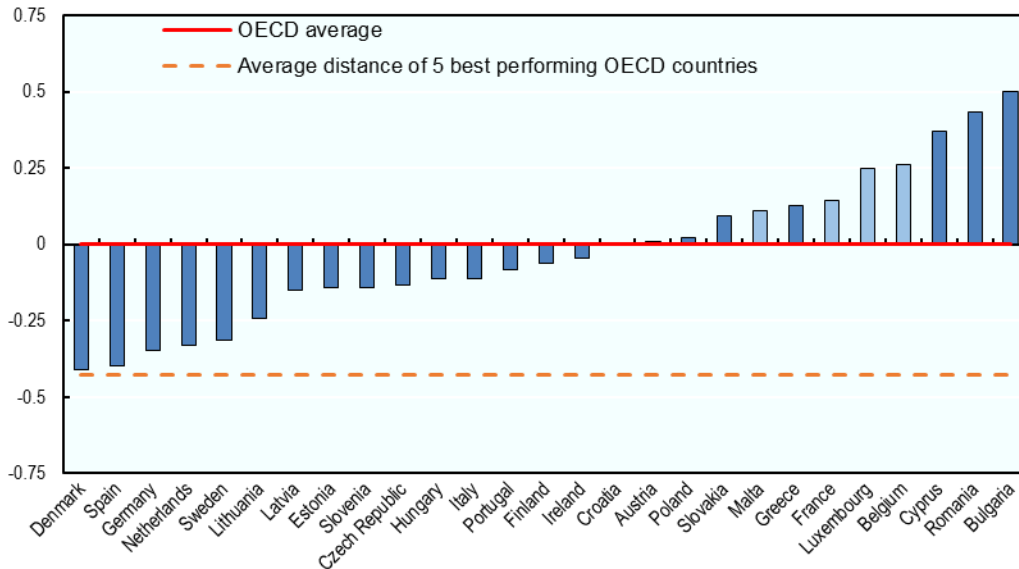
Source: OECD 2018 PMR database. The indicators are based on the laws and regulation in force in these countries on 1 January 2018, except for Bulgaria, Costa Rica, Croatia, Cyprus, Estonia, Malta, Romania and US, for which the information refers to 1 January 2019.

However, despite considerable efforts to harmonize rules at the EU level to smooth the functioning of the Single Market, differences persist in the regulatory frameworks of EU countries. While the scores for Denmark, Spain and Germany are below the OECD average and very close to the average of the five best OECD performers, others, particularly non-OECD countries such as Romania and Bulgaria, lag behind. Even long-lasting members of the EU, such as France, Luxembourg and Belgium, have a score that is higher than that of the average OECD economy, which highlights that regulatory barriers to competition

⁴ This analysis is based on the latest PMR values available, which refer to laws and regulation in force in these countries in 2018. Some reforms have taken place since this information was collected, but these are limited. Hence, the indicators and any assessment based on them remains valid.

can be difficult to remove despite EU membership (Figure 2).

Figure 2. Distance between PMR indicator scores for EU countries and the OECD average



Note: The EU average includes the 27 member countries. The OECD average includes all 38 member countries. The average of the 5 best performing countries includes the 5 OECD member states that perform best in the overall economy-wide PMR indicator, namely United Kingdom, Denmark, Spain, Germany and the Netherlands. The blue bars capture the 2018 PMR indicator score for each country in ascending order. The darker bars represent EU countries that are also OECD members, while the lighter ones identify those EU countries that are not part of the OECD.

Source: OECD 2018 PMR database. The indicators are based on the laws and regulation in force in these countries on 1 January 2018, except for Bulgaria, Costa Rica, Croatia, Cyprus, Estonia, Malta, Romania and US , for which the information refers to 1 January 2019.

The COVID-19 crisis has triggered an unprecedented and coordinated response by the EU: most notably the creation of the Recovery and Resilience Facility, whose aim is to mitigate the economic and social impact of the pandemic and to make European economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transitions. To benefit from the support of this Facility, most EU member countries have submitted a Recovery and Resilience Plan to the European Commission⁵. These Plans include a set of measures that comprise both investments in a broad range of areas, and regulatory reforms that should facilitate the implementation of these investments. The Plans also includes reforms in areas where the European Commission has identified little progress in the country-specific recommendations adopted by the EU Council in recent years⁶.

Some of the reforms included in the Plans relate to PMR, while many investments aim to improve the infrastructure in network sectors, whose regulatory set-up is assessed in the PMR indicators. For this reason, the Directorate-General for Economic and Financial Affairs of the European Commission has commissioned the OECD to assess the impact of the Plans, if fully implemented, on the EU member countries' performance in the PMR indicators. The result is a set of 22 notes, which are collected in this

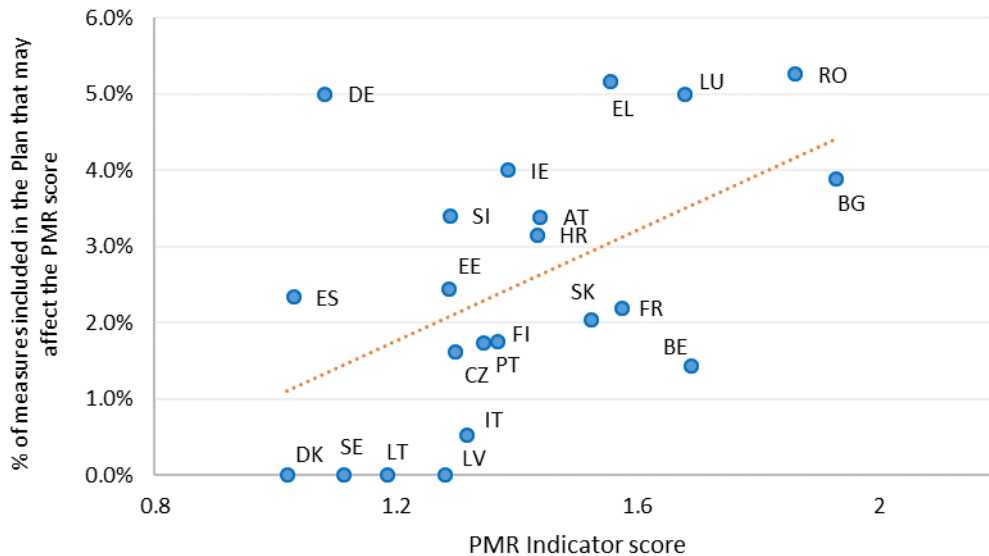
⁵ More information on the Plans is available in the EU's Recovery and Resilience Facility [website](#).

⁶ Every year the EU Council adopts country-specific recommendations, following a proposal made by the European Commission based on an assessment of national reform programme of all EU member states.

report.⁷

A simple correlation analysis shows a positive link between the score in the 2018 PMR indicator and the share of measures included in the Plan that *may have an impact on this score* (Figure 3).⁸ This indicates that the Plans, if fully implemented, will bring benefits for those countries most in need of improving their PMR.

Figure 3. The extent to which the Plans address the regulatory weaknesses identified by the PMR indicators



Note: The horizontal axis shows the 2018 PMR indicator score for each EU country (on a scale 0 to 6 from most to least competition-friendly regulatory framework). The red dotted lines show the correlation between PMR values and the share of measures included in the Plan that may affect the PMR score.

Source: OECD 2018 PMR database. The indicators are based on the laws and regulation in force in these countries on 1 January 2018, except for Bulgaria, Croatia, Estonia and Romania, for which the information refers to 1 January 2019.

Interpreting Figure 3 and, more generally, the country notes included in this report requires to consider that the number of measures included in each Plan varies substantially across countries, from over 100 measures (Italy) to less than 30 (Sweden). It should also be noted that the measures included in the Plans are a combination of policy reforms and infrastructure investments. The latter are essential for the recovery and future economic growth of EU countries, but do not necessarily affect the PMR indicators, as these focus on laws and regulations. Finally, reforms included in the Plans vary in reach and scope. Hence, a deeper analysis is required to understand in detail the extent to which each Plan has addressed the country's weaknesses in their regulatory frameworks in the areas covered in the PMR indicators.

⁷ These notes include all EU member states that are also OECD members, apart from the Netherlands, because this country has not submitted a Plan, and Poland and Hungary, because their Plans had not been approved by the European Council at the time this publication was issued. These notes include also three EU member states with whom the OECD Council decided to open accession discussions in January 2022 (namely Bulgaria, Croatia, and Romania). The notes for these three countries were not prepared in the context of OECD accession and are separate from that process.

⁸ These measures still need to be implemented and many details on their implementation are not included in the Plan, which makes it difficult to determine with certainty if and how these reforms would affect the PMR indicators' values.

The notes included in this report assess individual Plans and highlight the measures that may have an impact on the PMR indicators, quantifying this impact where possible. The notes also include an assessment of key regulatory weaknesses identified by the PMR indicators that are not addressed in the Plans.

Finally, as mentioned, many Plans propose to undertake large investments to improve infrastructure in network sectors. An advanced and well-functioning infrastructure is a catalyst for aggregate productivity growth, especially in the context of a transition towards a greener economy and a digital economic environment.⁹ In addition, network sectors account for a substantial part of inputs costs in many industries. Therefore, their efficient provision can have a positive impact on productivity and growth across the whole economy. Conversely, ill-designed regulatory settings and ineffective regulatory governance could undermine this link, particularly if they divert resources from the most productive firms, shield the incumbent's dominant position and weaken technological diffusion.¹⁰ Hence, the notes also use the PMR indicators to provide an evaluation of the regulatory set-up in these sectors and suggest how they could be improved to increase the effectiveness of the investments included in the Plans.

⁹ Égert et al. (2009) [Infrastructure and Growth: Empirical Evidence](#). OECD Economic Department Working Papers, No. 685.

¹⁰ Demmou and Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data](#). OECD Economic Department Working Papers, No. 1609; Andrews et al. (2018). [Digital technology diffusion: A matter of capabilities, incentives or both?](#) OECD Economic Department Working Papers, No. 1476.

Assessment of the links between the National Recovery and Resilience Plans and the OECD Product Market Regulation Indicators: Austria

The aim of this note is to provide an assessment of the likely impact that the Austrian National Recovery and Resilience Plan¹¹ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹². Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Austria's results in the 2018 PMR indicators and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹¹ The assessment was based on the

- Recovery and Resilience Plan of Austria, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Austria.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Austria.

Please note that the assessment of the actual implementation of the reforms are outside the scope of this exercise.

¹² All information, indicator values and methodology related to the PMR indicators can be found on the [PMR webpage](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few reform measures in the Plan submitted by Austria could have an impact on the PMR. These are outlined in Table 1.

Table 1. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly regulatory framework)
4.D.11.	<p>Liberalisation of business regulations The amendment to the Occasional Traffic Act aligns the conditions for taxis and other ride rental businesses, thus enabling the operation of innovative ride-hailing services (2021 Q1)</p>	<p>The measure may have an impact on the <u>Command and Control Regulation</u> low-level indicator. The exact details of the rules applicable to innovative ride-hailing services are not clarified in the Plan, hence it is not possible to assess its quantitative impact on this PMR indicator.</p>
4.D.11.	<p>Liberalisation of business regulations The Occasional Transport Act, which shall abolish a binding tariff for occasional transport (taximeter obligation) shall enter into force. (2021 Q1)</p>	<p>The regulation of tariffs charged by taxis is captured under the <u>Retail Price Controls and Regulation</u> low-level indicator, which only assesses if tariffs for pre-booked trips are regulated. In 2018, these tariffs were only regulated for some specific routes. This answer already gives Austria the best score, so measure 4.D.11 will not cause any change in the indicator.</p>
4.D.8	<p>Start-up package The reform consists in the implementation of a new legal form (to be named 'Austrian Limited'), which shall facilitate setting up new companies. It shall particularly take the needs of start-ups and innovative SMEs into account and it shall include flexible allocation of shares to investors and employees. (2022 Q1)</p>	<p>The reform may have an effect on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator. In 2018, Austria's score was slightly higher than the OECD average in this indicator; hence, this measure may improve Austria's score if it eases the burden for setting up limited liability companies. However, the information contained in the Plan is too general to assess its quantitative impact on this PMR indicator.</p>
2.C.1	<p>Proposed legislation for Once Only – Amendment of the Business Service Portal Act The reform aims to further reduce bureaucracy for business operators and citizens by introducing the actions to implement the Once Only principle, thereby reducing double and multiple reporting. (2023 Q4)</p>	<p>If as part of the Once Only principle Austria established a one-stop-shop where firms could obtain all the permits and licences required to open up a business, Austria's score in the <u>Licences and permits</u> low-level indicator would improve (from 1.00 to 0.00).¹³ However, the Plan does not give enough details to determine if such a one-stop shop would be introduced.</p>
4.D.4	<p>Climate action governance framework Entry into force of a law introducing a mandatory climate check for new legislative proposals. The legal implementation is expected to be carried out through a new climate protection law. The mandatory climate check shall be implemented through a new binding impact dimension within the regulatory impact assessment. (2022 Q2)</p>	<p>While the measure enriches regulatory impact assessments, it will not influence the score Austria obtained in the <u>Assessment of Impact on Competition</u> low-level indicator, because environmental aspects are not yet taken into account.</p>

¹³ Currently Austria has a one-stop shop that only provides information on all licences and permits required to open a business.

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹⁴ made the following general observations on Austria's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 2. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan (Index scale 0 to 6 from most to least competition-friendly)
<p>Barriers in professions Austria has significant access barriers and restrictive rules on the exercise of business services and regulated professions. These include specific shareholding requirements, extensive reserved activities and interdisciplinary restrictions.</p>	<p><i>No measures related to regulated professions have been identified in the Plan.</i></p>
<p>Barriers in the retail sector Regulatory barriers, notably as regards the daily operation of shops, contribute to the relatively weak development of Austria's retail sector.</p>	<p>The only measure related to the retail sector included in the Plan is measure 1.C.1, which introduces a legal framework for increasing collection rates for beverage packaging and the supply of reusable beverage containers in the retail sector. <i>This measure has no impact on the PMR indicators and does not reduce the regulatory burdens measured by this indicator.</i></p>
<p>Administrative Burden A high administrative burden remains a pressing concern for Austria's business environment. Therefore, the European Council recommended that Austria should take action to reduce the administrative and regulatory burden.</p>	<p>The following measure in the Plan addresses the recommendation on reducing administrative burden on businesses</p> <p style="text-align: center;">2.C Digitalisation of Public Administration – 2.C.1 Proposed legislation for Once Only – Amendment of the Business Service Portal Act</p> <p><i>This measure has already been discussed in Table 1 as it may have an impact on Austria's PMR scores.</i></p>
<p>Barriers in the service sector Support productivity growth by stimulating digitalisation of businesses and company growth and by reducing regulatory barriers in the service sector.</p>	<p>Two measures in the Plan address the recommendation on reducing regulatory barriers in the services sectors.</p> <p style="text-align: center;">D.11 The amendment to the Occasional Traffic Act enables the operation of innovative ride-hailing services.</p> <p style="text-align: center;">4.D.8 The implementation of a new legal form ('Austrian Limited'), which shall facilitate setting up new firms.</p> <p><i>These measures have already been discussed in Table 1 as they may have an impact on Austria's PMR scores.</i></p>

¹⁴ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Austria and delivering a Council opinion on the 2019 Stability Programme of Austria, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Austria and delivering a Council opinion on the 2020 Stability Programme of Austria.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly¹⁵. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Austria¹⁶.

In the rest of this section, the following indicators are assessed among those where Austria's values are above the OECD average:

- i) Simplification and Evaluation of Regulations
- ii) Retail Distribution and Retail Sales of Medicines

3.1. Simplification and Evaluation of Regulations

Figure 1 shows the mid-level indicator of Simplification and Evaluation of Regulations, which includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulations and for ensuring transparency in lobbying activities; and.
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with the government.

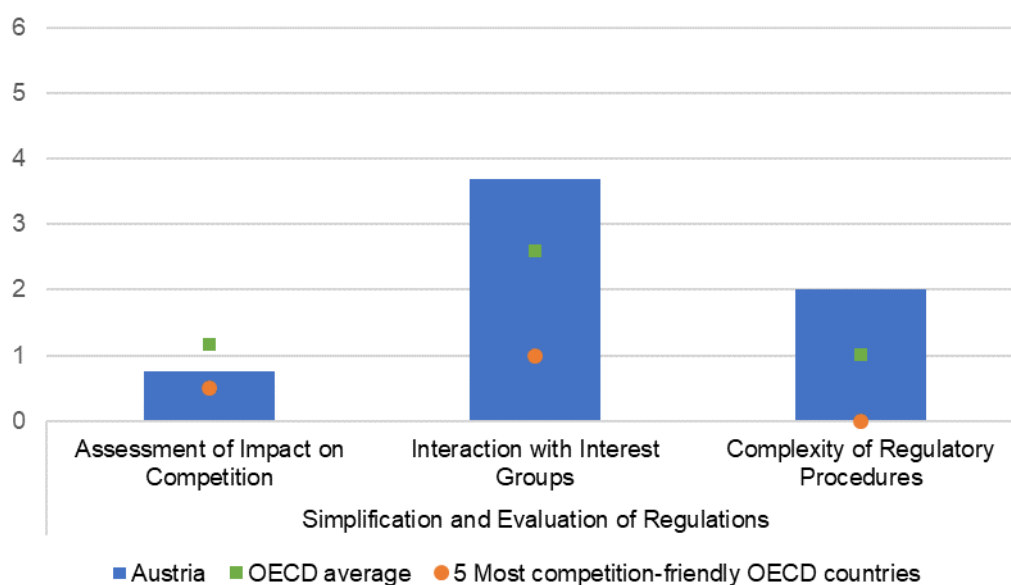
Austria scores below the OECD average in the first of these low-level indicators, but well above the OECD average in the other two.

¹⁵ The latest PMR values available for Austria refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹⁶ All country fiches are available on the [PMR webpage](#)

Figure 2. Low-level PMR indicators included in Simplification and Evaluation of Regulation

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The high value of the Interaction with Interest Groups indicator is due to the lack of important rules ensuring transparency in lobbying activities. For example, there is no obligation to disclose the identity of the interest groups that are consulted in each regulatory process, public officials are not required to make their agenda available, and permanent advisory bodies do not have to disclose the identity of their members. In addition, there are no conflict of interest rules for appointed public officials and senior civil servants and Austrian laws do not establish a cooling-off period for members of legislative bodies, members of cabinet, appointed public officials and senior civil servants.

Furthermore, policy makers are not required to consider the comments received from stakeholders during consultations on new laws. Ensuring that feedback from stakeholders is taken into account when designing a new law is important as stakeholders may identify problems and negative impacts that may have been overlooked. Finally, the public could be more involved in the policy-making process if Austria established a mechanism to collect feedbacks on negative impacts caused by existing laws and regulations.

If Austria addressed the above-mentioned regulatory weaknesses, its score in the Interaction with Interest Groups low-level indicator would be considerably reduced, from **3.68** to **0.00**.

As for the country's score in the low-level indicator on the Complexity of Regulatory Procedures, Austria could reduce the burden of interacting with government. For instance, the country could ensure the publication of a list of primary and subordinate regulations to be prepared, modified, or reformed in at least the following six months.. Moreover, although the Austrian government has programmes to reduce the administrative burden on enterprises, these do not contemplate key strategies, which include: i) compiling the costs of existing regulations for businesses; ii) rolling out e-government tools; iii) reallocating power and responsibilities across levels of governments; iv) obtaining feedback from stakeholders on regulations that are obsolete or redundant, or which could be simplified; and v) carrying out ex-post reviews of existing regulations.

If Austria addressed these regulatory weaknesses, its score in the low-level indicator on the Complexity of Regulatory Procedures would decrease from 2 to 0.

3.2. Retail Distribution and Retail Sales of Medicines

Figure 2 shows Austria's scores in two sector indicators related to retail trade: Retail Distribution and Retail Sales of Medicines. Austria's score is well above the OECD average in both of them.

Figure 3. PMR sector indicators for Retail Distribution and Retail Sale of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the area of retail distribution, Austria's results are driven by the burdensome licensing regime. Specific licences are required for different types of retail establishments, even when they do not involve special activities (such as the sale of medicines or alcohol). Moreover, establishing a retail outlet with an operating area above 200m² requires a specific additional authorisation. Existing economic literature suggests that the removal of requirements for outlet registration, siting and size can favour entry, innovation and efficiency¹⁷.

In addition, shop-opening hours are strictly regulated and shops are not allowed to open on Sundays and on public holidays. Also, a specific authorisation is required when a retail outlet needs to undertake an end-of-business sale. Furthermore, books are subject to price regulation.¹⁸

¹⁷ For example, see Nicoletti, Giuseppe & Boylaud, Olivier (2001). [Regulatory reform in retail distribution](#). OECD Economic Studies, (2001)

¹⁸ Empirical research conducted in Greece shows that removing price restrictions leads to price reductions. See Kontolaimou, Alexandra & Prodromidis, Pródromos-Ioánnis & Konstantakopoulou, Ioanna (2020). [The issue of fixed book pricing: Evidence based on the Greek experience](#). Centre for Planning and Economic Research (KEPE), Cyprus Economic policy Review vol. 13.

If Austria removed all these restrictions, its score in the Retail Distribution sector indicator would improve from 2.01 to 0.59¹⁹.

As for Retail Sale of Medicines, several restrictions drive Austria's high score. These relate to the existence of a requirement for a minimum physical distance between two pharmacies, a limit on the number of pharmacies that can be located in the same geographic area, as well as a limit on the number of pharmacies a single person or entity can own (only one). Moreover, pharmacies cannot freely set their opening hours. There is evidence that removing demographic and geographic rules for new pharmacies can have a positive impact on competition²⁰.

Eliminating the restrictions just discussed would enhance Austria's score in the Retail Sale of Medicines sector indicator from 4.00 to 1.00²¹.

4. Certain infrastructure investment priorities and the regulatory set-up of the underlying sectors

In the Plan, Austria is proposing to invest in the following sectors that are included in the PMR indicators:

- **Energy** (1.A.1. Entry into force of the Renewable Heating Law to regulate the phase-out of heaters using liquid or solid fossil fuels in existing buildings; 1.D.1 Renewables Expansion Law establishing framework conditions and financing of electricity generation from renewable sources and to increase the share of renewable energy in electricity supply to 100% by 2030, which shall require adding 27 TWh of electricity generation capacity from renewable sources by 2030; 2.D.3 Support granted to at least 10 800 companies for their investments in solar energy and electricity storage).
- **Transport by rail:** (1.B.5. Construction of new railways and electrification of regional railways: Constructing a new railway line (Koralmbahn) between Styria and Carinthia. It also comprises the electrification of existing regional railway lines in the area of Carinthia, which are along the new railway line).
- **E-communications:** (2.A.2 At least 46 % of all Austrian households shall have access to Gigabit capable connections in Q3 2022 (and 50% of them by Q3 2026) – compared to 43 % in Q3 2020 – as result of the broadband rollout project funded under the Plan).

According to a recent study by the OECD (Demmou and Franco, 2020),²² sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

¹⁹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²⁰ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012). [Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#). Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021). [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#). See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

²¹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²² Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

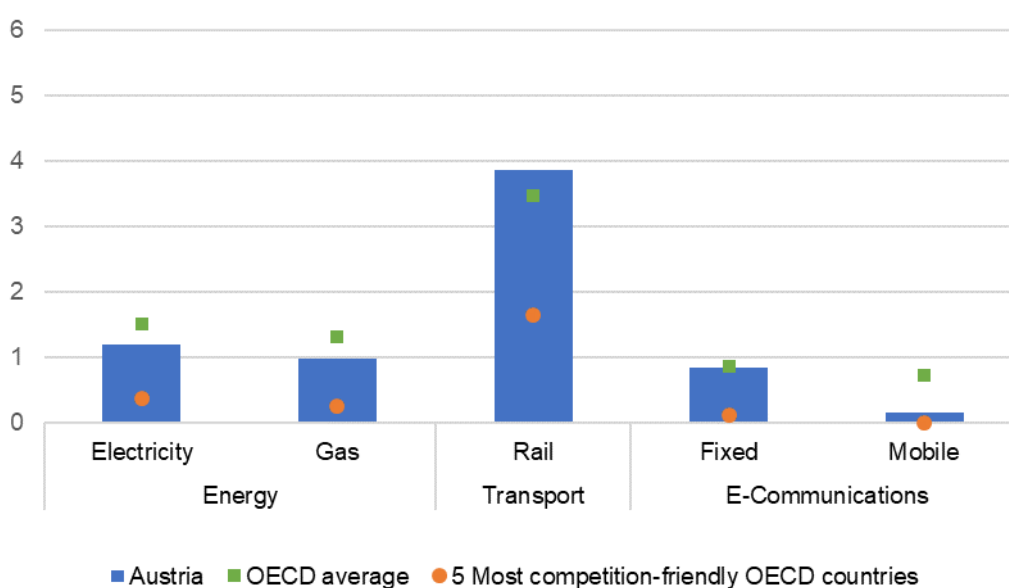
Since Austria's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Austria performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 4. PMR sector indicators for Energy, Rail Transport and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity and gas** sector, Austria's regulatory set-up is better than in the average OECD country. Its scores are higher than the five most competition-friendly OECD countries because the government still controls at least one operator in each segment of the electricity and gas sectors.
- In the **rail transport** sector, Austria scores above the OECD average. The score is mostly driven by the high level of public ownership in this sector and by the fact that public service contracts have been awarded directly to ÖBB, without a competitive procedure. Austria could improve its score in this indicator if it awarded public service contracts for rail services through open tenders.
- In the **e-communication sector** Austria's regulatory set-up is not far from international best practices. However, the government of Austria still holds shares in the largest operator (Telekom Austria AG), and it controls several regional providers of fixed telephony services.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²³ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

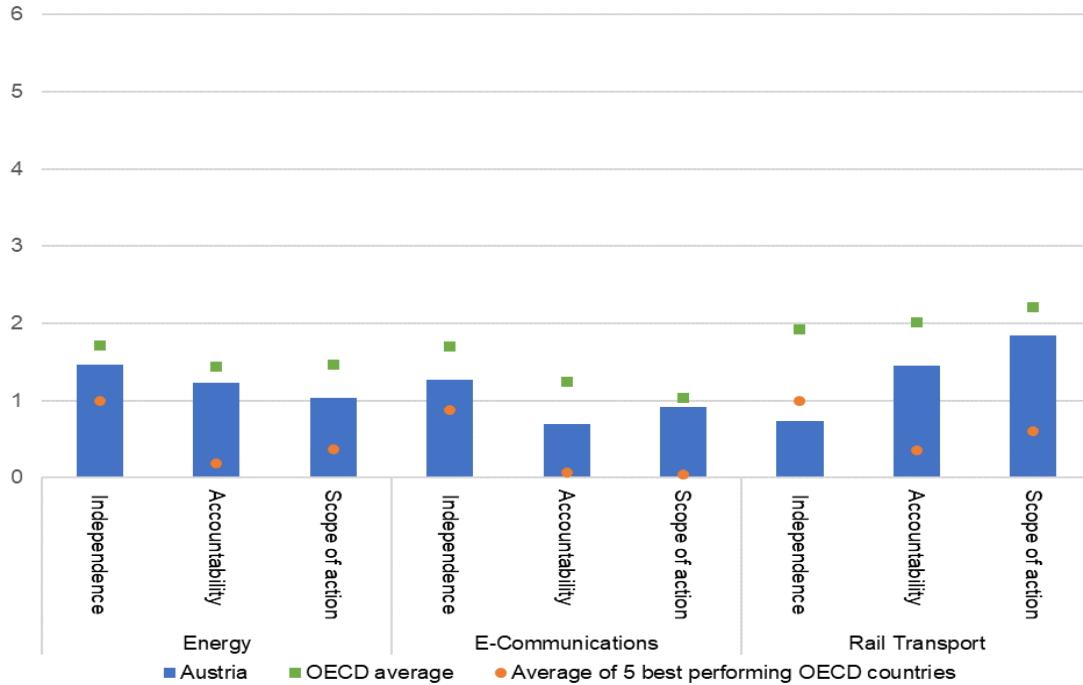
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 indicates that the Energy, E-communication, and Rail Transport sector regulators have in place a greater number of good-practice governance arrangements in the independence and accountability components when compared to the OECD average. The rail regulator especially reflects a greater uptake of good practice governance arrangements related to independence compared to its sector peers, ranking among the five regulators in this sector with the lowest scores.

²³ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 5. Indicators on the Governance of Sector Regulators for Energy, E-communications and Rail Transport



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

Although the country’s score is below the OECD average in all three components, additional arrangements could be introduced to further strengthen the independence of the board of the agency. In particular, it could be required that an independent panel participates in their selection.

There is also room for improvement in terms of accountability. In this regard, the energy regulator could publish online information on its corporate governance performance and its compliance with legal obligations.

Rail transport

Like many OECD regulators in this sector, the rail transport regulator is formally independent. Still, more could be done to bolster the effective independence of its board members, such as requiring the involvement of an independent selection panel.

In terms of accountability, the rail transport regulator performs better than most OECD peers, but it does not publish its draft decisions and does not collect feedback from stakeholders. These activities would provide an important opportunity to engage with stakeholders and to improve the quality of its interventions.

E-communications

The e-communications regulator scores better than the OECD average in all the three dimensions.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Belgium

The aim of this note is to provide an assessment of the likely impact that the Belgian National Recovery and Resilience Plan²⁴ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁵. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Belgium's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁴ The assessment was based on the

- Recovery and Resilience Plan of Belgium, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Belgium.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Belgium.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁵ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Belgium could have an impact on the PMR. These are outlined in Table 1.

Table 3. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicators (Index scale 0 to 6 from most to least competition-friendly)
Reform R-2.01	<p><u>Simplification of administrative procedures: e-government for businesses</u></p> <p>The reform aims to simplify the administrative burden on businesses by fully digitalising the procedure for the creation, alteration and dissolution of a legal person. In particular the reform aims to: (i) to reduce the number of forms of legal persons from 3200 to three; and (ii) to gradually make it possible to create, modify and dissolve all legal person electronically via notaries or via e-Greffe. (2023 Q4)</p>	<p>Both measures aim to reduce the administrative burden to start new businesses, which may enhance Belgium's performance in the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level PMR indicator. However, the details of the measures in the Plan are insufficient to quantify this impact.</p> <p>The measures could have an impact on the <u>Licences and Permits</u> low-level PMR indicator, but only if they led to the creation of a one-stop shop where it is possible to obtain all the permits and authorizations required to open a business. In such a case, Belgium's score would improve from 3.00 to 2.40.</p>
Investment I-2.05, sub-measure 10	<p><u>Digitalisation SPF – Single Digital Gateway' of the Federal State</u></p> <p>This sub-measure aims create a set of databases where all data on persons and legal fact are kept. Authorities will be able to access this databases and use the data, rather having to request it repeatedly from citizens or businesses, thus ensuring the application of the 'Only once' principle. Furthermore, the sub-measure aims at maximising secure access to public online applications through electronic identification; extend the Single Digital Gateway core support services to fully user-centric support services by sending questions from citizens and businesses to targeted administrations and by monitoring statistics. (2023 Q4)</p>	
Reform R-2.02	<p><u>E-government: Tendering procedure</u></p> <p>This reform aims to expand the use of e-Procurement including the adaptation of the federal regulatory framework for conducting tendering procedures in order to facilitate the ease of use of the e-government platform. (2024 Q4)</p>	<p>The extended use of electronic procedures in public procurement is a positive development, as it eases participation to public tenders. However, this measure is unlikely to have an impact on Belgium's score in the PMR indicators, because the use of e-procurement was already captured in the 2018 indicators. Nevertheless, Belgium could further improve its score in the <u>Public Procurement</u> low-level indicator if contracting authorities were required to systematically collect information on the goods and services or on the public works that they intend to procure, before designing the relevant tender.</p>
Reform R-2.03	<p><u>Introduction of 5G National fixed and mobile broadband plan</u></p> <p>Includes reforms both at the federal and regional level to remove regulatory bottlenecks for the deployment of 5G and ultra-fast connectivity infrastructure, such as fibre.</p> <p>At the federal level, the 5G law and Royal Decrees to assign EU pioneer spectrum bands shall enter into force and the 5G spectrum auction shall be completed. (2022 Q1-Q2)</p>	<p>This measure affects the e-communications sector, whose regulatory set-up is assessed in the PMR low-level indicator on <u>Barriers in Network sectors</u> and in the <u>E-communications</u> PMR sector indicator. However, it is unlikely to affect Belgium's score in these two indicators, as the specific issues addressed by this reform are not assessed in the PMR indicators. In addition, it should be noted that the country's regulatory framework in this sector is already in line with international best practices as captured by the PMR indicators.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁶ made the following general observations on Belgium's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 4. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Barriers in rail transport:</p> <p>(i) There are distortive incentives and barriers to competition and investment in domestic passenger railway services, which constrain the supply and demand of alternative collective and low-carbon transport services.</p> <p>(ii) Belgium adopted a law to open domestic railway services, but the share of passenger transport provided under public service obligations with a directly awarded contract remains very high.</p> <p>(iii) The Rail Regulator has room to develop the scope of its regulating activities.</p> <p>(iv) The EU Council recommends to focus investment-related economic policy on sustainable transport, including upgrading rail infrastructure.</p>	<p>All the measures related to the rail transport sector in the Plan involve infrastructure investment (see the specifics in part 4. of this note). <i>There are no measures that address the regulatory impediments to competition and policy weaknesses mentioned by the Council, some of which are also captured in the PMR indicators.</i></p>
<p>Administrative Burden:</p> <p>The EU Council recommends to reduce the regulatory and administrative burden to incentivise entrepreneurship.</p>	<p>Before the adoption of the Plan, in 2019, Belgium already reformed its company law by reducing the number of legal forms that businesses can adopt, facilitating legal electronic communications and reducing minimum capital requirements for new companies. These reforms partially address this recommendation, and are likely to have some impact on the country's PMR score in the area of Administrative Burden on start-ups.</p> <p>In addition, there are multiple measures in the Plan that will further reduce the administrative burden on both citizens and businesses. However, the only measures that <i>may have an impact on the PMR indicators</i> are</p> <p style="padding-left: 40px;">Reform R-2.01: Simplification of administrative procedures: e-government for businesses,</p> <p style="padding-left: 40px;">Investment I-2.05, sub-measure 10: Digitalisation SPF – Single Digital Gateway' of the Federal State</p> <p>These measures have already been discussed in Table 1.</p>
<p>Design of Regulations:</p> <p>Regulatory impact assessment could be better integrated in the policy-making process.</p>	<p><i>No measures related to improving how regulatory impact assessment are integrated in the policy-making process have been identified in the Plan.</i></p>
<p>Barriers in professions:</p> <p>The EU Council recommends to remove barriers to competition in services, including professional services as the Belgian regulatory framework for accountants, tax advisors, architects and real estate agents is considerably more restrictive than the EU average. The regulated fees of notaries for real estate transactions are significant.</p>	<p><i>No measures addressing barriers in the regulatory framework for professions have been identified in the Plan. However, the October 2022 budget law includes proposals to modernise the notary profession, by reducing barriers to entry and revising their fees.</i></p>

²⁶ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Belgium and delivering a Council opinion on the 2019 Stability Programme of Belgium, COM/2019/501 final,

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Belgium and delivering a Council opinion on the 2020 Stability Programme of Belgium, COM/2020/501 final.

<p>Barriers in the retail sector The EU Council recommends removing barriers to competition in retail services, such as rules restricting shop opening hours, sales promotions, discounts and distribution channels for non-prescription medicines.</p>	<p><i>No measures related to the retail sector have been identified in the Plan</i></p>
<p>Barriers in e-communications: The EU Council recommends removing barriers to competition in e-communications. It notes that this market is characterised by a high level of concentration and weak competition and that the roll-out of 5G is being held back by strict radiation limits. As a result, Belgium risks lagging behind in 5G deployment.</p>	<p>The only measure intended to address the EU Council's recommendation in the Plan</p> <p style="text-align: center;">Reform R-2.03 Introduction of 5G – National fixed and mobile broadband plan</p> <p>This measure has already been mentioned in Table 1.</p>
<p>Barriers in long-distance passenger transport by coach: There are distortive incentives and barriers to competition and investment in intercity coach services constrain the supply and demand of alternative collective and low-carbon transport services.</p>	<p>Two measures were identified in the plan that concern long-distance passenger transport by coach:</p> <p style="text-align: center;">Investment I-3.05: 'High Service Level Bus of the Walloon Region</p> <p style="text-align: center;">Investment I-3.08: 'Smart road signals' of the Walloon Region</p> <p>Both measures involve infrastructure investment in the road transport network (see the specifics in part 4. of this note), <i>and partially address the recommendation by the Council. However they have no effect on the PMR indicators, as they are not related to regulatory barriers to competition.</i></p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan ²⁷

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Belgium.²⁸

In the rest of this section, the following indicators are:

Simplification and Evaluation of Regulations;

Licences and permits;

Retail distribution and Retail Sales of Medicines; and Professions

²⁷ The latest PMR values available for Belgium refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²⁸ All country fiches are available on the [PMR webpage](#).

3.1. Simplification and Evaluation of Regulations

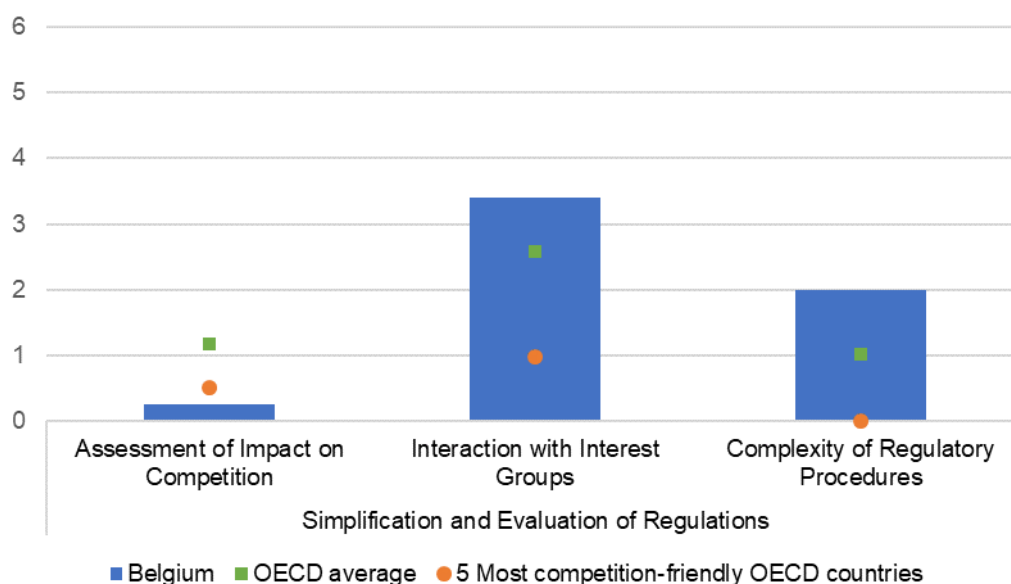
Figure 1 shows the three low-level indicators in the area of Simplification and Evaluation of Regulations:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulations and for ensuring transparency in lobbying activities; and.
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with the government.

Belgium scores below the OECD average in the first low-level indicator, but well above the OECD average in the other two.

Figure 6. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

Belgium's weak performance in the low-level indicator on the Interaction with Interest Groups is mostly driven by the lack of systematic rules that regulate the interactions between public officials and interest groups during the policy-making process. Belgium should consider introducing a legislation that addresses this weakness.

In particular, to increase the transparency of these interactions, the country could require the registration of interest groups in a public registry and impose fines in case of non-compliance. A further step could be to publicly disclose the identity of the interest groups that are consulted in each regulatory process, the agenda of public officials involved in them, and the identity of the members of permanent advisory bodies involved in national regulatory processes.

The country could also introduce cooling-off periods for members of legislative bodies, members of cabinet, appointed public officials and senior civil servants. This would reduce the risk that these officials could exploit their recent experience and connections to influence the regulatory process in favour of their new employers.

If Belgium introduced these changes, it would limit the risk of lobbying activities distorting the level playing field. As a result, the score in the low-level indicator on Interaction with Interest Groups would decrease from 3.41 to 0.

The relatively high score in the low-level indicator on the Complexity of Regulatory Procedures is mostly due to the fact that: i) national regulators are not required to use plain language when drafting new laws and regulations, and ii) the government does not publish an online list of primary laws and subordinate regulations that will be prepared, modified, reformed or repealed over the next six months.

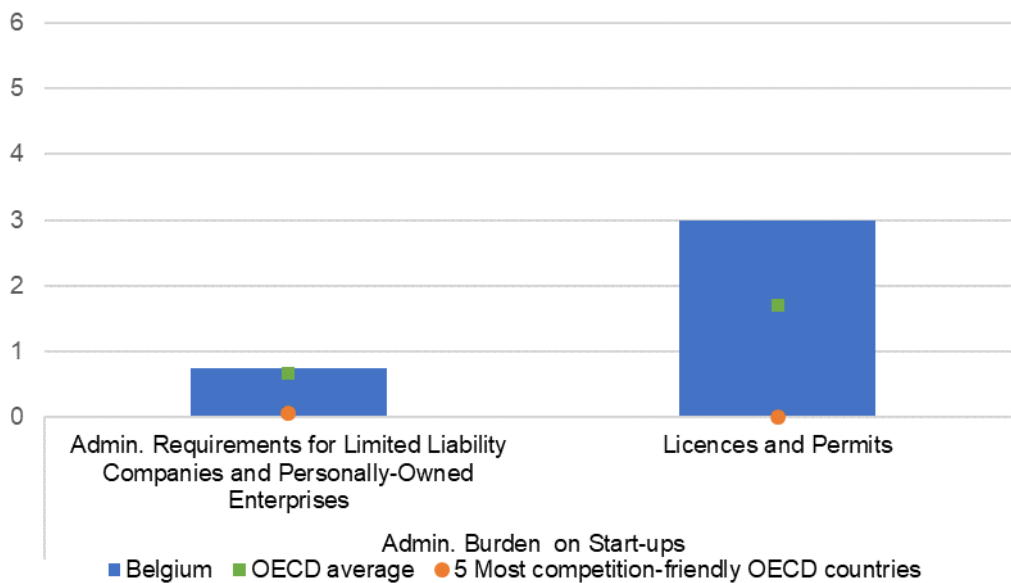
If these two requirements were introduced, they would make regulations and laws easier to comply with and they would provide greater clarity about the country's forthcoming regulatory agenda. As a result, Belgium's score in this low-level indicator would be considerably reduced (from 2.00 to 0.00).

3.2. Licences and permits

Figure 2 shows Belgium's values in the low-level indicator on Licences and Permits, which measures the existence of initiatives to simplify licensing procedures and programs to review and reduce the number of licences. The figure also shows the other low-level indicator that contributes to measuring the Administrative Burden on Start-ups: Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises.

Figure 7. Low-level PMR indicators included in Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In 2018 the country's score in the low-level indicator on Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises was in line with the OECD average ²⁹, while it was quite high in the Licences and Permits one. Belgium could improve the latter if it simplified its licensing procedures. In particular, the country could introduce a one-stop shop that issued all licences and permits and that accepted all notifications necessary to start a business. It could also adopt a silence is consent rule for new licences, which would reduce waiting times and introduce greater certainty in the licensing process. In addition, the national government could keep a regular count of the number of permits and licences required to operate a business. Without a clear overview of the status quo, it is difficult to introduce any real administrative simplification.

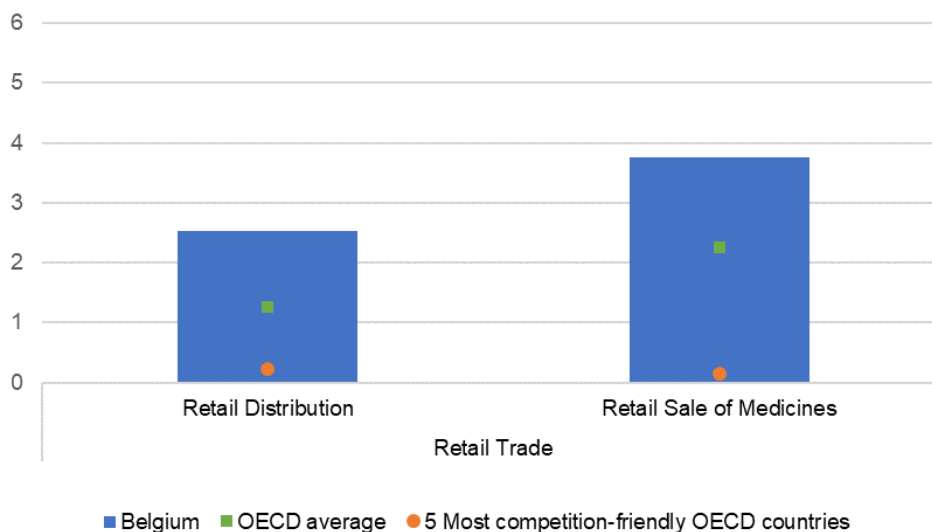
If these three measures were implemented, Belgium's score in the Licences and Permits low-level indicator would drop from 3.00 to 0.00.

3.3. Retail Distribution and Retail Sales of Medicines

Figure 3 shows the country's scores in the two sector indicators that measure the regulatory framework in the area of Retail Trade: i) Retail Distribution, and ii) Retail Sales of Medicines. Belgium has ample room for improvement in both indicators ³⁰.

Figure 8. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

²⁹ The government of Flanders is in the process of designing and implementing several reforms to decrease the administrative burden faced by companies, citizens and professionals. These includes the Single Digital Act, the Flemish e-desk for entrepreneurs and the *Vlaamse Veerkracht* project. These reforms may have an impact on the Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises low-level indicator once implemented, but the details at this stage are insufficient to ascertain this.

³⁰ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

In the Retail Distribution sector, the burdensome licensing regime creates unnecessary barriers to entry. Establishing very large retail outlets in the clothing sector requires an authorisation, while in the food sector all retail outlets require an authorisation, as well as registration in a specific register. Existing economic literature suggests that removing requirements for outlet registration and authorisations can favour entry, innovation and efficiency³¹.

In addition, shop opening hours are strictly regulated: specific minimum opening and closing hours are imposed and shops have to be closed for 24 hours every week. Furthermore, the prices for gasoline, books and liquefied petroleum gas are subject to price regulation³².

If Belgium removed these restrictions, it would foster competition in the retail sector and it would improve its score in the PMR indicator on the Retail Distribution sector from 2.52 to 1.59.

Belgium's high score in the sector indicator on the Retail Sale of Medicines is due to the presence of restrictions on the minimum physical distance between pharmacies, and on the number of pharmacies that can be located in the same geographic area, which is linked to demographic criteria. Moreover, pharmacies have no freedom to set their own opening/closing hours as these are set by regulation, and most non-prescription medicines can be sold only in pharmacies.

Belgium could promote a more competitive market for the sale of medicines by removing any barriers related to geographic or demographic requirements and liberalizing the opening hours³³. In addition, the country could consider allowing other outlets, such as para-pharmacies and supermarkets, to sell non-prescription medicines. Greater competition could in turn improve access to medicines by consumers, which is important in Europe as it faces a constantly ageing population.

Eliminating these restrictions would reduce Belgium's score in the Retail Sale of Medicines sector indicator from 3.75 to 0.75.

3.4. Professions

Figure 3 shows the results of the 2018 PMR indicators for the six professions assessed in the PMR indicators, together with the OECD average and the average of the five best performing OECD countries.

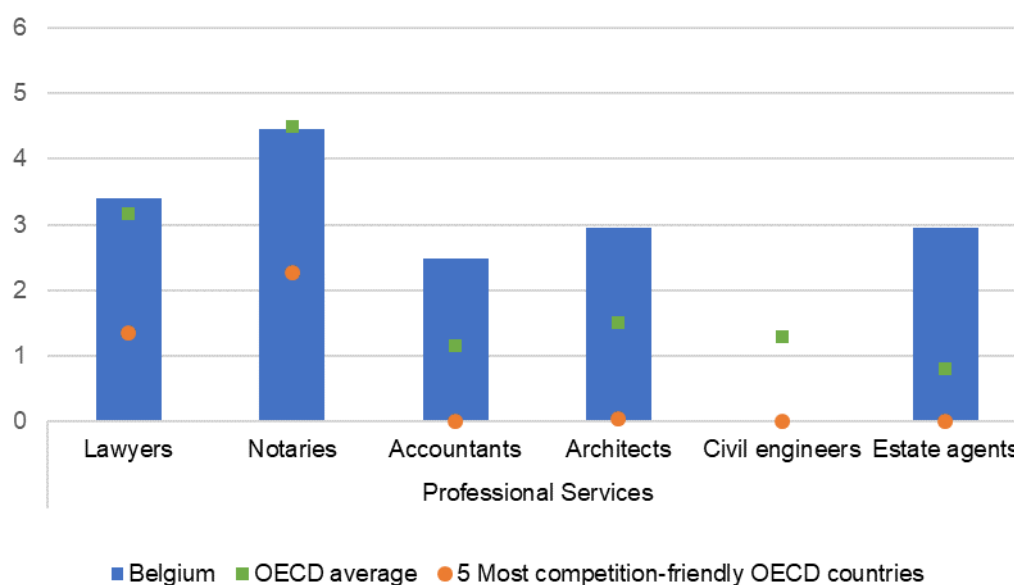
³¹ For example see Nicoletti, Giuseppe & Boylaud, Olivier (2001). "[Regulatory reform in retail distribution](#)". OECD Economic Studies.

³² Empirical research conducted in Greece shows that removing price restrictions on books can lead to price reductions. See Kontolaimou, Alexandra & Prodromidis, Pródromos-Ioánnis & Konstantakopoulou, Ioanna (2020). "[The issue of fixed book pricing: Evidence based on the Greek experience](#)", Centre for Planning and Economic Research (KEPE), Cyprus Economic policy Review vol. 13.

³³ A number of papers show that removing demographic and geographic rules for opening a new pharmacy can have a positive impact on competition. See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021): "[Entry regulation and competition evidence from retail and labor markets of pharmacists](#)", University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): "[Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#)". See also the papers discussed at the 2014 [OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

Figure 9. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar does not appear on the chart for a specific indicator, it means that its value is 0.

Source: OECD 2018 PMR database.

Belgium presents high barriers to competition in all professions except in the case of Civil Engineers, whose regulatory set-up is in line with international best practices, as measured by the PMR indicators.

Lawyers in Belgium face both entry and conduct restrictions. There are almost no activities over which lawyers have exclusive rights. However, there is only one pathway to access the profession, which requires passing a professional examination. Moreover, membership in the relevant professional association is compulsory to legally practice. Regarding conduct restrictions, lawyers face binding maximum fees for some activities and restrictions when advertising and marketing their services. In addition, only lawyers can have voting rights and ownership-type interest. These restrictions limit the sources of funding on which these firms can rely, can reduce the set of managerial skills they access, and may inhibit the emergence of innovative business models.

In civil law countries, Notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce some of the regulatory constraints and create some competition in this profession. Most notably, Belgium could remove the territorial restrictions on their ability practices, eliminate quantitative restrictions to access the

profession and liberalise their fees.³⁴ It should be noted that the Government is considering a reduction of the notaries' tariffs, but it has not mentioned any plan to liberalise them. Such a reform would have no impact on Belgium's PMR score for this profession, as fees would remain strictly regulated.

The regulatory set-up of Accountants is quite restrictive, while this profession is more lightly regulated in many OECD countries. Although there are two pathways to access the profession, both require to pass a professional examination. Moreover, membership in the relevant professional organization is compulsory to legally practice. There are also several conduct restrictions. First, accountants in Belgium face some limitations when advertising and marketing their services. Moreover, the form of business is also regulated: accountancy firms cannot be incorporated, and the majority of voting rights can only be held by accountants or accountancy firms. Lastly, inter-professional business cooperation with some of the other regulated professions is banned.

The regulation on Architects is more restrictive in Belgium than in most OECD countries. Entry in the profession is possible only through one pathway and membership in the association is compulsory to legally practice. There are no nationality nor citizenship restrictions to practice in the country, but there is no clear regulation establishing how education titles earned outside the EU/EEA are recognised, which in practice imposes barriers to entry for foreign professionals. Conduct regulations are also quite restrictive. Architects face some limitations on how they can advertising of their services and on the professions with which they can undertake business. Lastly, non-architects and non-architectural firms can own up to 40% of architectural firms and hold up to 40% of their voting rights.

Lastly, Real Estate Agents in Belgium hold exclusive rights on certain activities, such as drawing up leasing agreements, showing properties and explain the terms of sale or conditions of rent, and facilitating contacts between buyers/tenants and owners. In most OECD countries these rights are not exclusive. Moreover, there is only one pathway to access the profession, which requires passing a professional examination, and membership in a professional organization is compulsory to legally practice. Finally, only real estate agents and real estate agencies can hold the majority of ownership or voting rights in real estate firms.

Empirical research has shown that reducing regulatory barriers in these professional services can foster entry and bring about greater competition on quality and prices.³⁵

³⁴ ³⁴ A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : [“Private Monopoly and Restricted Entry – Evidence from the Notary Profession”](#)).

³⁵ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering, and architectural services (see: Paterson, I., et al (2007), “Economic Impact of Regulation in the Field of Liberal Professions in Different Member States”, WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), [“The economic impact of the Services Directive: A first assessment following implementation”](#), No 456, European Economy - Economic Papers 2008 – 201.

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) [“Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions”](#)).

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) [“A Welfare Analysis of Occupational Licensing in U.S. States”](#)).

Table 3 below shows the impact that these reforms would have on the PMR sector indicators for the relevant Professional Services.

Table 5. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW value after suggested reforms ³⁶
Lawyers	3.41	0.91
Notaries	4.46	3.29
Accountants	2.48	0.75
Architects	2.95	1.31
Estate agents	2.95	0.70

Source: OECD simulations based on the OECD 2018 PMR database

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Belgium is proposing to invest in the following sectors that are included in the PMR indicators:

- **Energy** (Investment I-1.21 ‘Off-shore energy island’ of the Federal State aims to develop a multifunctional offshore energy hub in the Belgian part of the North Sea with the aim to (i) connect a 2.1 GW of future offshore wind energy to the onshore electricity grid, to (ii) facilitate the integration and import of renewable energy in the North Sea by connecting to other countries or regions and to (iii) facilitate the production of green molecules (e.g. hydrogen))
- **Transport by rail** (Investment I-3C: ‘Rail refurbishment and station accessibility works’ including the upgrading of 36 rail sections, modernising 24 dedicated rail freight infrastructures, removing six infrastructure bottlenecks that hinder the performance of the Brussels-Luxembourg line, removing four rail bottlenecks in Brussels and to develop an IT module for traffic management).
- **Transport by water** (Investment I-3.11: ‘Canal Albert and Trilogiport’ of the Walloon Region consists in extending the multimodal platform of Trilogiport in Liège and in increasing the height of 4 bridges above the Albert-Canal to allow barges to transport freight of up to 9.1m of height).
- **Transport by road** (Investment I-3.05: ‘High Service Level Bus’ of the Walloon Region, which consists in building a dedicated lane for a high-frequency bus in the Mons-Borinage area (Wallonia) along the N51 road; Investment I-3.08: ‘Smart road signals’ of the Walloon Region to install smart traffic lights for public transport busses in Wallonia).
- **E-communications** (COMPONENT 2.3 contains reforms and investments related to 5G and very high-capacity connectivity infrastructure; e.g. Investment I-2.13 Coverage of white areas by developing very high-speed fibre optic networks in the German-speaking Community).

According to a recent study by the OECD (Demmou and Franco, 2020),³⁷ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

³⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

³⁷ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data](#). OECD Economics Department Working Papers No. 1609.

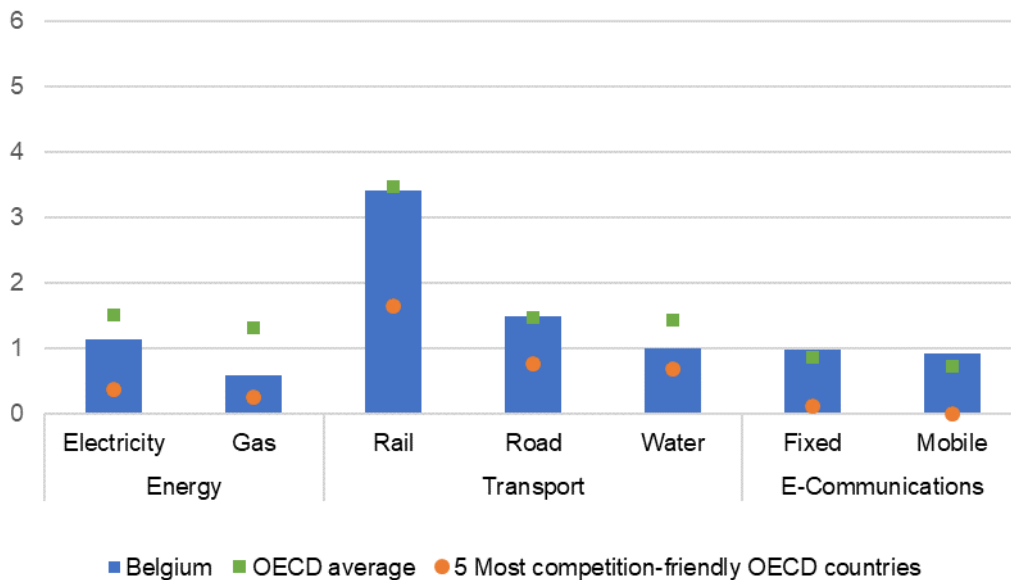
Since Belgium's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how Belgium performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 10. PMR sector indicators for Energy, E-communications and Rail, Road and Water Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity and gas** sector, Belgium's regulatory set-up is mostly in line with international best practices. However, in the electricity sector, its scores are higher than the average of the five best-performing OECD countries because retail prices for all consumers are still regulated, despite the electricity retail market being open to competition and consumers free to choose their supplier.³⁸ In the gas sector, the government controls (via a golden share) the largest firm in the gas storage market.

³⁸ Concerning the retail price regulation in the energy sector, it should be noted that CREG (Commission de Régulation de l'Électricité et du Gaz) and regional regulators set network charges for electricity and natural gas, even though they should not regulate the electricity or gas prices charged to final consumers. Nevertheless, faced with a rapid rise in final energy prices, in 2012 the central government decided to freeze retail prices for natural gas and electricity.

- In the **rail transport** sector, Belgium's score is in line with OECD average. Nevertheless, Belgium could further improve the regulatory set-up in the rail sector by awarding public service contracts through competitive tenders.
- In the **road transport** sector, Belgium's score is close to the OECD average; however, its regulatory framework could further be improved if the country introduced a notification system for the establishment of new road freight businesses, rather than continue to relying on a more burdensome authorisation regime. Furthermore, industry participants are consulted on the possible withdrawal or limitation of individual licences, which gives incumbents the possibility to limit new entry.
- The regulation of **water transport**, as it is captured by the PMR indicators, is among the most competition-friendly in the OECD. However, Belgium could still further ease access to the sector by replacing the current authorisation system for the set-up of new water transport companies with a leaner notification system.
- The regulation of the **e-communication** sector is close to the international best practice. However, it is higher than the average of the five best performing OECD countries because the government still owns the majority of the largest operator, *Proximus*, which is active both in the fixed and retail segments.

4.2. Insights from OECD Indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators³⁹ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows Belgium's scores in the three components for the Energy, E-communications and Rail Transport regulators, together with the OECD average and the average of the five best performing OECD countries.

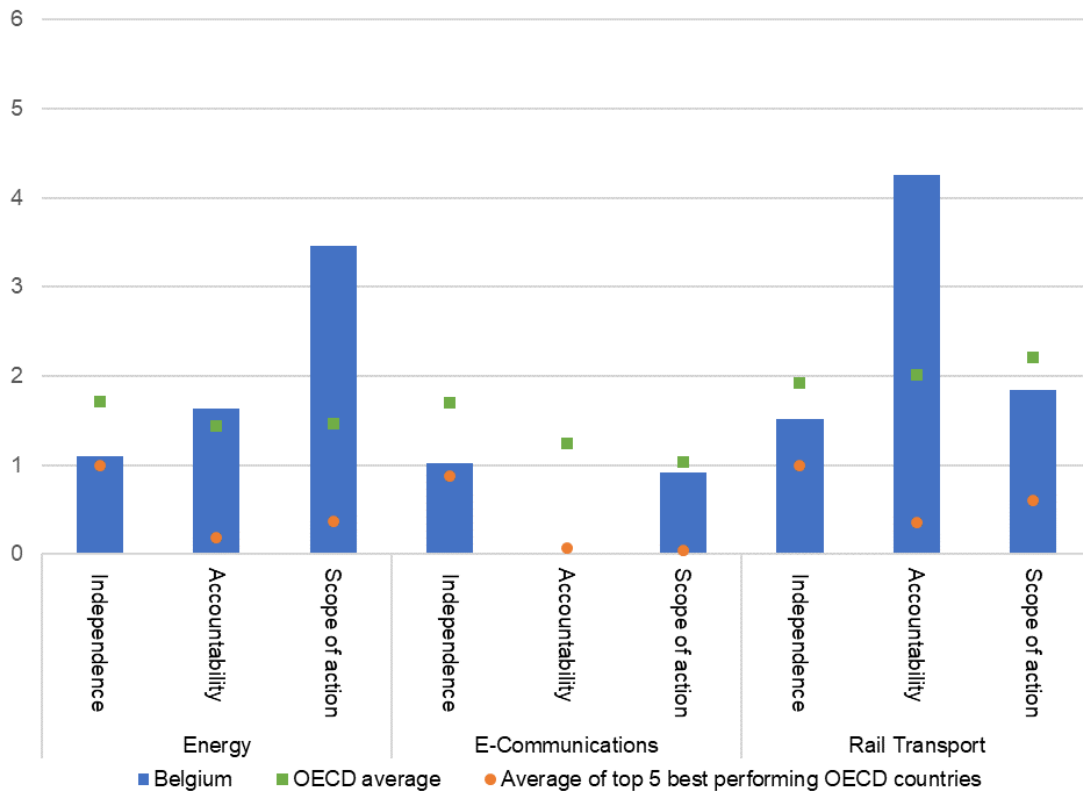
The figure shows that the e-communications regulator reflects a greater number of good-practice governance arrangements when compared to the OECD average, as its scores in all three low-level indicators are below the OECD average. However, the values of the indicators for the energy and rail transport regulators show margins for improvements in some components, notably the accountability one.

Standard rules for setting retail energy price rises have since been adopted in the context of the co-called "safety net" (filet de sécurité or vangnet).

See: OECD: Fossil fuel support country note – [Belgium](#) April 2019.

³⁹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 11. Indicators on the Governance of Sector Regulators for Energy, E-communications and Rail Transport



Note: The database does not include all OECD countries in the e-communications and rail transport sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

The energy regulator scores above the average in the accountability component. To improve in this area, the regulator should not be required to submit proposals to the government on regulations that it is empowered to issue.

The energy regulator has a narrow scope of action relative to the OECD average. In particular, it does not exercise a function that is common among its peers: enforcing compliance with regulatory commitments.

Rail transport

The rail regulator shows room for improvement in the area of accountability, as it does not publish its draft decisions and does not collect feedback from stakeholders. This is important to gather information to support the regulator’s activities and to ensure transparency towards stakeholders and the public. In addition, the transport regulator does not publish any information that reflects the performance of its operations, such as the number of inspections performed, the number of licences provided, or the proportion of its decisions that are upheld.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Bulgaria⁴⁰

The aim of this note is to provide an assessment of the likely impact that the Bulgarian National Recovery and Resilience Plan⁴¹ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁴². Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Bulgaria's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁴⁰ In January 2022, the OECD Council decided to open accession discussions with Bulgaria. Bulgaria has therefore been included in this publication because of its status as an EU Member State but also as an OECD accession candidate country. However this note was not prepared in the context of OECD accession and is separate from that process.

⁴¹ The assessment was based on the

- Recovery and Resilience Plan of Bulgaria, available in this [website](#).
- [Proposal for a COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Bulgaria.
- [ANNEX to the proposal for a Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Bulgaria.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁴² All information, indicator values and methodology related to the PMR indicators can be found in the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Bulgaria could have an impact on the PMR indicators. These are outlined in Table 1.

Table 6. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
C4.R8	<p><u>Liberalisation of the electricity market</u></p> <p>The objective of this reform is to complete the liberalisation of the electricity markets, including wholesale and retail markets, and includes three elements:</p> <ul style="list-style-type: none"> - The third element shall liberalise the electricity retail market by providing a progressive full retail price deregulation for households, in parallel with the full ability to switch supplier. The phasing out of regulated prices for household customers shall take place in two successive stages in 2023 and 2025, respectively covering a significant share of the household market. (Q3 / 2022) - The liberalisation of the wholesale electricity markets by 2022. This element shall be implemented through amendments to the Energy Act and to the secondary legislation, which shall terminate the public supplier role for the Natsionalna Elektricheska Kompania EAD (NEK) and abolish the quotas for the regulated market. It shall also forbid long-term contracts, such as power purchase agreements, or any similar measures having the same or equivalent object or effect with the exception of those for electricity from renewable sources or concluded on the power exchange. (Q4 / 2022) - The improvement of the electricity balancing market by ensuring that: (i) the balancing capacity shall be purchased on market terms; (ii) the price of balancing energy suppliers shall be published within 30 minutes after intraday market closure; (iii) a single balancing price shall be introduced for periods without balancing energy activation; (iv) a 15-minute imbalance settlement period shall be introduced; and (v) no price caps for balancing electricity shall be set. (Q4 / 2023) 	<p>This reform will affect the PMR scores of Bulgaria. In particular, the phasing out of the regulated prices in the retail market will improve the score in the <u>Electricity</u> PMR sector indicator from 1.23 to 1.08 and in the <u>Retail Price Controls and Regulations</u> PMR low-level indicator from 1.75 to 1.50.</p> <p>The liberalisation of wholesale electricity markets by the termination of the few remaining long-term electricity purchase agreements with regulated prices and the abolishment of quotas will not affect the PMR indicators. The PMR also does not cover measures related to the balancing market.</p>

C7.R1	<p><u>Develop and implement an effective policy and regulatory framework [for the e-communications sector]</u></p> <p>The reform shall improve the strategic, policy and regulatory framework through amendments in the Electronic Communications Act aimed at ensuring more effective, efficient and coordinated use of radio spectrum; development of the electronic communications market; maintaining conditions for effective competition; enabling the establishment and development of very high capacity networks, including 5G networks; improving the protection of citizens' interests and the rights of end-users, including persons with disabilities.</p> <p>(Q1 / 2021)</p>	<p>The reform may have an impact on the <u>E-communications</u> PMR sector indicator, but the Plan does not contain enough information to assess it. The country has already a good score in this sector: its regulatory set-up is close to international best practices as measured by the PMR indicators.</p>
C10.R2	<p><u>Increasing the effectiveness of anti-corruption.</u></p> <p>This includes one measure related to the PMR indicators.</p> <p>The reform shall include legislative measures to protect whistle-blowers and to regulate lobbying activities in the context of public decision-making.</p> <p>(Q3 / 2023)</p>	<p>The reform is likely to have an impact on the <u>Interaction with Interest Groups</u> PMR low-level indicator, because Bulgaria currently lacks legislation that regulates the interactions between interest groups and public officials. Introducing such legislation would improve the score in the indicator from 2.73 to 2.18.</p> <p>Moreover, if the proposed legislation required: i) all interest groups to register in a public registry with fines for non-compliance, ii) all public officials involved in regulatory processes to pro-actively make their agendas available to the public, iii) the information on all interest groups consulted in each regulatory to be made public, and iv) the names of the members of advisory bodies involved in regulatory processes to be disclosed, the score would further decrease from 2.18 to 0. However, There is not enough information in the Plan to evaluate whether these elements will be incorporated into the new legislation.</p>
C10.R7	<p><u>Improving the governance framework for state-owned enterprises (SOEs)</u></p> <p>The objective of this reform is to improve the governance of state-owned enterprises. To that end, the Council of Ministers shall adopt:</p> <ul style="list-style-type: none"> • A state ownership policy, which shall include the justification and the objectives for the participation of the state in state-owned enterprises (SOEs), as well as the role of the state in the management of SOEs and in the implementation of the policy; • Annual summary reports on the activities of state-owned public enterprises as of the year 2020; • A transformation program for statutory state-owned enterprises based on the analysis of the nature of their activities - primarily commercial or public functions; • A report assessing and confirming the compliance of the composition of boards of large state-owned enterprises with the selection procedures laid down by the Law on Public Enterprises. The implementation of the reform shall be completed by 30 June 2023. <p>(Q2 2023)</p>	<p>The reform is likely to have an impact on the <u>Governance of SOEs</u> low-level indicator, but the details in the Plan are not sufficient to quantify this impact.</p> <p>If the state ownership policy led to ownership rights in SOEs being centralised in a single specialised agency independent from the government, thus separating ownership and regulatory functions, Bulgaria's score in the indicator would decrease from 2.70 to 1.43.</p> <p>As regards to the nature of SOEs activities, if all SOEs that perform commercial activities alongside public service obligations were required to keep separate accounts for non-competitive and potentially competitive ones, the score would further decrease to 1.13.</p> <p>More generally, incorporating all SOEs into limited liability companies subject to private company law would further improve Bulgaria's score in the low-level indicator from 1.13 to 0.60.</p>

C10.R10	<p>Public procurement</p> <p>The objective of this reform is to improve transparency and increase competition in the public procurement process.</p> <p>With respect to the use of negotiated public procurement procedures without prior publication (“no call bids”) and contracting with single bids, legislative amendments shall ensure regular reporting, increased controls by relevant agencies, and effective and dissuasive sanctions in case of violations of the rules. In addition, ex-ante checks on public procurement in relation to Union funds shall be increased and new standard e-forms for public procurement shall be introduced. For contracts with amounts above the thresholds in the EU public procurement directives, the e-forms shall be based on the EU standard e-forms for public procurement.</p> <p>Furthermore, legislative amendments shall aim to reduce “in-house” procurement procedures by introducing a ban on re-assigning tasks to sub-contractors, transparency requirements and effective and dissuasive sanctions in case of non-compliance with such requirements.</p> <p>(Q4 / 2022)</p>	<p>The reform would improve Bulgaria's performance in the <u>Public Procurement</u> low-level indicator, but only if as a result of introducing new standard e-forms for public procurement, bidders in tenders for the procurement of goods, services and public works could submit their bids online. In such a case the score would decrease from 2.06 to 1.50.</p> <p>The measures aiming at the reduction of contracts awarded without calls for tenders, the limiting of in-house procurement and the strengthening of ex-ante control mechanisms will not have an impact on the PMR scores. The two latter aspects are not covered by the indicators and the use of tenders as a standard procedure is already captured in the PMR indicators.</p> <p>The other measure that could improve Bulgaria's regulatory set-up in this area would be to require contracting authorities to gather information (e.g. availability, prices, number and nature of suppliers) on the goods, services and public works it plans to procure before designing the tender and deciding on the procurement strategy. This would lead the score to 0. However, the reform described in the Plan does not include such a measure.</p>
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2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations⁴³ made the following general observations on Bulgaria's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 7. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Governance of SOEs</p> <p>State-owned enterprises suffer from weak corporate governance, which is also largely reflected in their economic performance. A reform of the legal framework for the corporate governance of state-owned enterprises is under way in cooperation with the Organisation for Economic Co-operation and Development (OECD) and with the support of the European Commission's Structural Reform Support Service. The reform aims to address the current weaknesses by aligning the national legislation with the OECD's corporate governance guidelines for state-owned enterprises. The adoption and effective implementation of the framework will ensure the continuity and will be critical for the success of the reform.</p>	<p>There is only one reform in the Plan related to the governance of SOEs that <i>may improve the PMR score</i>:</p> <p>C10.R7. Improving the governance framework for state-owned enterprises (SOEs)</p> <p>This reform has already been discussed in Table 1.</p>

⁴³ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Bulgaria and delivering a Council opinion on the 2019 Stability Programme of Bulgaria, COM(2019) 502 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Bulgaria and delivering a Council opinion on the 2020 Stability Programme of Bulgaria, COM(2020) 502 final.

<p>Public Procurement</p> <p>Moreover, while the vast majority of measures included in the national procurement strategy have been adopted, their implementation requires continuous monitoring, control and assessment. The frequent use of direct awards and the high number of single bids represent a threat to the system's transparency and effectiveness. The public procurement sector's administrative capacity is an ongoing challenge, as are also the professionalization of public buyers and aggregated purchases. The significant delay in the uptake of electronic procurement is preventing further improvement in the transparency and efficiency of public procurement processes.</p>	<p>There is only one reform in the Plan related to public procurement that <i>may improve the PMR score</i>:</p> <p style="text-align: center;">C10.R10. Public procurement</p> <p>This reform has already been discussed in Table 1.</p>
<p>Admin. Burdens:</p> <p>Bulgaria is therefore lagging behind in the provision of e-services, and their uptake by citizens and businesses should be encouraged.</p> <p>[...]</p> <p>A reduction of the administrative burden would improve the business environment and promote investment, positively affecting the speed of the recovery.</p> <p>[...]</p> <p>Minimise administrative burden to companies by improving the effectiveness of public administration and reinforcing digital government.</p>	<p>The Plan contains numerous reforms aiming at reducing the administrative burdens faced by firms in specific sectors (e-communications, energy, construction). <i>However, none of these measures will have an impact on the PMR score.</i></p> <p>The PMR indicators focus on i) the administrative requirements to set up new businesses, ii) the existence of initiatives to simplify licensing procedures, such as one-stop shops and the 'silence is consent' rule, as well as programs to reduce the number of licenses, but only when these measures apply to all sectors.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage⁴⁴ can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Bulgaria.

In the rest of this section, the following set of indicators:

- i) Administrative Burden on Start-ups
- ii) Professional services;

3.1. Administrative Burden on Start-ups

Figure 1 shows Bulgaria's values in the area of Administrative Burden on Start-ups. This includes two low-level indicators⁴⁵: i) Administrative Requirements for Limited Liability Companies and Personally Owned

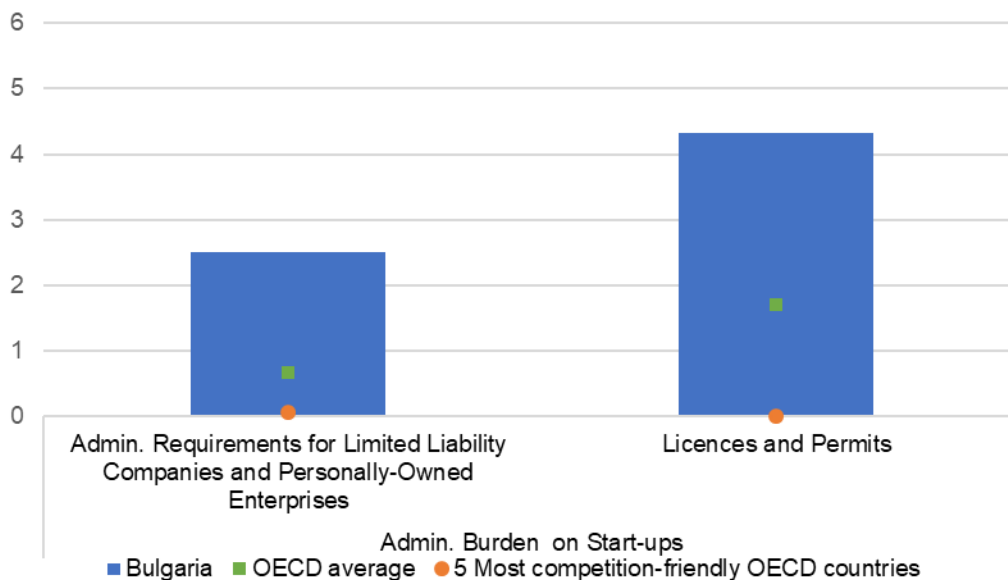
⁴⁴ The latest PMR values available for Bulgaria refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

⁴⁵ It is worth noting that the Bulgarian Plan includes the approval of the Industrial Parks Act (2.A. Reform 4), which grants municipal councils the power to reduce the administrative burden and the costs related to activities carried out on these parks. Although this will contribute to business dynamism, it is unlikely to affect Bulgaria's score in these low-level indicators since: i) they focus mostly on administrative burdens related to the setting-up of new firms, not to the operations of existing ones; ii) they only capture regulatory changes affecting the whole country, not those benefitting a localised area.

Enterprises, and ii) Licences and Permits, which measures the existence of initiatives to simplify licensing procedures and of programs to review and reduce the number of licences. Bulgaria's regulatory set-up in these two areas is very far from the OECD average.

Figure 12. Low – level PMR indicators included in Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Bulgaria, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

Currently in Bulgaria only some procedures to set up a firm, such as registering the name and the domicile of the company, can be carried out through a single online portal. However, many others, such as seeking approval from local authorities, notifying the National Statistical Office and notifying tax authorities, can only be undertaken by contacting each relevant institution separately. Moreover, the number of procedures required to open a business are substantially larger than in most other OECD countries. In addition, the procedures to set up a firm are costly relative to most OECD countries. Addressing these issues would reduce the burden imposed on entrepreneurs and would decrease Bulgaria's score in the Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises.

Regarding the low-level indicator on Licences and Permits, Bulgaria's national government does not keep a complete count of the number of permits and licences required to operate a business. This undermines the ability of the government to assess the burden faced by firms and to design effective programmes to reduce it. Indeed, Bulgaria has not implemented any programme to reduce the number of licenses and permits required at the sub-national level. The country could also streamline the licensing process by introducing a one-stop shop that issued all licences and permits to open a business, as well as by adopting a "silent is consent" rule. These two measures would reduce the time required to start a business and introduce clarity and certainty in the licensing process. If Bulgaria addressed these regulatory weaknesses, its score in this low-level indicator would decrease **from 4.33 to 0**.

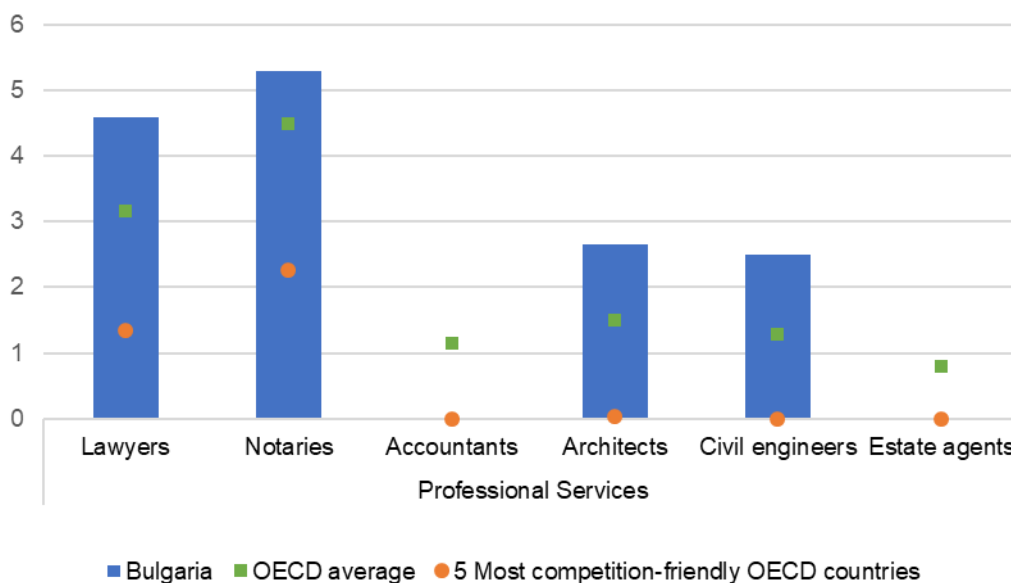
3.2. Professional Services

Figure 2 below shows the scores of the PMR sector indicators on professional services, together with the OECD average and the average of the five best performing countries.

The professions of Accountants and Real Estate Agents are not regulated in Bulgaria, but the country could improve the regulatory framework for Lawyers, Notaries, Architects and Civil engineers, where Bulgaria has scores above the OECD average.

Figure 13. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



*When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

*In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Bulgaria, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database.

Lawyers face high barriers to enter the profession. In particular, there is only one pathway to acquire the qualifications necessary to access it and this requires passing an examination administered by the relevant professional organization. Moreover, membership in a professional organization is compulsory to legally practice. In addition, only lawyers from other EU countries can be admitted to the profession in Bulgaria, and only after practicing for three years within Bulgaria or after passing an exam.

There are also regulatory constraints on the conduct of these professionals that limit their ability to compete. The fees for all their activities are set by regulation, and lawyers cannot advertise their services. Moreover, only lawyers and other law firms can have ownership or voting rights in law firms. Lastly, lawyers cannot set up a practice with other professionals and law firms cannot have limited liability. These

restrictions limit the sources of funding on which these firms can rely, reduce the range of managerial skills law firms can access, and may hamper the emergence of innovative business models.

In civil law countries, Notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies special regulation. However, even when one considers their special status, there is scope to reduce regulatory constraints in Bulgaria. In particular, notaries are subject to territorial restrictions to their ability practices, there are quantitative restrictions on the number of professionals and the fees for their activities are fixed.

There are also barriers to access the Architect and Civil Engineer professions. In particular, only architects and civil engineers from the European Economic Area (EEA) or Switzerland can practice in Bulgaria. In addition, membership in a professional organisation is compulsory. Unlike many other OECD countries, there are also regulatory constraints on the conduct of both professionals. First, the fees for all their activities are fixed. Moreover, only architects and other architectural firms can have more than 50% of ownership rights in architectural firms.

Empirical research has shown that reducing regulatory barriers in these professional services can foster entry and bring about greater competition on quality and prices.⁴⁶

Table 3 shows the impact that adopting measures to address the above mentioned barriers would have on the PMR sector indicators for these 4 professions.

Table 3. Impact of removing major restrictions on PMR sector indicators for professional services

	2018 original value	NEW value after suggested reforms ⁴⁷
Lawyers	4.59	0.75
Notaries	5.29	4.05
Architects	2.75	1
Civil Engineers	2.50	0.85

⁴⁶ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering, and architectural services (see: Paterson, I., et al (2007), "[Economic Impact of Regulation in the Field of Liberal Professions in Different Member States](#)", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 201.

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission (2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)").

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)").

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

⁴⁷ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Bulgaria is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity:** (e.g. C4.I4: 'Digital transformation of the electricity transmission grid'; C4.I7 Investment 7: 'Support for new capacities for electricity generation from renewable sources and electricity storage'; C4.I8: 'National infrastructure for storage of electricity from renewables (RESTORE)').
- **Rail Transport:** (e.g. C8.I1: 'Railway rolling stock', aiming at the purchase of zero-emission trains; C8.I2: 'European Train Control System on-board equipment'; C8.I3 'Digitalisation in railways transport and ERTMS', aiming at improving the quality of rail transport services by monitoring operational parameters and increasing the reliability, security and safety of railways; C8.I4 'Intermodal terminal in Ruse').
- **Road Transport:** (e.g. C8.I5 'Road safety', including the establishment of a national electronic system for the reporting and processing of road infrastructure safety related signals).
- **E-communications:** (e.g. C7.I1 'Large-scale deployment of digital infrastructure', aiming at building symmetric gigabit access networks throughout the country').
- **Water:** (e.g. C9.I1 : 'The program for construction / completion / reconstruction on water supply and sewerage systems, incl. and wastewater treatment plants for agglomerations between 2,000 and 10,000 pe.; C9.I2: 'Digitization for integrated water management, control and efficient use').

According to a recent study by the OECD (Demmou and Franco, 2020),⁴⁸ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Bulgaria's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

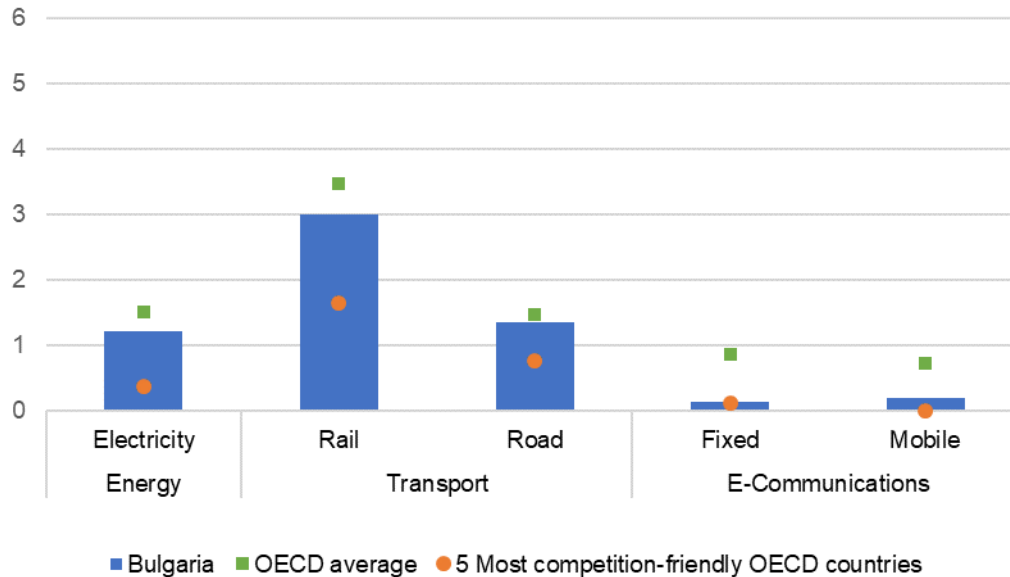
4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Bulgaria performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

⁴⁸ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 14. PMR sector indicators for Electricity, Natural Gas, Rail Transport, Road Transport and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Bulgaria, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity sector**, Bulgaria already scores below the OECD average. The Plan envisages the elimination of regulated retail prices for domestic and small non-domestic consumers (see Table 1, 2.B.1 Reform 7). This will reduce Bulgaria's score **from 1.23 to 1.08**. Bulgaria could further improve its regulatory set-up if all consumers were allowed to sell demand response to a third party, which is now only possible for large non-domestic consumers. The remaining score is due to the fact that the state controls the largest electricity generator (*NPP Kozloduy EAD*) and the National Electricity Company (*NEK EAD*).
- Bulgaria scores below the OECD average in the **rail transport sector**. The score is mostly driven by the government controlling the largest firms in the rail passenger (*BDZ – Passenger Services Ltd.*) and freight (*BDZ – Freight Services Ltd.*) transport segments.
- The regulatory set-up in the **road transport sector** is in line with the OECD average, but it could further improve if Bulgaria introduced a leaner notification regime for the establishment of freight and passenger transport businesses instead of the existing more burdensome licensing regime. Moreover, firms providing passenger transport services by coach should not require government's approval to enter new routes.
- Bulgaria's regulatory set-up in the **E-communications sector** is in line with international best practices as measured by the PMR indicators.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators⁴⁹ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

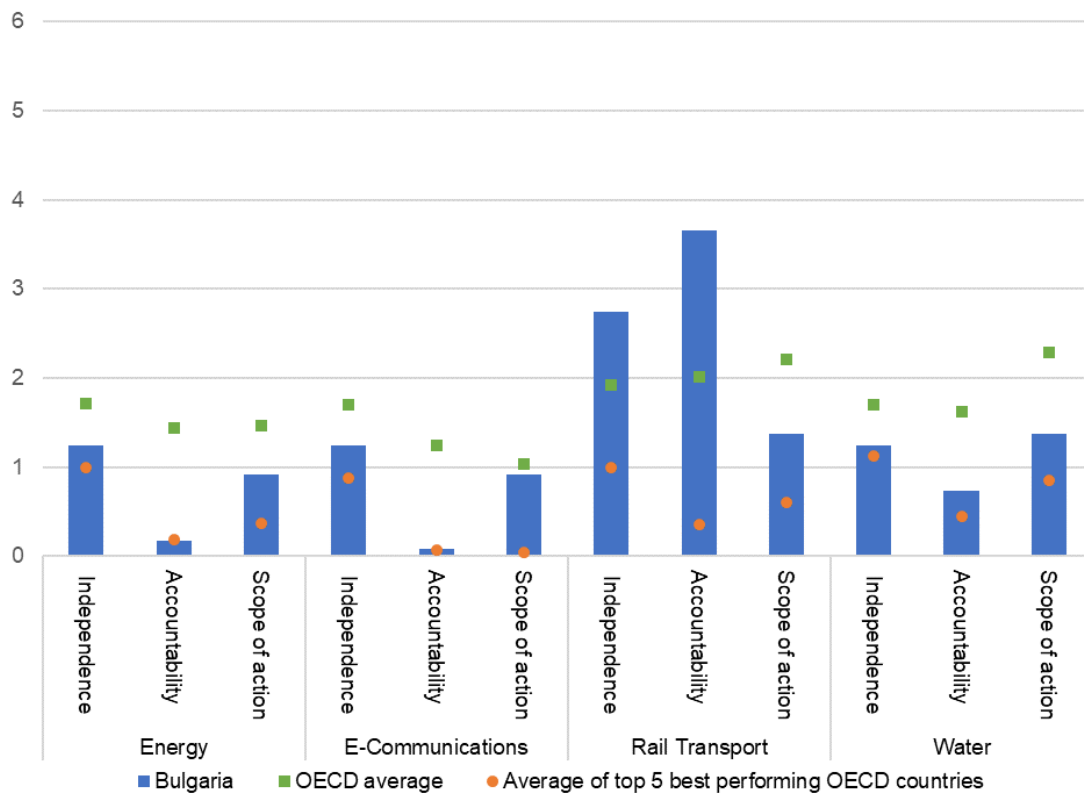
A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows Bulgaria's 2018 scores in the indicators on the Governance of Sector Regulators alongside the OECD average and the average of the 5 best performing OECD countries.

Bulgaria has significant room for improvement in the independence and accountability of the Rail Transport regulator, where it scores above the OECD average. However, the governance arrangements of the other regulators are in line, or close to, the best performing OECD countries.

⁴⁹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 15. Indicators of Governance of Sector Regulators for Energy, E-communications, Rail Transport and Water



Note: Not all OECD countries have sector regulators in all the sectors examined. In the energy sector, the averages include all OECD countries. In the e-communication sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. In the water sector, the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxemburg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, and Türkiye. Information refers to laws and regulation in force on 1 January 2018, except for Bulgaria, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Rail Transport

The rail_regulator could benefit if the country introduced arrangements to better ensure the independence of the board members. First, national legislation could define the skills necessary to be appointed as head or board member of the regulator, as well as impose restrictions on their employment history. Moreover, an independent panel could participate in the selection processes and the parliament could be involved in their final appointment instead of just the government. Moreover, the circumstances under which board members can be dismissed are not defined, and the power to take such a decision currently lies with the government alone, which can enable politically-motivated dismissals.

The score reflects fewer governance arrangements to promote accountability compared to most OECD rail regulators. Several governance arrangements could be introduced to address this. There may be room for the regulator to strengthen its accountability to parliament by, for example, being required to answer requests from or to attend hearings organised by parliamentary committees. To improve the quality of the regulatory process, the regulator could also be required to publish its draft decisions, collect feedback from stakeholders, and respond to them, as well as to publish a forward-looking action plan. Furthermore, the regulator should not need approval by the government to submit proposals for new regulation that it is empowered to issue.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Croatia⁵⁰

The aim of this note is to provide an assessment of the likely impact that the Croatian National Recovery and Resilience Plan⁵¹ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁵². Given that limited reform measures in the Plan may have an impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Croatia's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁵⁰ In January 2022, the OECD Council decided to open accession discussions with Croatia. Croatia has therefore been included in this publication because of its status as an EU Member State but also as an OECD accession candidate country. However this note was not prepared in the context of OECD accession and is separate from that process.

⁵¹ The assessment was based on the

- Recovery and Resilience Plan of Croatia, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Austria.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Austria.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁵² All information, indicator values and methodology related to the PMR indicators can be found at the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Several reforms in the Plan submitted by Croatia could have an impact on the PMR. These are outlined in Table 1.

Table 8. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicators (Index scale 0 to 6 from most to least competition-friendly)
Reform C.1.2.R1	<p>Decarbonisation of the energy sector</p> <p>(i) Legislative amendments to the Electricity Market Act and High-Efficiency Cogeneration Act to remove barriers and administrative procedures restraining the uptake of renewable energy sources. (2022 Q4)</p> <p>(ii) Legislative amendments to the Act on State Assets to complete the unbundling of the transmission activities in the gas market. Amendments shall separate the supervision of the state-owned gas transmission system operator (TSO) from state-owned supply and production activities, to ensure the certification of the gas TSO Plinacro. (2023 Q4)</p>	<p>The two measures under Reform C.1.2.R1 will contribute to foster competition in the energy market in Croatia, but they will not affect the country's scores in relevant PMR indicators (the <u>Energy</u> sector indicator and the <u>Barriers in Network Sectors</u> low-level indicator). The reason is that the PMR indicators do not consider administrative barriers to the take-up of renewables and they already considers that the gas transmission system operator is legally separated from the companies operating in the gas production and retail supply markets, hence further improvements cannot be captured.</p>
Reform C2.3.R4	<p>Strengthening connectivity as a cornerstone of the digital transition of society and the economy</p> <p>The reform aims to ensure the timely and comprehensive implementation of the regulatory and strategic framework in the area of electronic communications, through the adoption of the Electronic Communications Act, consistently with the provisions of Directive (EU) 2018/1972 establishing the European Electronic Communications Code, and the implementation of the objectives of the National Broadband Plan in Croatia for the period 2021-2027.</p> <p>The reform is expected to identify and address administrative burden and regulatory barriers related to the construction of gigabit connectivity networks, including 5G networks. (2026 Q2)</p>	<p>The Plan does not include specific details about this reform, hence it is difficult to determine whether it may affect Croatia's score in the PMR sector indicator on <u>E-communications</u>. The regulatory framework in this sector, as captured by the PMR indicators, is already mostly in line with the international best practice. The only measure that could further improve the regulatory environment, as captured by the PMR indicators, would be to phase out retail price regulation of fixed line services⁵³. This would improve Croatia's score on the <u>E-communications</u> sector indicator (from 0.69 to 0.09), and it would also decrease Croatia's score on the <u>Retail Price controls and Regulation</u> low-level indicator from (1.20 to 0.87).</p> <p>The measures related to investments in infrastructures would not affect Croatia's scores in the PMR indicators, as they are not captured.</p>
Reform C1.4 R2	<p>Reform of the railway sector</p> <p>To increase the competitiveness and efficiency of the rail sector in order to provide better services to passenger and freight customers and increase Croatia's economic competitiveness. The Croatian Government shall adopt a Sectoral Policy Letter for the Railway Sector by 30 June 2021⁵⁴, including detailed measures and actions as regards:</p> <ul style="list-style-type: none"> - The governance of the sector; - The management of railway companies and operations; - Sectoral investment and financing planning; - Development of knowledge, technologies and skills in the railway sector. <p>(2025 Q4)</p>	<p>The reform is unlikely to have an impact on the PMR indicators, because they do not include any of the areas listed in it (at least as far as we can determine from the limited information available in the Plan). Section 4.1 discuss more in details Croatia's regulatory set-up in this sector and what could be changed to improve the country's PMR scores.</p>

⁵³ The retail prices of fixed line services can be considered regulated, given that the incumbent's (Hrvatski Telekom d.d.) retail prices require approval from the regulator.

⁵⁴ Based on the information available, the Sectoral Policy Letter was adopted in July 2021

Reform C1.4 R3	<p>Maritime and inland navigation reform</p> <p>(i) The new Regular and Seasonal Coastal Maritime Transport Act shall simplify the current administrative procedures and create better preconditions for a more efficient operation of public coastal maritime transport, by regulating the provisions relating to the activity of the Agency for Regular Coastal Maritime Transport, in particular in the section on the licensing of state routes, as well as the better use and control of public transport IT systems (SEOP system). (2021 Q3)</p> <p>(ii) The new Inland Navigation and Ports Act shall allow for, where necessary to ensure safety of navigation, the identification of specific risks in (parts of) Croatia's inland waterway sectors. (2021 Q3)</p> <p>(iii) The new Maritime Domain and Seaports Act shall reorganise the structure of the port system open to public traffic, which aims to ensure uniformity in the implementation of the legal obligations to operate public ports and rationalise management costs. (2022 Q4)</p>	<p>The reform aims to improve the regulatory environment in the water transport sector. However, the details included in the Plan are insufficient to establish with certainty whether these measures would have an impact on the PMR indicators: More specifically:</p> <p>Measure (i) is directed at the licensing regime. It would only have an impact on the PMR indicators if it replaced the current licensing regime with a notification regime.</p> <p>Measure (ii) involves safety measures in inland navigation, which do not affect the PMR indicators because this specific area is not included.</p> <p>Measure (iii) is related to the management and operation of ports. This may have an impact on the <u>Transport by water</u> sector indicator and the <u>Barriers in Network Sectors</u> low-level indicator if it led to vertical separation between port authorities and operators of terminal facilities offering commercial services. However, it can be noted that Croatia already requires legal separation, so further improvement in this area could only be obtained if ownership separation was imposed.</p>
Reform C1.3 R1	<p>Implementation of the water management programme</p> <p>The objective is to address the fragmentation of public water providers in Croatia. It aims to consolidate and reduce the number of water providers, in order to improve their efficiency and governance. This reform shall introduce a benchmarking system for monitoring and reporting the operational and financial performance of water service suppliers and contribute to improving the long-term sustainability of infrastructure investments.</p> <p>This reform shall be implemented through the entry into force of amendments to four bylaws (Amendments to the legal framework in the water sector) (2023 Q4)</p>	<p>The reform wants to improve the efficiency of the water sector.</p> <p>Only the introduction of 'a benchmarking system for monitoring and reporting the operational and financial performance of water service suppliers' could improve the <u>Command and Control Regulation</u> PMR low-level indicator if led to the publication of this data, so to enhance yardstick competition (the score would go from 1.34 to 1.25). The other elements of this reform are unlikely to affect the PMR indicators because they do not relate to areas included in them.</p>
Reform C1.1.1 R2	<p>Continuing the reform of regulated professions</p> <p>The reform shall include the simplification or total removal of at least 50 regulatory requirements for professional services, based on the implementation of the second and third Action Plans on liberalisation of services markets, including the professions of lawyers, notaries, tax advisors, auditors, pharmacists and pharmacies, physiotherapists, architects, engineers and tourist guides. The reform shall take into account the recommendations of the World Bank concerning</p> <ul style="list-style-type: none"> - Registration and membership costs of professional chambers; - Fragmented exclusive rights in individual professions (e.g. architects and engineers); - Provision of the post-graduate professional exam (e.g. architects and engineers); - Restrictions on tax advisors on ownership and management interests or voting rights. <p>(2024 Q4)</p>	<p>The proposed reform aims to enhance the regulatory environment for regulated professions. Yet, the exact details of the reform are not sufficient to quantify its effects on the PMR indicators.</p> <p>It is worth mentioning that Croatia already implemented some reforms in this sector since the 2018 PMR indicators were calculated.⁵⁵ For instance, Croatia adopted the automatic recognition of professional qualifications for architects from other countries in the European Economic Area and lifted exclusive or shared exclusive rights to provide certain activities for these professionals. Croatia also adopted a law in November 2021 that eases access to the provision of legal services in the country by EU professionals and reforms the regulation of ownership and voting rights in law firms. All these reforms contribute to fostering entry and competition in professional services, but there is still room for improvements.</p>

⁵⁵ You can see a more detailed account on this reforms [here](#).

Investment C1.1.1 R1-I1	<p><u>Digitalisation of government and public administration services provided to the business sector (G2B)</u></p> <p>With the objective to improve the accessibility, transparency and efficiency of public services provided to businesses, the investment – among others – include the updating and expanding with new functionalities the existing digital platform called START for the setting up of limited liability corporations and allowing users to register new corporations online. A digital licensing platform (START Plus) shall also be established to increase the transparency of market entry conditions as well as the transparency of business regulations. (2024 Q4)</p>	<p>This measure concerns the simplification of the administrative steps required to set up new firms. If, as result, all the authorizations required to open up a business could be obtained on the START Plus platform, this would improve Croatia's score in the <u>Licenses and permits</u> low-level indicator (from 1.00 to 0.00).</p> <p>The measure may also have an impact on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator, if it involved the reduction of the number of procedures necessary to establish a new firm. This cannot be determined from the information contained in the Plan.</p>
Reform C2.1. R1	<p><u>Amendments to the Act on Regulatory Impact Assessment (RIA)</u></p> <p>This reform shall simplify ex-post RIA processes, including methodology and procedures, based on the Technical Support Instrument recommendations of the project related to the ex-post regulatory impact assessment. The amendments shall also include changes to the job descriptions and competences of civil servants related to the impact assessment with a view to the professionalization of the coordination, drafting and monitoring of the effects of regulation in the public administration. (2023 Q4)</p> <p>The reform also involves investments related to the digitalisation of the regulatory impact assessment procedures and the training of officers linked to the implementation of regulatory impacts assessment.</p>	<p>The proposal to simplify the ex-post reviews of existing regulations would not have an effect on Croatia's score in the <u>Complexity of Regulatory Procedures</u> low-level indicator, as this indicator only captures whether such ex-post assessments are undertaken.</p> <p>Section 3.1. discusses further reforms that Croatia could introduce to improve the assessment on the impact that regulations can have on competition.</p>
Component C2.4	<p><u>Reforms related to State Owned Enterprises (SOEs)</u></p> <p>The objective of the component is to promote economic development and increase the overall efficiency of SOEs.</p> <p>The component includes the following reform proposals</p> <ul style="list-style-type: none"> - Reform C2.4 R1 – Revising the list of state-owned enterprises of particular interest to Croatia (2021 Q4) - Reform C2.4 R2 – Improving corporate governance in state-owned enterprises. (Adoption of a new single law on State owned enterprises to implement the recommendations of the OECD, notably: (i) harmonise the regulatory framework for the corporate governance of SOEs; (ii) establish a central coordination unit on the implementation of ownership policy in the medium term; and (iii) strengthening the SOEs board's autonomy and independence (2024 Q1) - Reform C2.4 R4 – Continuing reducing the number of state-owned enterprises which are not of particular interest to Croatia (2026 Q2) - Reform C2.4 R5 – Optimisation of State-owned property management (to increase the commercialisation and streamlining of, and returns from, state-owned property by developing an administrative IT system for the management of state-owned property portfolio. (2026 Q2) - Reform: C2.6.R3: Improving corporate governance in majority-owned companies of local and regional government units. (2026 Q2) 	<p>The Plan contains several reform proposals that aim at rationalising the ownership of SOEs and to improve their governance. All these reforms are expected to improve the regulatory environment in Croatia, but the details of the reforms in the Plan are not adequate to quantify the impact of these measures on specific low-level and sector indicators of the PMR.</p> <p>The reforms that plan to align Croatian corporate governance with the OECD Recommendations on SOEs can clearly improve Croatia's performance in the <u>Governance of SOEs</u> low-level indicator, though without more details, the impact cannot be quantified. If strengthening the autonomy of SOEs' boards implies that the CEO will be appointed by the boards without the intervention of public authorities, then Croatia's score in the low-level indicator would improve from 1.65 to 1.35. The score would further improve to 1.05 if all SOEs were incorporated into limited liability companies and subject to private company law.</p>

Investment C2.3.R3-I9	Establishing a new platform for the Electronic Public Procurement Bulletin of the Republic of Croatia The objective of this investment is to establish a new IT platform for the e-procurement system, with the view to support the digitisation of the public procurement process and to implement the new standard forms for the publication of notices in the field of public procurement laid down in the Commission Implementing Regulation (EU) 2019/1780 (e-forms). (2023 Q4)	All three measures are expected to improve the public procurement system in Croatia. However, neither measure would have an impact on Croatia's score on the <u>Public Procurement</u> PMR low-level indicator. In this area, Croatia already performs in line with international best practices as captured by the PMR indicators.
Reform C2.9.R2	Strengthening the review system in public procurement The reform includes changes to the legislative framework for public procurement to introduce the e-Appeal as a mandatory tool in the public procurement system and to reduce the average time limits for dealing with appeals. (2026 Q2)	
Reform C2.9.R3	Innovative Procurement The objective of the reform is to encourage the use of innovative public procurement products and services, which shall contribute to greater transparency in the public procurement processes, attract more private stakeholders and finally create a fairer and more competitive public procurement system in Croatia. (2025 Q4)	

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations⁵⁶ made the following observations on Croatia's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 9. Country specific recommendations by the EU Council and their inclusion in the Plan⁵⁷

PMR-related observations in the recommendation	Implementation in the Plan
State-Owned Enterprises (SOEs): The combination of SOEs' heavy presence in many sectors and their low profitability and weak productivity continue to weigh on the economy. In 2018, the list of companies of special interest was further reduced and more companies are now formally eligible for sale, but there is no clear privatisation strategy in place. The authorities' efforts appear to focus on disposing of the large remaining stock of minority shares and activating non-productive assets.	All the measures under component 2.4. (Improving The Management Of State Assets) are related to the privatisation and the governance of SOEs. The relevant measures have already been mentioned in Table 1, as <i>they may affect Croatia's PMR indicators</i> : Reform C2.4 R1 – Revising the list of state-owned enterprises of particular interest to Croatia Reform C2.4 R2 – Improving corporate governance in state-owned enterprises.

⁵⁶ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Croatia and delivering a Council opinion on the 2019 Convergence Programme of Croatia, COM/2019/511 final,

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Croatia and delivering a Council opinion on the 2020 Convergence Programme of Croatia, COM/2020/511 final.

⁵⁷ It should be noted that many of the country specific recommendations by the Council incentivise infrastructure investments in the energy, rail, e-communications and water utilities sectors. These are not included here given that infrastructure investments are not captured by the PMR. However these Council recommendations have been addressed by Croatia in the Plan and are referred to under part 4. of this note.

<p>The EU Council therefore recommends to improve corporate governance in state-owned enterprises and intensify the sale of such enterprises and non-productive assets.</p>	<p>Reform C2.4 R4 – Continuing reducing the number of state-owned enterprises which are not of particular interest to Croatia</p> <p>Reform C2.4 R5 – Optimisation of State-owned property management</p> <p>Reform: C2.6.R3: Improving corporate governance in majority-owned companies of local and regional government units.</p>
<p>Barriers for professions</p> <p>The high number of overly regulated professional services hampers competition. There has been progress in certain sectors, most notably taxi services, but excessive restrictions remain in place for many economically important professions.</p> <p>Ensuring smooth access to and exercise of professions, through streamlining their regulatory frameworks and related administrative procedures, is of crucial importance, especially for SMEs and micro enterprises, including sole practitioners.</p> <p>The EU Council therefore recommends to reduce the most burdensome services market regulations.</p>	<p>The following measure has been identified in the Plan to address the regulatory barriers for professional services</p> <p>Reform C1.1.1 R2 Continuing the reform of regulated professions</p> <p>This measure has already been mentioned in Table 1, as it <i>may affect Croatia's PMR indicators</i>.</p>
<p>Public Procurement</p> <p>The institutional set-up for public procurement requires strengthening to improve compliance and enable strategic procurement to achieve policy objectives and ensure efficient public spending.</p>	<p>There are several measures under Croatia's plan that concern the public procurement system. However, none of them will affect the PMR scores in the <u>Public Procurement</u> low-level indicator, since the country already scores in line with international best practices.</p>
<p>Administrative burden:</p> <p>The operation of businesses in general continues to be held back by the still significant regulatory and administrative burden, for example as regards permits.</p>	<p>There are several measures in the Plan to reduce administrative burden on businesses in Croatia.</p> <p>Only one measure is specifically aimed at simplifying the process of setting up new firms</p> <p>Investment C1.1.1 R1-I1 Digitalisation of government and public administration services provided to the business sector (G2B)</p> <p>This measure is the only one that could <i>affect Croatia's PMR indicators</i> and has already been discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan ⁵⁸

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Croatia.⁵⁹

⁵⁸ The latest PMR values available for Croatia refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

⁵⁹ All country fiches are available on the [PMR webpage](#)

In the rest of this section, the following indicators are assessed:

- i) Simplification and Evaluation of Regulations; and
- ii) Retail Sales of Medicines.

Below we provide some examples on how Croatia could make the regulatory framework in these areas more competition friendly.

3.1. Simplification and Evaluation of Regulations

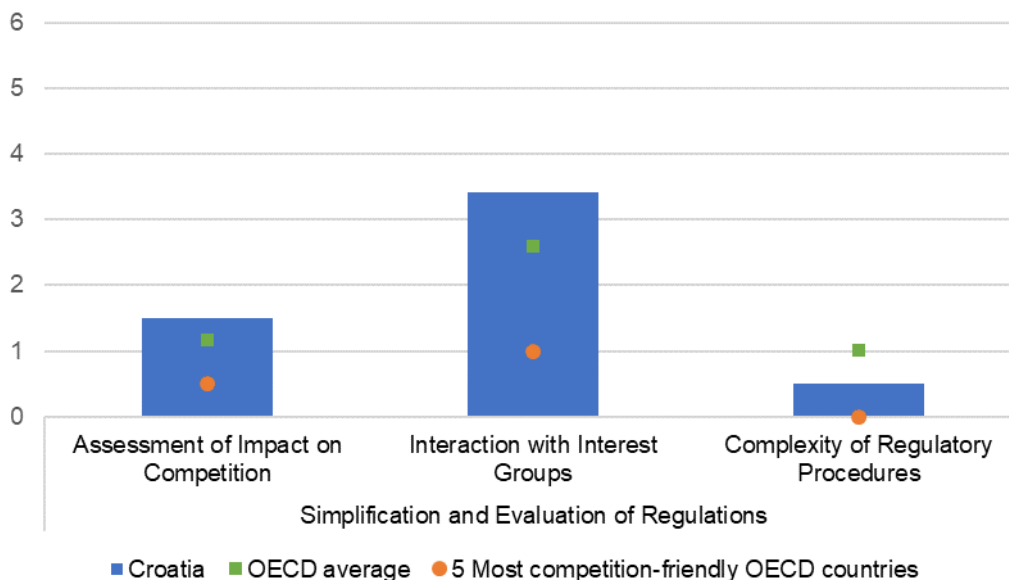
Figure 1 shows the mid-level indicator of Simplification and Evaluation of Regulations, which includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities; and.
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

Croatia scores close to the best performing countries in the latter low-level indicator, but above the OECD average in the other two.

Figure 16. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: The average includes only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Croatia, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The high score in the Interaction with interest groups low-level indicator is due to the lack of systematic rules that regulate the interactions between policymakers and interest groups. The country should introduce such legislation. In addition, all interest groups involved in regulatory processes should be required to register in a public registry, and the identity of the interest groups that were consulted in each regulatory process and of the permanent advisory bodies involved in regulatory processes should be disclosed. The country could also make it compulsory for public officials to make their agenda publicly available and for non-elected senior civil servants to respect a cooling off period. Finally, it could introduce a mechanism for all stakeholders, including citizens, to provide feedbacks and suggestions on existing laws and regulations.

If Croatia addressed all these regulatory weaknesses, it would reduce the risk that lobbying activities could distort the regulatory process and it would foster the involvement of stakeholders. As a result, the country's score in the Interaction with interest groups low-level indicator would be considerably reduced (from 3.41 to 0.00).

The country would improve its score in the low-level indicator on the Assessment of Impact on Competition if it extended the obligation to carry out a Regulatory Impact Assessment (RIA) to new subordinate regulations, as currently this requirement is in place only for primary laws. This RIA should include an assessment on the impact of new subordinate regulations on competition.

Moreover, the government could be required to publicly respond to any recommendation that may arise from market studies⁶⁰ that identify barriers to competition due to existing regulations. The lack of this requirement reduces the effectiveness of this policy tool

If Croatia addressed this weakness, the country would improve the score in the Assessment of Impact on Competition would decrease from 1.50 to 0.

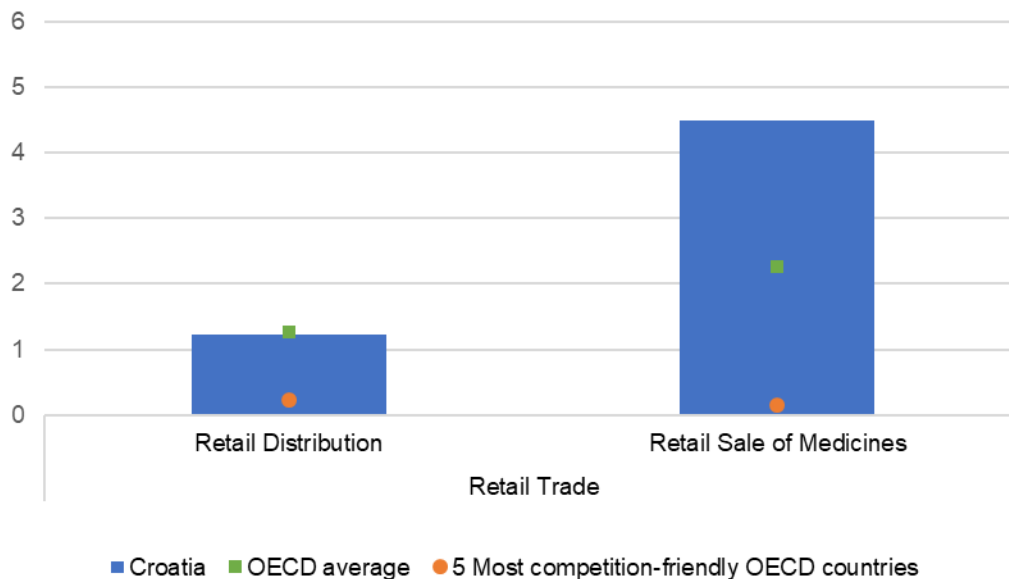
3.2. Retail Sales of Medicines

Figure 2 shows Croatia's scores in two sector indicators related to retail trade: Retail Distribution and Retail Sales of Medicines. Although Croatia's score is in line with the OECD average in the former indicator, the regulatory set-up in the retail sales of medicines is less competition-friendly than in most OECD countries, and very far from international best practices.

⁶⁰ Market/sectoral studies are examinations into particular markets/sectors to assess how effective competition is and whether there are obstacles to competition that could be removed.

Figure 17. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Croatia, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The country imposes restrictions on the minimum distance between two pharmacies, on the number of pharmacies that can be located in the same geographic area, and on pharmacy ownership (only pharmacists can own a pharmacy, and a single owner can own no more than one pharmacy). There is evidence that removing geographic and demographic restrictions for opening new pharmacies can have a positive impact on competition.⁶¹ Moreover, pharmacies are not free to set their opening and closing hours.

Lifting these restrictions would improve the score the PMR sector indicator on the Retail Sales of Medicines from 4.50 to 0.75⁶².

⁶¹ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2021) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research, (2012); Davud Rostam-Afschar, Maximiliane Unsorg: "[Entry regulation and competition evidence from retail and labor markets of pharmacists](#)", University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): "[Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#)". See also the papers discussed at the 2014 [OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

⁶² Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Croatia is proposing to invest in the following sectors, which are included in the PMR indicators:

- **Energy** (e.g. Investment C1.2.R1-I1 Revitalising, building and digitising the energy system and supporting infrastructure to decarbonise the energy sector: it includes (i) the upgrading 550km of high voltage network (220/110 kV) to enable 1500 MW of renewable energy supply (RES) capacity to be connected to the grid, (ii) upgrading submarine cables connecting six major islands to the mainland (Krk, Cres, Lošinj, Brač, Hvar and Korčula), (iii) modernisation of the distribution system, including purchase and deployment of 40 000 smart meters and the development of a “smart grid”, (iv) construction of new energy storage (20 MW)).
- **E-communications** (Investment C2.3.R4-I1: Implementation of projects for the Development of Broadband Infrastructure to reduce the digital divide in Croatia by increasing national broadband coverage with gigabit connectivity in areas where there is insufficient commercial interest - the investment is meant to include around 20 projects of local government units covering around 700 000 inhabitants and around 124 000 households; Investment C2.3.R4-I2: Construction of passive electronic communications infrastructure to increase the availability of Gigabit networks (providing 5G connectivity) in rural and sparsely populated areas – it includes the construction of passive electronic communications infrastructure, such as the construction of stand-alone antenna poles, provision of fibre or microwave transmission capacity to connect mobile electronic communications network to base stations.)
- **Rail transport** (Investment C1.4 R2-I1 – Reconstruction of the existing and construction of second track of railway section Dugo Selo - Novska, sub-section Kutina – Novska; Investment C1.4 R2-I2 – Modernisation of the railway line M604 Oštarije – Knin – Split; Investment C1.4 R2-I3 – Removing “bottlenecks” on railway infrastructure (i.e. construction, reconstruction and renovation of bridges, viaducts, culverts and cuttings on Croatia’s railway network.); Investment C1.4 R2-I4 – Modernisation of Zagreb Kustošija – Zagreb ZK – Zagreb GK; Investment C1.4 R2-I6 – Use of green technologies in rail passenger transport).
- **Air Transport** (Investment C1.4 R5-I1 – Electrification and greening of the ground handling and power supply system at the Zadar airport).
- **Water transport** (Investment C1.4 R3-I1 – Modernisation programme for ports open to public traffic (e.g. new passenger terminal of the City Port of Split and the upgrading of the Port of Bol - Brač); Investment C1.4 R3-I4 – Equipping ports and harbours with waste management infrastructure; Investment C1.4 R3-I2 – Procurement/construction of passenger ships used for regular coastal transport; Investment C1.4 R3-I3 – Construction of new cable ferry ‘Križnica’, Municipality of Pitomača).
- **Water** (Investment C.1.3 R1-I1 – Public sewage development programme to renovate and rehabilitate 775km of public sewerage networks; to construct and put into operation 12 wastewater treatment plants to ensure access to appropriate wastewater treatment for an additional 12% of the population; Investment C.1.3 R1-I2 – Public water supply development programme to renovate and rehabilitate 956 km of public water supply networks in Croatia (in order to improve provision of drinking water and reduce water losses) and to equip 526 water abstraction sites with the necessary equipment to ensure the tracking and rational use of water resources.)

According to a recent study by the OECD (Demmou and Franco, 2020),⁶³ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger

⁶³ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

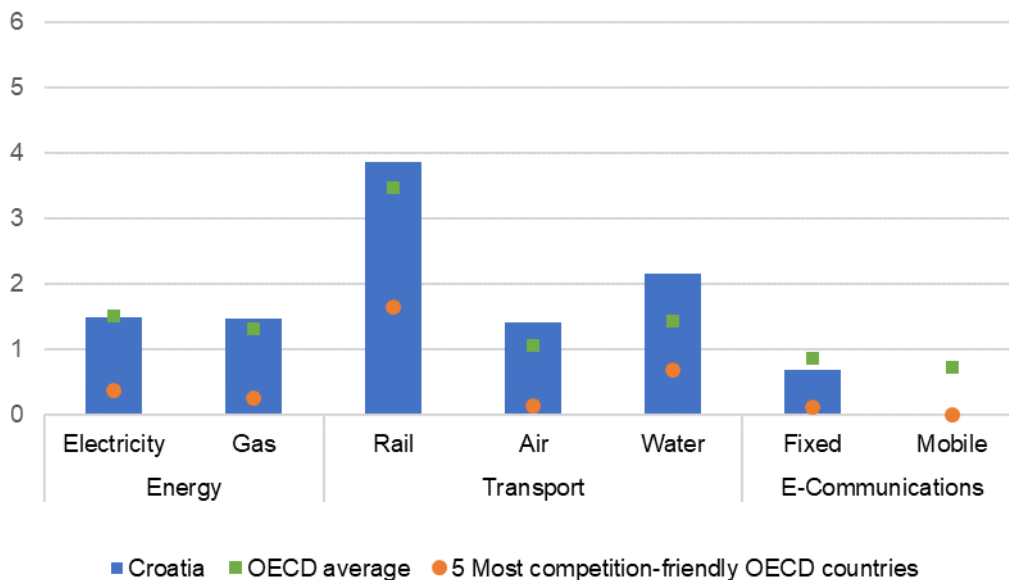
Since Croatia's Plan includes infrastructure investments in numerous network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements to the regulatory environment could be made.

4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Croatia performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 18. PMR sector indicators for Energy, Rail, Air and Water Transport, and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Croatia, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **energy** sector, Croatia's regulatory framework is in line with the OECD average but the scores are higher than the average of the five most competition-friendly OECD countries. In the electricity sector, this is because the government wholly owns the largest electricity generator and supplier in the country. In addition, the country could allow small and household consumers to sell demand response to third parties. In the natural gas sector, the score reflects that the government held a golden share in *INA d.d.*, the major natural gas producer and importer, but this golden share was removed in 2019. The government controls a gas storage operator, *Podzemno skladište Plina Okoli (PSP)*.

- Croatia performs better than the OECD average when it comes to the regulatory set-up of the **e-communications** sector. In the mobile sector, state ownership is limited, and regulation is close to international best practices. In the fixed sector, Croatia's score is slightly higher because the retail prices of fixed line services are still regulated, despite the market being open to competition.
- Croatia's score on the **rail transport** sector indicator is slightly above the OECD average. Croatia could improve the regulatory set-up in this sector if it started awarding public service contracts for rail services through competitive tenders. In addition, the score reflects that the government controls the passenger and freight rail operators (HŽ Putnički prijevoz d.o.o. and HŽ Cargo d.o.o.) and the rail infrastructure provider (HŽ Infrastruktura d.o.o.)
- In the **air transport** sector, Croatia's score is close to the OECD average and the regulatory set-up is mostly in line with the international best practices. Croatia's score is mostly driven by state ownership in the sector, as the government controls the largest carrier, *Croatian Airlines*, and all the companies operating international airports.
- Croatia's score on the **water transport** sector indicator is higher than the OECD average. Croatia could improve its regulatory environment (as also mentioned in Table 1) if it moved to a notification system instead of the existing, more burdensome, authorisation regime. Furthermore, Croatia could eliminate price regulation for inland water transport services, as this sector is open to competition and prices could be more efficiently be set by the market.
- In the **water** sector, Croatia could further align with international best practices by enabling the trade, lease or transfer of the rights to abstract groundwater and surface water. Furthermore, it could foster yardstick competition between water retail suppliers by making data on their efficiency and performance levels publicly available.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators⁶⁴ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

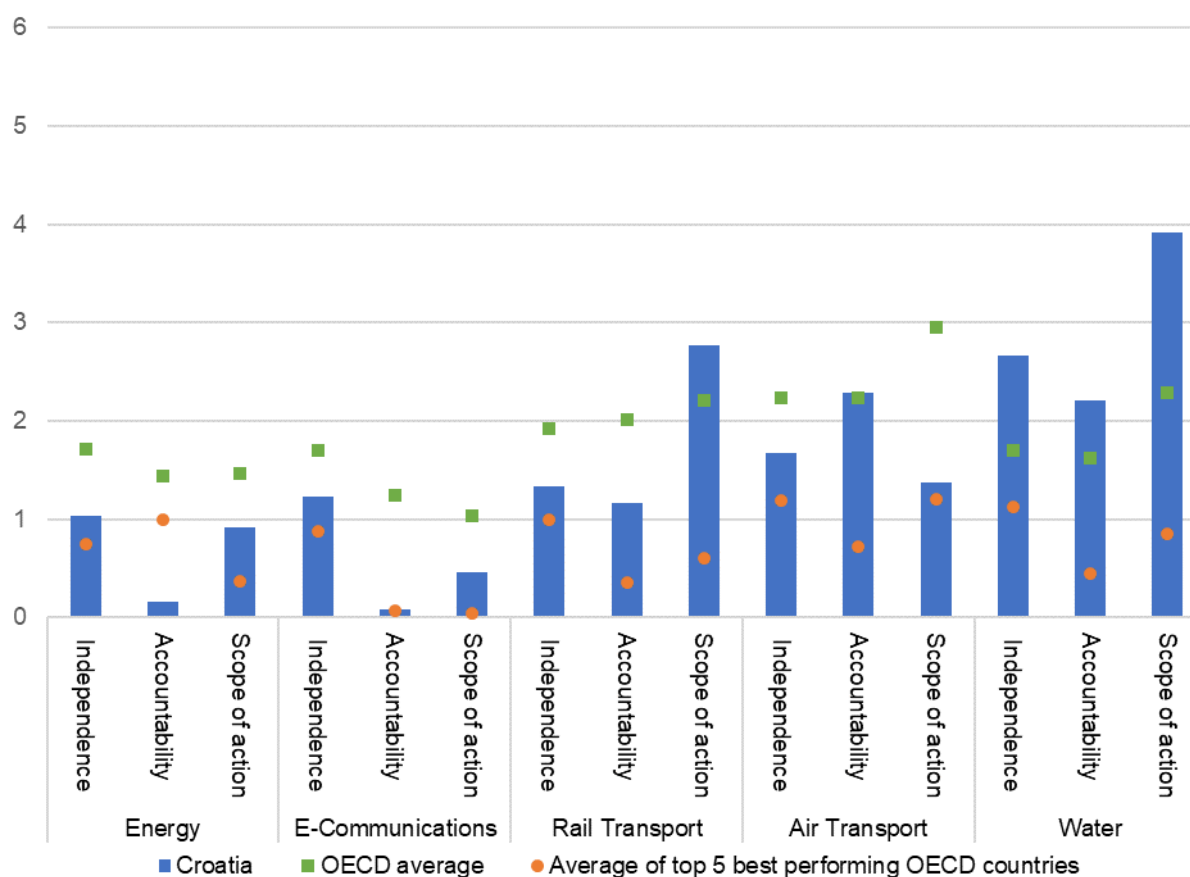
Figure 4 shows the scores in the 3 components for the regulators of the sectors in which the Plan foresees investments, together with the OECD average and the average of the top 5 best performing OECD countries.

The results suggest that Croatia diverges from international best practices when it comes to the governance arrangements of the Water regulator, as the scores in each component are significantly above the OECD average. The country could also introduce governance arrangements to further improve the independence and the accountability of the Air Transport regulator. Further, the Rail Transport regulator

⁶⁴ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

has a narrower scope of action than most of its peers in the OECD. On the contrary, Croatia performs well in the independence and accountability components for the E-communication and the Energy regulators.

Figure 19. Indicators of Governance of sector regulators for Energy, E-communications, Rail Transport, Air Transport and Water



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. In the air transport sector, the averages include all OECD countries except Finland, Germany, Iceland, Korea, Slovak Republic, and Slovenia. In the water sector, the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxemburg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland and Türkiye. For Croatia, for Costa Rica, Estonia and United States Information refers to laws and regulation in force on 1 January 2018, except for Croatia, Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Rail Transport

The rail transport sector regulator carries out fewer functions than most OECD regulators in this sector. For instance, the regulator does not issue consumer standards, guidelines, and codes of conduct. Moreover, the regulator does not regulate prices in monopolistic activities, nor does it issue or revoke licences.

Air Transport

The air transport regulator in Croatia has more governance arrangements to safeguard independence than many other air transport regulators across OECD countries. However, there is still room for improvement.

For example, it could require that an independent panel participates in the selection of the agency head and board members and involve the parliament in their final appointment instead of just the government. In addition, the government alone has the power to dismiss these executives; introducing additional 'checks' can limit the possibility of arbitrary dismissal

Croatia could also improve the regulator's accountability, which is far from international best practices. The regulator could be made legally accountable to the parliament. In this regard, the regulator could be required to attend hearings and answer questions from parliamentary committees, and to present a report on its activities to these committees. Finally, to improve its transparency, Croatia could introduce a mandatory requirement for the regulator to publish online all of its decisions, resolutions and agreements. Greater transparency would enhance the legitimacy of the agency and improve its public perception.

Water

The results for the water sector regulator shows room for improvement in the independence and accountability components when compared to the OECD average.

Regarding the independence of the regulator, the head of the agency and the board members are directly appointed by the government. Their selection and appointment could be improved with the involvement of an independent panel and the parliament. Moreover, there are no employment history restrictions to access these positions, and these executives are not required to undergo a cooling-off period after leaving office. Lastly, Croatia could introduce a defined set of criteria for dismissing these executives, and publish them.

The accountability of this regulator could also be enhanced. For example, the regulator could be required to publish all its decisions, resolutions and agreements, as well as a forward-looking action plan. Moreover, although the regulator is directly accountable to the parliament, it is not required to answer requests from or attend hearings organised by parliamentary committees, which limits the ability of the parliament to evaluate its performance. Moreover, the regulator should not be required to obtain approval from the government to issue new regulations that fall within its regulatory competencies.

Lastly, the score in the scope of action component is due to the fact that the water regulator performs fewer functions than its OECD peers. Indeed, the regulator does not issue or revoke licences, does not issue industry and consumer standards, guidelines, or codes of conduct, and does not enforce compliance with them via inspections and fines.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Czech Republic

The aim of this note is to provide an assessment of the likely impact that the Czech National Recovery and Resilience Plan⁶⁵ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁶⁶. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Czech Republic's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁶⁵ The assessment was based on the

- Recovery and Resilience Plan of the Czech Republic, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for the Czech Republic.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for the Czech Republic.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁶⁶ All information, indicator values and methodology related to the PMR indicators can be found in the [PMR website](#)

1. Measures included in the Plan that may affect the PMR scores

Only a very few measures in the Plan submitted by Czech Republic could have an impact on the PMR. These are outlined in Table 1.

Table 10. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly regulatory framework)
A. Component 1.1: Digital Services To Citizens and Businesses Investment 1	<p>Digital services for end-users</p> <p>The investment shall increase the number of eGovernment services available through Citizens' and Entrepreneurs' portals and the number of forms pre-filled based on the information stored in the information system in the public administration. As a result, the investment shall lead to easier and simpler access for citizens and business to digital public services via a single platform of federated portals and to the connection of information systems including systems supporting sanitary measures in relation to the COVID-19 pandemic (2026 Q1)</p>	<p>The measure may affect the PMR low-level indicator on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u>, if it reduces the number of procedures to be completed and/or the number of public bodies that need to be contacted to set up a new firm. It could also have an impact on the PMR low-level indicator on <u>Licenses and Permits</u>, if it simplifies the licensing process. However, the information in the Plan is not sufficient to evaluate the exact quantitative impact on these two low-level indicators.</p> <p>Since the Czech Republic could improve its regulatory set-up in these areas, Section 3 discusses possible measures the country could adopt.</p>
T. Component 4.3: Anti-Corruption Reforms Reform 4	<p>Establishing rules for lobbying</p> <p>The aim of this reform is to establish a legal framework for lobbying activities in the legislative process, to enable public scrutiny of lobbying and thereby to increase transparency of the entire legislative process. A new law shall be adopted, which shall lay down rules for lobbying activities in order to distinguish between legitimate lobbying activities and undesirable, non-transparent lobbying. (2026 Q1)</p>	<p>Introducing legislation that regulates the interaction between policy-makers and interest groups would improve the country's score in the PMR low-level indicator on <u>Interaction with Interest Groups</u> from 3.27 to 2.73. The Plan also suggests that the country will set up a registry of interest groups and impose fines in case of non-compliance. This would further decrease the score to 2.18. It is not possible to further quantify improvements to this low-level indicator on the basis of the information available in the Plan.</p> <p>Section 3.1 suggests additional measures that the Czech Republic could adopt as part of this new legal framework to address the weaknesses identified by the PMR indicators.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations⁶⁷ made the following general observations on the regulatory set-up of the Czech Republic, which are linked to regulatory weaknesses also identified in the PMR indicators.

⁶⁷ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of the Czech Republic and delivering a Council opinion on the 2019 Convergence Programme of the Czech Republic, COM/2019/503 final

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Czechia and delivering a Council opinion on the 2020 Convergence Programme of Czechia, COM/2020/503 final.

Table 11. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Design Regulations – Interaction with Interest Groups The EU Council noted that the proposals on protection of whistle-blowers and on lobbying have not yet been adopted.</p>	<p>Measured related to the regulation of lobbying are discussed under T. Component 4.3 of the Plan. The one measure that <i>could have an impact on the PMR indicators</i> is</p> <p style="text-align: center;">T. Component 4.3: Anti-Corruption Reforms – Reform 4 Establishing rules for lobbying</p> <p>This measure has already been mentioned in Table 1.</p>
<p>Admin Burden Administrative and regulatory burden may be hampering investment. Many Czech firms see the administrative and regulatory burden as a major obstacle to investment. Fast-changing legislation and complex administrative procedures remain major obstacles to doing business. Administrative burden is particularly problematic for start-ups in terms of licences and permits.</p>	<p>There are multiple measures in the plan to reduce the administrative burden for businesses under Component 1.1, 1.6 and 4.4. However, the only measure that <i>may have an impact on the PMR indicators</i> is</p> <p style="text-align: center;">A Component 1.1: Digital Services To Citizens and Businesses Investment 1– Digital services for end-users</p> <p>This measure has already been mentioned in Table 1.</p>
<p>Public Procurement The procurement framework has improved but may warrant further fine-tuning.</p>	<p><i>No measure related to the public procurement has been identified in the Plan.</i> It should be noted that the Czech Republic made some reforms in the area of public procurement, mostly to facilitate the digitalization of procurement procedures⁶⁸. Since these measures were implemented after 1 January 2018, they were not considered in the 2018 PMR indicators.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly⁶⁹. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for the Czech Republic.⁷⁰

In the rest of this section, three sets of indicators are assessed:

- i) Simplification and Evaluation of Regulations;
- ii) Administrative Burden on Start-ups, and
- iii) Professional Services

3.1. Simplification and Evaluation of Regulations

Figure 1 shows the mid-level indicator of Simplification and Evaluation of Regulations, which includes three low-level indicators:

⁶⁸ See: National Reform Programme of the Czech Republic 2018 available in [this website](#).

⁶⁹ The latest PMR values available for the Czech Republic refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

⁷⁰ All country fiches are available in the [PMR webpage](#).

i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;

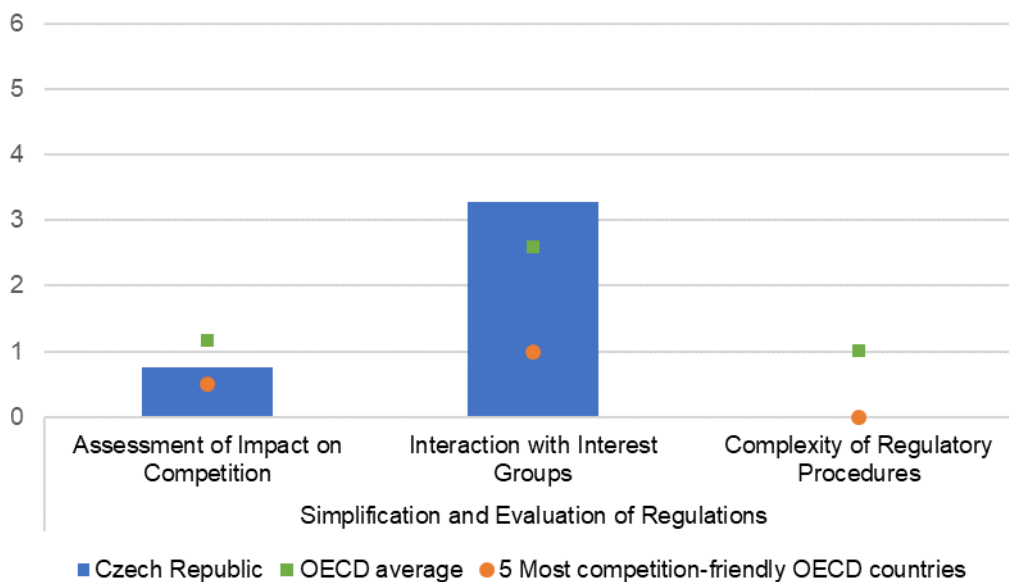
ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and ensure transparency in lobbying activities; and.

iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

Czech Republic's score is above the OECD average in the Interaction with Interest Groups low-level indicator, but close to the best performing countries in the other two.

Figure 20. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

In the Plan, the Czech Republic envisages to adopt a new law to regulate lobbying activities by March 2026 (see Table 1). This new law will also require interest groups to register in a public registry and impose sanctions in case of non-compliance. These measures improve the Czech Republic's score in the Interaction with Interest Groups low-level indicator, from 3.27 to 2.18.

However, the Czech Republic could go further so as to align its legislation with international best practices in this area. To foster transparency, public officials involved in the regulatory process could be required to make their agenda publicly available and disclose the identity of the interest groups that were consulted in each regulatory process. In addition, regulation could introduce a cooling-off period for all public officials after they leave office. This would minimise the risk of former officials gaining unduly influence by leveraging former professional contacts.

The Czech Republic would also benefit from introducing a mechanism allowing citizens to provide feedback on existing laws and regulations. This would support policymakers in assessing the effectiveness of existing regulation and in identifying unnecessary obstacles to competition.

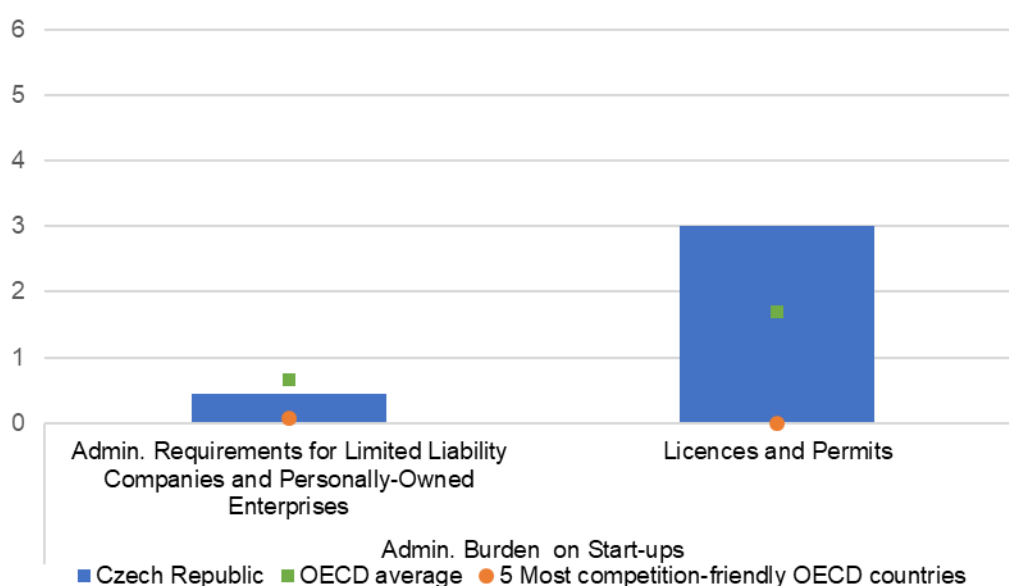
If the Czech Republic addressed all the above mentioned regulatory weaknesses in the forthcoming law on lobbying, its score in the Interaction with Interest Groups low-level indicator would further decrease from 2.18 to 0.

3.2. Administrative Burden on Start-ups

Figure 2 shows the Czech Republic's scores in the two low-level indicators included in the area of Administrative Burden on Start-ups. The country has a high score in the Licences and Permits indicator, which measures the existence of initiatives to simplify licensing procedures and programs to review and reduce the number of licences, while its score is close to the best performing OECD countries in the Administrative Requirements for Limited Liability Companies and Personally-Owned Enterprises indicator.

Figure 21. Low-level PMR indicators included in Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The reason behind the poor performance in the Licences and Permits low-level indicator is that the country does not have a "silent is consent" rule, which is important to ensure certainty and speed in the licensing process. In addition, the national government does not maintain a record of all the permits and licences required by businesses, despite having a clear overview of the status quo is the first step to plan any administrative simplification. If the Czech Republic addressed these regulatory weaknesses, its score in the Licences and Permits low-level indicator would improve from 3.00 to 1.00⁷¹.

⁷¹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

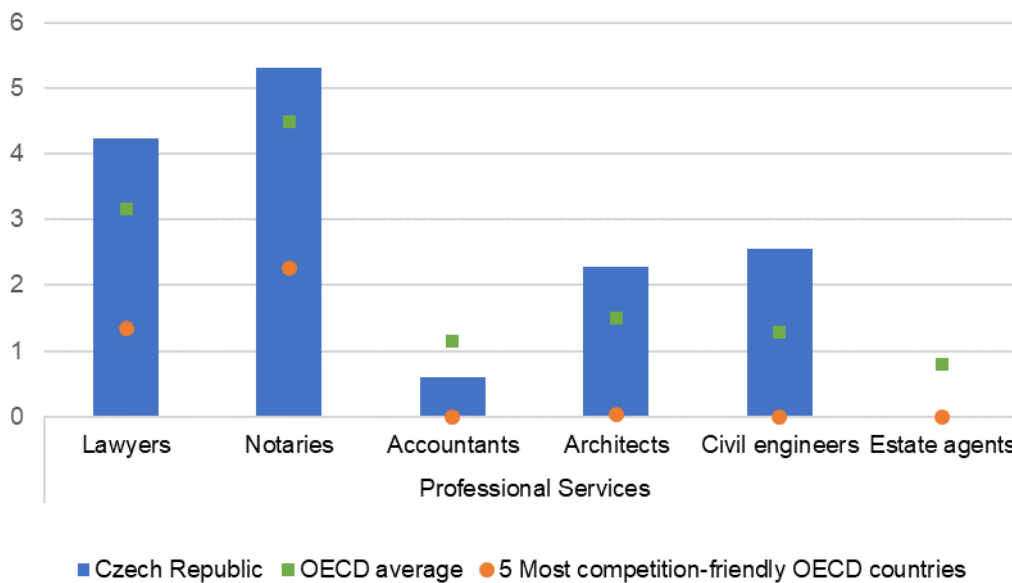
3.3. Professional services

Figure 3 shows the results of the 2018 PMR indicators for the six professions assessed in the PMR indicators, together with the OECD average and the average of the five best performing OECD countries.

The Czech Republic's regulatory set-ups for Lawyers, Notaries, Architects and Civil engineers is more restrictive than those in the average OECD country, while the regulation of Accountants is closer to international best practices, and Real Estate Agents are not regulated.

Figure 22. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

Entry and conduct regulations for Lawyers are very restrictive in the Czech Republic. There is only one pathway to access the profession, which also requires passing an examination administered by the relevant professional organization. Moreover, membership in a professional organisation is compulsory to legally practice. Conduct regulation is also not very competition-friendly. Currently, some forms of advertisement and marketing of legal services are banned. Business cooperation between lawyers and some categories of professionals is forbidden. In addition, though law firms can have limited liability, they cannot be incorporated. Moreover, only lawyers and other law firms can have ownership and voting rights in law firms. These restrictions can limit the sources of funding on which these firms could rely, can reduce the set of managerial skills these firms can access, and may inhibit the emergence of innovative business models.

In civil law countries, Notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce some regulatory constraints in the Czech Republic. Most notably, Czech Republic could remove the territorial restrictions on their ability practices, eliminate quantitative restrictions to access the profession and liberalise their fees.

Several restrictions constrain Architects. The Czech Republic offers three pathways to enter the profession, but all of them require to pass an examination administered by the professional organization. Moreover, membership in this organization is compulsory to legally practice. Further architectural firms can enjoy limited liability, but cannot be incorporated. Moreover, only architects and other architectural firms can hold the majority of ownership and voting rights in architectural firms.

Civil Engineers also face restrictions. Regarding entry, civil engineers have to pass an examination, administered jointly by the state and the professional body, and have to be members of the relevant professional organization to be allowed to practice. In terms of conduct, civil engineers face restrictions when marketing and advertising their services and civil engineering firms can have limited liability, they cannot be incorporated. Last, only civil engineers can hold the majority of ownership and voting rights in engineering firms.

Empirical research has shown that reducing regulatory barriers in these professional services can foster entry and bring about greater competition on quality of service and prices.⁷²

Table 3 shows the impact that adopting measures to address the regulatory constraints discussed above would have on the PMR sector indicators for these four professions.

⁷² For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering, and architectural services (see: Paterson, I., et al (2007), "Economic Impact of Regulation in the Field of Liberal Professions in Different Member States", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 201.

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)").

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)").

A forthcoming paper by Frank Verboven and Biliana Yontcheva, and presented at a recent OECD workshop, suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see: F. Verboven, B. Yontcheva (2021) "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Table 12. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW PMR value following change ⁷³
Lawyers	4.24	1.21
Notaries	5.31	4.08
Architects	2.29	0.85
Civil engineers	2.55	1.05

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Czech Republic is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (I. Component 2.3: Transition to Cleaner Energy Sources – Investment 1: Increasing installed capacity of sources of photovoltaic energy)
- **Rail transport** (G. Component 2.1: Sustainable Transport – Investment 1: Application of modern technologies to railway infrastructure; Investment 2: Electrification of railways; Investment 3: Support for railway infrastructure; Investment 4: Road and rail transport safety)
- **E-communications** (C. Component 1.3: High Capacity Digital Networks – Investment 1: Building high-capacity connectivity with a particular focus on rural areas; Investment 2: Covering 5G corridors and promoting the development of 5G; Investment 3: Supporting the development of 5G mobile infrastructure in rural investment-intensive white areas)

According to a recent study by the OECD (Demmou and Franco, 2020),⁷⁴ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Czech Republic's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

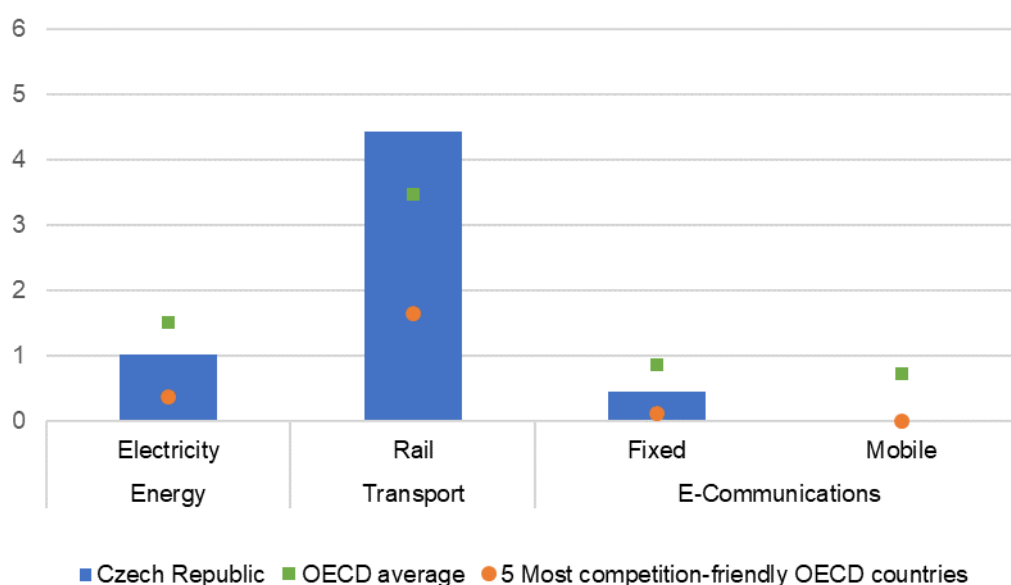
Figure 4 shows how the Czech Republic performed in 2018 in the PMR sector indicators for the networks sectors where it plans investments relative to the OECD average and the average of five best performing OECD countries.

⁷³ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

⁷⁴ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 23. PMR sector indicators for Electricity, Rail Transport and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- The Czech regulation of the **electricity** sector is mostly in line with international best practices as measured by the PMR indicators. The score is higher than the average of the five best performing OECD countries because the government controls the largest operators in both the generation and retail supply sector.
- In the **rail transport** sector, the Czech Republic has room for improving its regulatory framework. In particular greater competition could be introduced by awarding public service contracts through competitive tenders. The country's high score is also due to the government owning operators in all segments of the rail sector.
- The regulatory set-up in the **e-communications** sector is one of the most competition-friendly in the OECD as captured by the PMR indicators.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators⁷⁵ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

⁷⁵ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

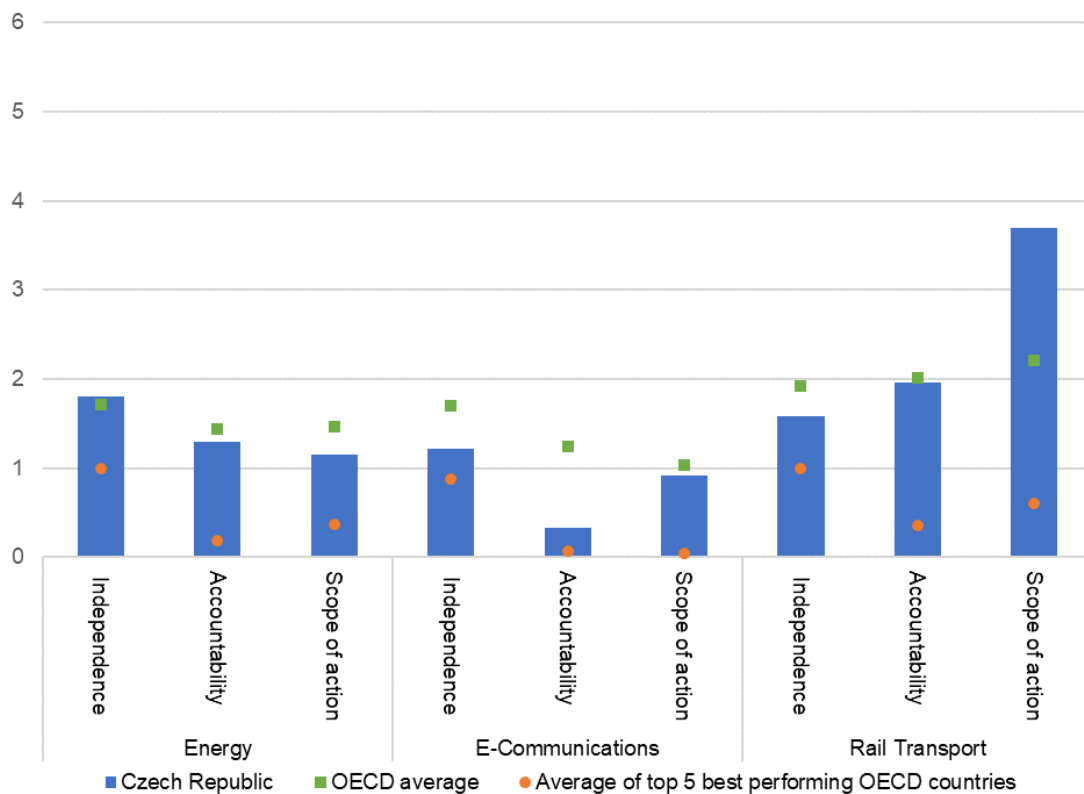
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 5 below shows the Czech Republic’s scores in the three components for the Energy, E-communications and Rail Transport regulators, together with the OECD average and the average of the five best performing OECD countries.

The figure indicates that the country has some room for improving the independence and accountability of the energy regulator and the rail regulator, components where the country scores close to the OECD average, but still far from international best practices. The scope of action of the rail regulator is also narrower than most OECD peers.

Figure 24. Indicators of Governance of Sector Regulators for Energy, E-communications and Rail Transport



Note: The database does not include all OECD countries in the e-communications and rail transport sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

The governance arrangements related to the independence of this regulator could be improved. First, an independent panel could participate in the selection process of the agency head and the board and the parliament could be involved in their final appointment instead of just the government. Moreover, currently the government has the power to dismiss these executives: introducing additional 'checks' can limit the possibility of arbitrary dismissal. Finally, to avoid conflicts of interests, the country could introduce a cooling-off period for these executives.

Governance arrangements for accountability could also be modified to better align the regulator with international best practices. First, the regulator could be required to motivate all its regulatory decisions. Moreover, the regulator could be required to present a report on its activities to parliament, and to answer requests from or attend hearings organized by parliamentary committees. To improve its transparency, the regulator could also be required to publish online all of its decisions, resolutions, and agreements, as well as all the information it collects on the performance of the regulated sector.

Rail Transport

The Czech Republic could further improve the accountability of the rail regulator. First, the regulator could be required to present a report on its activities to the parliament, and to answer requests from or attend hearings organized by parliamentary committees. To ensure transparency and make the regulatory process more inclusive and effective, it could also be required to publish its draft decisions, collect feedback from stakeholders, and respond to their comments. Lastly, the Czech Republic could make it mandatory for the regulator to publish a forward-looking action plan.

Despite its low score in the independence component, the Czech Republic could also improve the governance arrangements of the regulator in this area. In particular, the government can currently provide guidance to the regulator government on individual cases, regulatory decisions, and appeals, an arrangement which may limit the integrity of the regulator's technical decision making. In addition, it could require that an independent panel participate in the selection of the agency head and board members, and involve parliament in their final appointment instead of only the government.

The score in the scope of action component is high compared to most other OECD countries because this regulator performs fewer functions than most of its OECD peers. For instance, the regulator does not issue consumer standards, guidelines, and codes of conduct. Moreover, the regulator does not regulate prices of monopolistic activities, nor issue or revoke licences.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Denmark

The aim of this note is to provide an assessment of the likely impact that the Danish National Recovery and Resilience Plan⁷⁶ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁷⁷. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Denmark's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁷⁶ The assessment was based on the

- Recovery and Resilience Plan of Denmark, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Denmark.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Denmark.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁷⁷ All information, indicator values and methodology related to the PMR indicators can be found at the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

None of the policy measures presented in the Plan submitted by Denmark appears to have an impact on the country's scores in the PMR indicators.

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The 2019 and 2020 recommendations made by the Council of the European Union⁷⁸ on Denmark's regulatory set-up contain no observations linked to regulatory weaknesses identified in the PMR indicators.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly⁷⁹. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Denmark.⁸⁰

The rest of this section assesses Denmark's performance in the low-level PMR indicators included in the area of Simplification and Evaluation of Regulations.

The 3 low-level indicators included in this area are:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation and for ensuring transparency in lobbying activities; and
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

As shown in Figure 1, Denmark's score is above the OECD average in the first two of these low-level indicators, but it is close to international best practices in the last one.

⁷⁸ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Denmark and delivering a Council opinion on the 2019 Convergence Programme of Denmark, COM/2019/504 final.

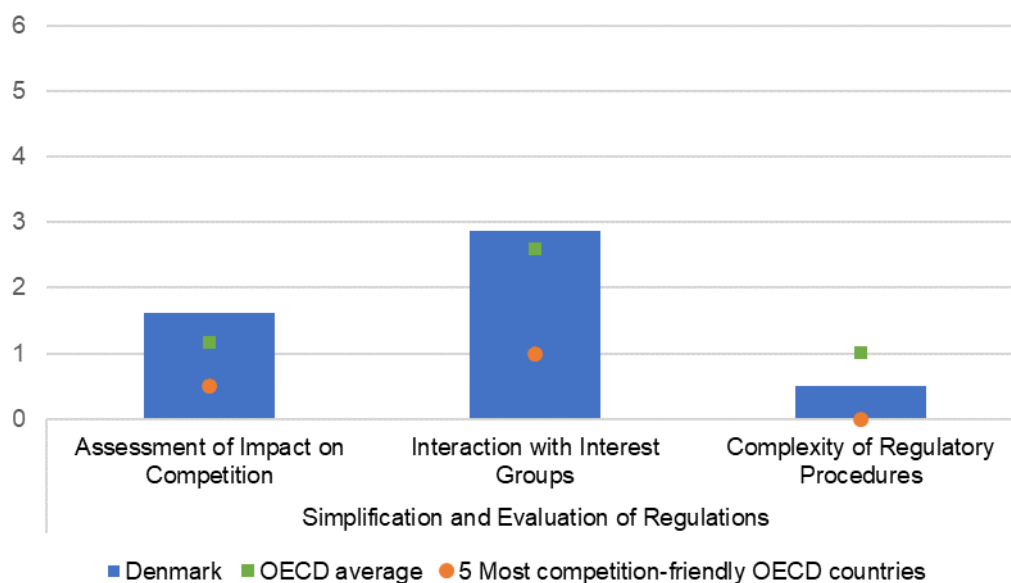
and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Denmark and delivering a Council opinion on the 2020 Convergence Programme of Denmark, COM/2020/504 final.

⁷⁹ The latest PMR values available for Denmark refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

⁸⁰ All country fiches are available on the [PMR webpage](#).

Figure 25. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

When it comes to Assessment of Impact on Competition, Denmark could extend the obligation to perform an assessment of the impact on competition of new policy interventions, currently in place for primary laws, also to subordinate regulations. Including this obligation in any regulatory impact assessment (RIA) ensures that all regulations achieve the intended policy objectives while minimizing any possible distortion to the competitive process. Moreover, when developing new policies, policymakers are required to identify and assess in RIAs only the costs and benefits of their preferred regulatory option, but not of the “do nothing” option, nor other alternative regulatory options. This limits the effectiveness of RIAs to support the choice as the most effective and least distortive policy option.

When it comes to competition advocacy, the government is not required to publicly respond to any recommendation the competition authority may issue as a result of market studies that reveal restrictions on competition due to existing laws or regulations⁸¹. This can weaken the ability of this policy instruments to remove regulatory obstacles to competition.

Addressing the weaknesses just discussed would reduce Denmark’s score in the Assessment of Impact on Competition low-level indicator from **1.63** to **0.00**.

Denmark’s weak performance in the low-level indicator on the Interaction with Interest Groups is mostly driven by the lack of systematic rules that regulate the interactions between public officials and interest groups during the policy-making process. Denmark should consider introducing such a legislation. Moreover, the transparency of lobbying activities could be improved. For example, there is no requirement for these interest groups to register in a public registry, nor for public officials to make their agenda publicly available, there is no regulation addressing conflicts of interest for members of the legislative bodies and no cooling-off periods are imposed on members of legislative bodies, members of cabinet, appointed public

⁸¹ See also: Global Forum on Competition (10 December 2020) Using Market Studies to Tackle Emerging Competition Issues – Contribution from Denmark [[DAF/COMP/GF/WD\(2020\)72](#)].

officials, and senior civil servants when they leave office. It should be noted that a strong tradition of consultation has ensured that the interaction with interest groups works well in Denmark. Still, adopting explicit rules in line with international best practices would further ensure that lobbying activities do not distort the regulatory process and that all stakeholders are guaranteed an opportunity to be consulted and heard.

Another potential area for improvement is the lack of a mechanism for stakeholders to provide feedbacks on existing laws and regulations.

Addressing these regulatory weaknesses would reduce Denmark's score in the Interaction with Interest Groups PMR low-level indicator from **2.86** to **0.00**.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In its Plan, Denmark is proposing to invest in one sector that is included in the PMR indicators:

- **E-communications** (F. COMPONENT 6. DIGITALISATION – Investment 2: Broadband pool to prolong an existing scheme, Bredbåndspuljen, which shall roll out very high-speed internet access in rural areas of Denmark where existing coverage is poor due to lack of sufficient market incentives)

According to a recent study by the OECD (Demmou and Franco, 2020),⁸² sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Denmark's Plan includes infrastructure investments in e-communications, assessing how effective is the regulatory framework and the governance of the sector regulator in this sector can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

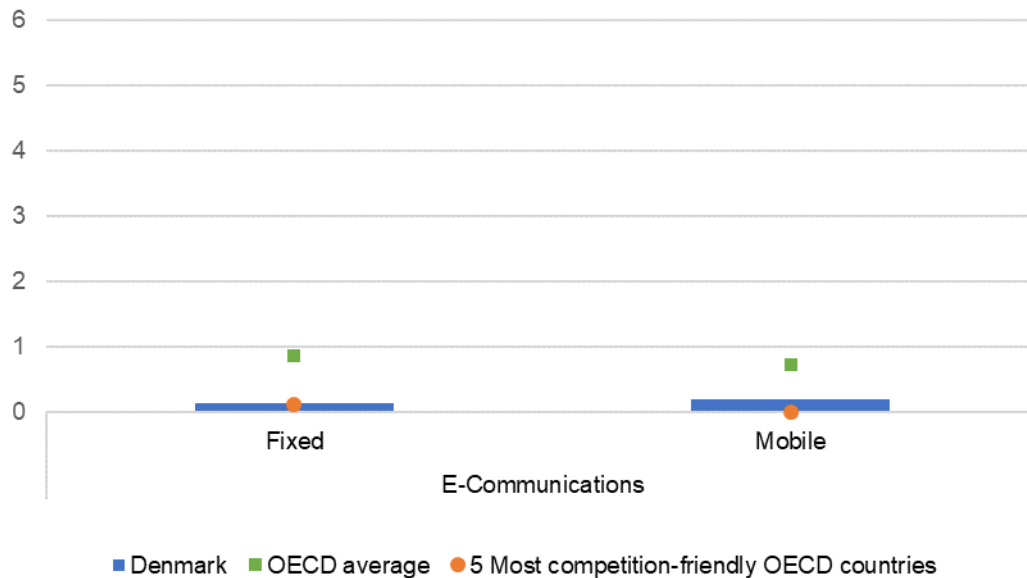
4.1. Insights from PMR sector indicators for network industries

Figure 2 shows Denmark's scores in 2018 in the PMR sector indicator for E-communications, alongside the OECD average and the average of the five best performing OECD countries.

⁸² Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data](#). OECD Economics Department Working Papers No. 1609.

Figure 26. PMR sector indicators for E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The figure indicates that regulation of the **e-communications** sector in Denmark, as captured by the PMR indicators, is in line with international best practices. Hence, there is limited room for improvement in this area.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators⁸³ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

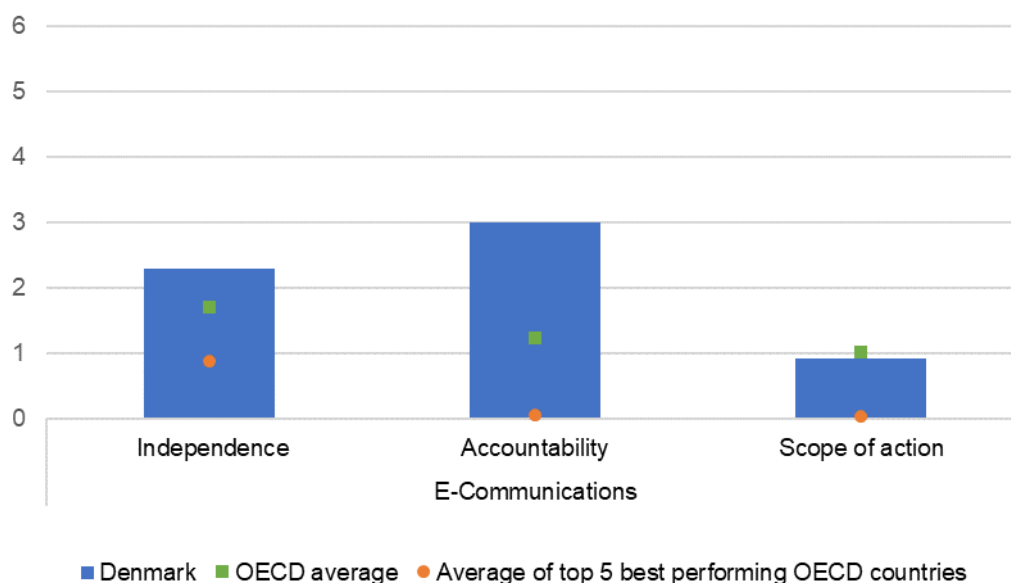
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 3 below shows that the E-communication regulator has room for improvement in the independence and accountability components, where it scores above the OECD average.

⁸³ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 27. Indicator of Governance of Sector Regulators for E-communications



Note: The database does not include all OECD countries in some sectors. In the e-communications sector, the averages include all OECD countries except Estonia. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Hence, Denmark could introduce governance arrangements to improve the independence of the e-communications regulator. To begin with, legislation could define the skills that are necessary to be eligible for the position of agency head and board member, and it could impose restrictions on their employment history. Furthermore, it could require that an independent panel participates in the selection of the agency head and board members, and involve the parliament in their final appointment instead of just the government. Finally, board members could be required to respect a cooling-off period after their term of office ends to avoid potential conflicts of interests.

Several governance arrangements could also be introduced to improve the accountability of the regulator. There may be room for the regulator to strengthen its accountability to parliament by, for example, being required to answer requests from or attend hearings organized by parliamentary committees. Furthermore, the regulator could be placed under the obligation to regularly publish online and present to these committees a report on its activities.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Estonia

The aim of this note is to provide an assessment of the likely impact that the Estonian National Recovery and Resilience Plan⁸⁴ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁸⁵. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Estonia's results in the 2018 PMR indicators, but that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁸⁴ The assessment was based on the

- Recovery and Resilience Plan of Estonia, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Estonia.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Estonia.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁸⁵ All information, indicator values and methodology related to the PMR indicators can be found at the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in Estonia's Plan could have an impact on their scores in the PMR indicators. These are outlined in Table 1.

Table 13. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly regulatory framework)
C. Component 3. Digital State Reform 3.2.	<p><u>Development of event services and proactive digital public services for individuals</u></p> <p>The objective of the measure is to improve the efficiency of the delivery of public services by enabling their automatic and proactive delivery and thus reduce the administrative burden on businesses and citizens. It shall notably allow a better integration of IT systems across different public authorities and contribute to the implementation of the once-only principle. (2025 Q4)</p>	<p>Both measures aim to reduce the administrative burdens on businesses; hence, they may have an impact on Estonia's score in the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator. However, the details provided in the Plan are insufficient to allow the OECD to assess the quantitative impact of these measures on the PMR indicator. It should be noted that the country's score in this indicator is below the OECD average and that the country already performs very well in the digital delivery of public services to citizens and businesses.</p>
C. Component 3. Digital State Reform 3.3.	<p><u>Development of event services and digital gateway for entrepreneurs</u></p> <p>This measure complements the one above by establishing a single digital gateway for the delivery of public services to entrepreneurs and redesigning a series of services and the underlying IT systems in order to interface them with the gateway, and, whenever possible, enabling the proactive delivery of information based on events experienced by businesses. (2025 Q4)</p>	<p>The implementation of the Once Only principle would improve the <u>Licenses and Permits</u> low-level indicator if it led to the creation of a one-stop shop where it was possible to obtain all the authorizations and permits required to open up a business⁸⁶. (The score would drop from 2.40 to 1.20). However, the Plan is not detailed enough to ascertain whether this reform includes such a one-stop shop.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The 2019 and 2020 recommendations made by the Council of the European Union⁸⁷ on Estonia's regulatory set-up contain no observations linked to the regulatory weaknesses identified in the PMR indicators.

⁸⁶ Currently Estonia has a one-stop shop that only provides information on all licences and permits required to open a business.

⁸⁷ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Estonia and delivering a Council opinion on the 2019 Stability Programme of Estonia, COM/2019/506 final and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Estonia and delivering a Council opinion on the 2020 Stability Programme of Estonia, COM/2020/506 final.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage provide guidance in identifying areas where the regulatory framework could be made more competition-friendly⁸⁸. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Estonia.⁸⁹

In the rest of this section, the following indicators are assessed among those where Estonia's values are above the OECD average:

- i) Simplification and Evaluation of Regulations; and
- ii) Professional Services.

3.1. Interaction with Interest Groups

Figure 1 shows the mid-level indicator of Simplification and Evaluation of Regulations, which includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation and for ensuring transparency in lobbying activities; and
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

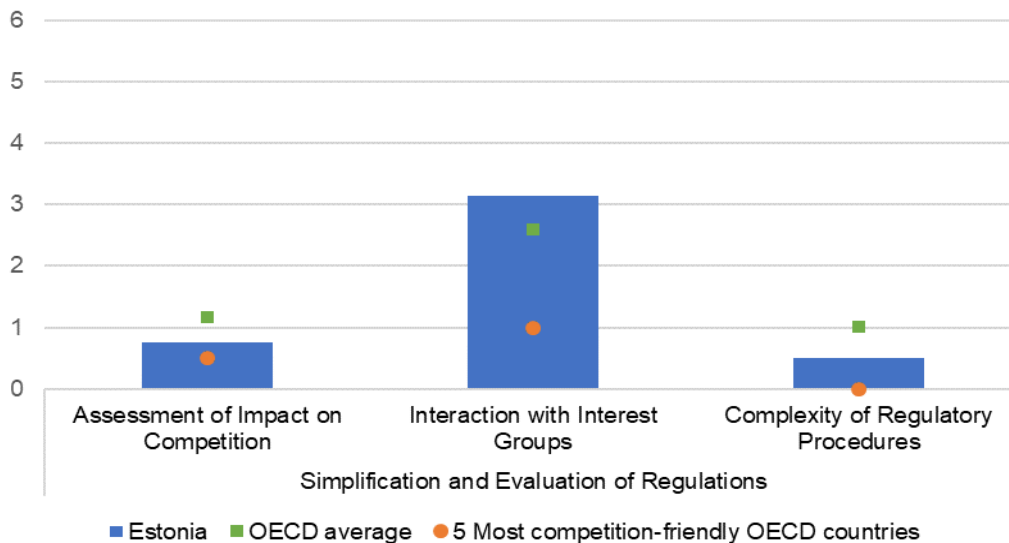
Estonia scores above the OECD average in the low-level indicator on Interaction with Interest Groups, but is close to international best practices in the other two indicators.

⁸⁸ The latest PMR values available for Estonia refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

⁸⁹ All country fiches are available on the [PMR webpage](#).

Figure 28. Low-level PMR indicators included in Simplification and Evaluation of Regulation

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

Estonia's weak performance in the low-level indicator on the Interaction with Interest Groups is mostly driven by the lack of systematic rules that regulate the interactions between public officials and interest groups during the policy-making process. Estonia should consider introducing such a legislation. Moreover, the transparency of lobbying activities could be improved by requiring:

- the registration of interest groups in a public registry;
- the disclosure of the agendas of public officials involved in regulatory processes;
- the disclosure of the details of the interest groups that are consulted in each regulatory process;
- the disclosure of the members of permanent advisory bodies involved in national regulatory processes, and
- a cooling-off period for members of legislative bodies, members of cabinet and appointed public officials after leaving office⁹⁰.

If Estonia introduced these changes, it would ensure transparency in lobbying activities, which can distort the regulatory process and create competitive distortions. As a result, this low-level indicator would decrease **from 3.14 to 0**.

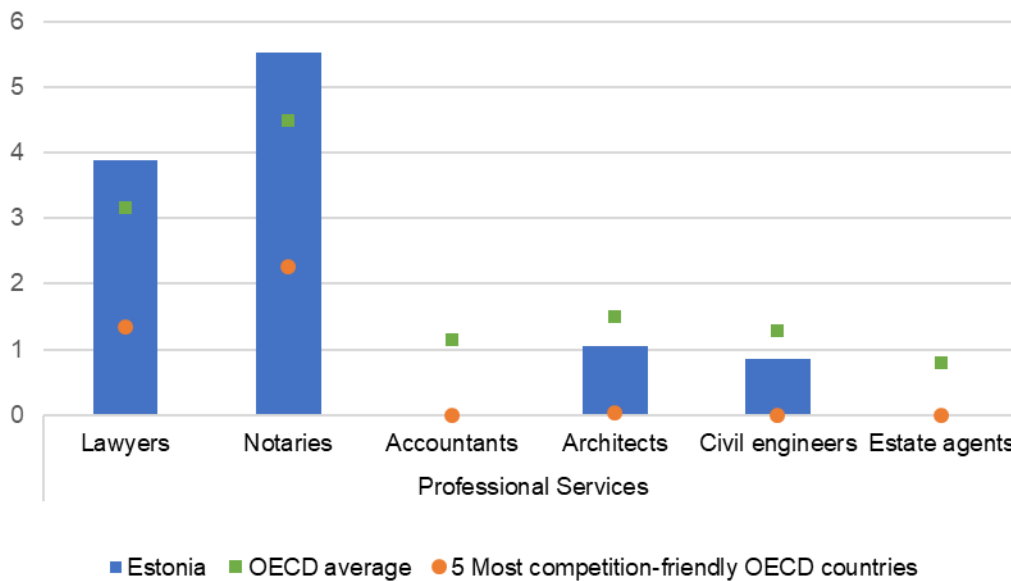
⁹⁰ Currently such an obligation, lasting one year, applies only to (non elected) senior civil servants

3.2. Professional Services

Figure 2 below shows the scores of the six PMR sector indicators on professional services. Estonia's scores for Architects and Civil Engineers are below the OECD average and the scores for Accountants and Estate Agents are in line with international best practices. However, the regulatory set-up for Lawyers and Notaries, where the country scores above the OECD average, could be more competition-friendly.

Figure 29. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



*When comparing the indicators across countries, it should be considered that the activities undertaken by specific professions may vary between countries.

*In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In civil law countries, Notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce the regulatory constraints imposed on this profession in Estonia. In particular, notaries are subject to quantitative and territorial restrictions. In addition, the fees for several of their activities are regulated. Other important restrictions include a ban on inter-professional cooperation, and a ban on the advertising and marketing of their services.

Similarly, regulations impose numerous barriers to Lawyers. Although there are two pathways to access the profession, both require passing a final examination administered by the professional organization and becoming its member. Only lawyers or other law firms can have ownership-type interest and voting rights in law firms. Moreover, some forms of advertisement and marketing are prohibited, and there is an explicit ban on lawyers setting up businesses with other professionals. These restrictions may limit the development of potentially innovative business models and more generally limit competition.

Empirical research has shown that reducing regulatory barriers in professional services can foster entry and bring about greater competition on quality of services and prices.⁹¹⁹²

Table 2 shows the impact that adopting measures to address the above mentioned barriers would have on the PMR sector indicators for these 2 professions.

Table 14. Impact of removing major restrictions on PMR sector indicators for professional services

	2018 original value	NEW value after suggested reforms ⁹³
Lawyers	3.88	1.21
Notaries	5.52	3.80

Source: OECD simulations based on the OECD 2018 PMR database

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Estonia is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (D. Component 4. Energy and Energy Efficiency: Investment 4.5. – Programme to strengthen the electricity grid to increase renewable energy production capacity and adapt to climate change (such as protection against storms); Investment 4.6. – Programme to boost energy production in industrial areas and to incentivise renewable electricity production in or nearby industrial areas through co-financing the necessary grid connection; Investment 4.7. – Pilot Energy Storage Programme to pilot renewable energy storage in Estonia that shall result in the installation of at least 4 MW of electricity storage capacity);
- **Rail transport** (E. Component 5. Sustainable Transport: Investment 5.2. – Construction of a section of the westbound Tallinn-Rohuküla railway; Investment 5.3. – Construction of the Rail Baltic multimodal joint terminal in Tallinn);

⁹¹ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering, and architectural services (see: Paterson, I., et al (2007), “Economic Impact of Regulation in the Field of Liberal Professions in Different Member States”, WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), “[The economic impact of the Services Directive: A first assessment following implementation](#)”, No 456, European Economy - Economic Papers 2008 – 201.

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) “[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)”).

A study by Morris M. Kleiner, Evan J. Soltas using United States’ data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) “[A Welfare Analysis of Occupational Licensing in U.S. States](#)”).

⁹² A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : “[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)”).

⁹³ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

- **E-communications** (C. Component 3. Digital State: Investment 3.8. – Construction of very high capacity broadband networks, which offer a connection of at least 100 Mbps).

According to a recent study by the OECD (Demmou and Franco, 2020),⁹⁴ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

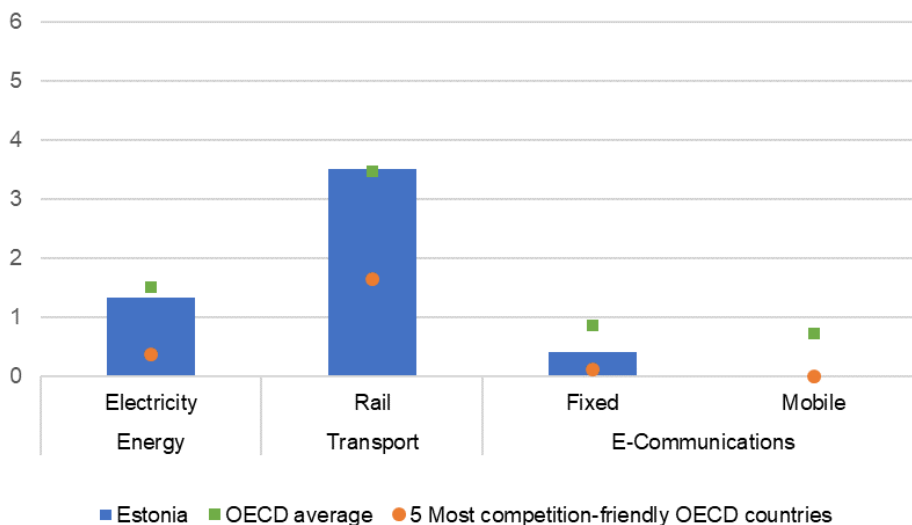
Since Estonia's Plan envisages infrastructure investments in some network sectors, assessing the quality of their regulatory framework and of the governance of the relevant sector regulators can shed light on whether the regulatory environment could further be improved, thus increasing the productivity of these investments.

4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Estonia performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 30. PMR sector indicators for Electricity, Transport by rail and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar does not appear on the chart for a specific indicator, it means that its value is 0. If the blue bar does not appear on the chart for a specific indicator, like for the mobile e-communications indicator, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

⁹⁴ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

- In the **electricity** sector, Estonia's regulatory framework is slightly more competition-friendly than that of the average OECD economy. The positive score reflects the fact that the government wholly owns one of the largest operators, *Eesti Energia AS*, which is active in the generation, import-export and retail supply segments.
- Estonia's score in the **rail transport** is in line with the OECD average. However, the country could foster competition in this sector by awarding public service contracts for rail transport services through competitive tenders.
- In Estonia, the regulation of the **e-communications** sector is in line with international best practices.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

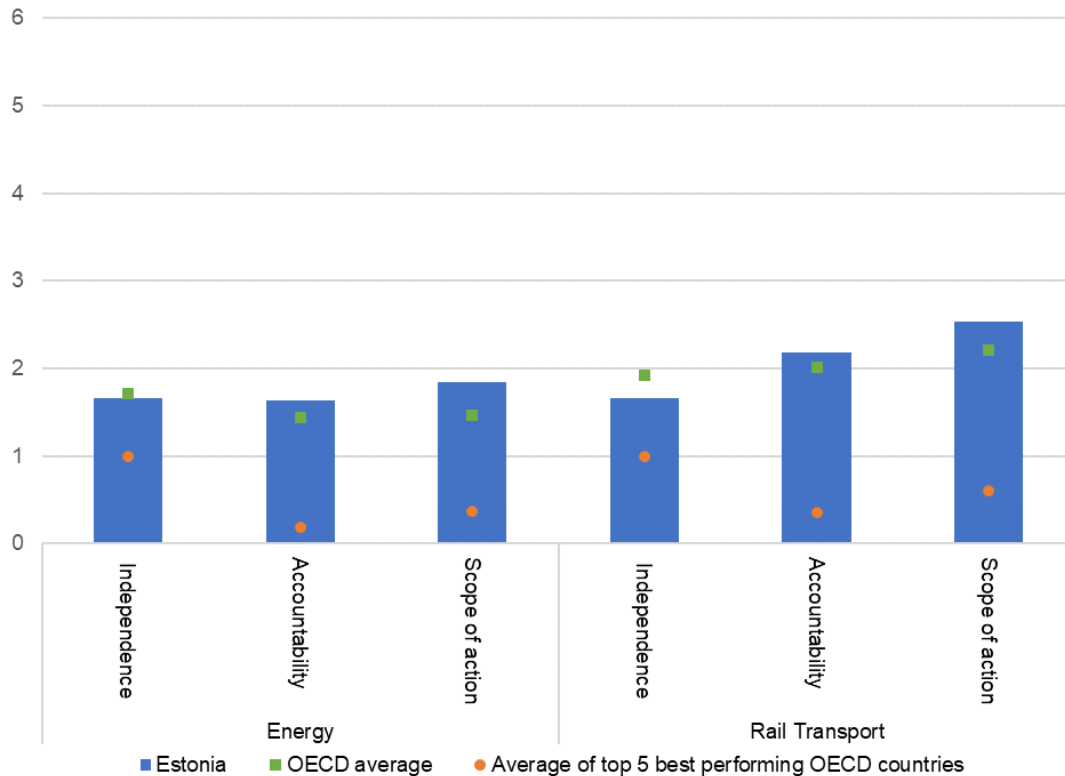
The assessment of the OECD Indicators on the Governance of Sector Regulators⁹⁵ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 indicates that Estonia's Energy and Rail Transport regulators perform well in the independence component. However, both regulators show margins for improvement when it comes to their accountability. In addition, both have a rather narrow scope of action compared to their OECD peers.

⁹⁵ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 31. Indicators of Governance of Sector Regulators for Energy and Rail Transport⁹⁶

Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

To improve the accountability of the regulator, it could be required to regularly present a report on its activities to the relevant parliamentary committees.

In terms of scope of action, the regulator does not perform all the functions that are usually performed by energy regulators across OECD countries. For example it does not issue industry and consumer standards, nor enforce compliance with these standards through inspections and fines.

Despite scoring in line with the OECD average, there is also room to improve the independence of the energy regulator. In particular, an independent selection panel could participate in the selection of the agency head. In addition, the government alone has the power to dismiss these executives: introducing additional 'checks' could limit the possibility of arbitrary dismissal.

⁹⁶ It should be noted that there is no data available concerning Estonia's e-communication regulator, given that the regulator did not provide the information in time to be available for calculating the relevant indicator. Moreover, the regulator was in the process of merging with another public body, hence it was excluded from the 2018 Governance of Sector Regulators database.

Rail transport

Several governance arrangements could be introduced to improve the accountability of this regulator. There may be room for the regulator to strengthen its accountability to parliament by requiring the regulator to answer requests from or attend hearings organised by parliamentary committees. The regulator regularly produces and publishes a report on its activities, but it is under no legal obligation to do so.

The score in the scope of action component reflects the fact that the rail regulator performs fewer activities than most of its OECD peers. For instance, the regulator cannot regulate the prices of services that are offered under a monopoly. In addition, it does not issue consumer standards, guidelines, and codes of conduct, and it does not enforce compliance with them through inspections and fines.

Like for the energy regulator, there is also room to improve the independence of the rail regulator. Again, an independent panel could participate in the selection of the agency head and board members. Currently, the government alone has the power to dismiss these executives: introducing additional 'checks' could limit the possibility of arbitrary dismissal.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Finland

The aim of this note is to provide an assessment of the likely impact that Finland's National Recovery and Resilience Plan⁹⁷ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators⁹⁸. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Finland's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

⁹⁷ The assessment was based on the

- Recovery and Resilience Plan of Finland, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Finland.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Finland.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

⁹⁸ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR webpage](#).

1. Measures included in the National Recovery and Resilience Plan that may affect the PMR scores

Only one measure in the Plan submitted by Finland could have an impact on the PMR. This is outlined in Table 1.

Table 15. Measures in the Recovery and Resilience Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment on impact on PMR (Index scale 0 to 6 from most to least competition-friendly regulatory framework)
G. Component P2C2 Accelerating the Data Economy and Digitalisation Investment P2C2I2	<u>Acceleration of data economy and digitalisation – Virtual Finland</u> The Virtual Finland service platform will offer a single service interface for businesses and individuals that would like to establish themselves or do business in Finland.	While the measure aims to enhance access to and digitalise public services, thus reducing the administrative burden weighting on businesses, it will not have an impact in the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> and <u>Licences and permits</u> PMR low-level indicators. Finland already performs well on these indicators, given that most procedures that are necessary to establish a new business can be done online via a one-stop-shop. Hence, the PMR scores will not change as a result of this measure.

2. Country specific recommendations by the EU Council and their inclusion in the Plan

The 2019 and 2020 recommendations made by the Council of the European Union⁹⁹ on Finland's regulatory set-up contain no observations linked to regulatory weaknesses identified in the PMR indicators.

3. Regulatory weaknesses identified by the PMR indicators in 2018

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly¹⁰⁰. Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Finland¹⁰¹.

⁹⁹ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Finland and delivering a Council opinion on the 2019 Stability Programme of Finland, COM/2019/526 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Finland and delivering a Council opinion on the 2020 Stability Programme of Finland, COM/2020/526 final.

¹⁰⁰ The latest PMR values available for Finland refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹⁰¹ All country fiches are available on the [PMR webpage](#)

In the rest of this section, the following indicators are assessed among those where Finland's values are above the OECD average:

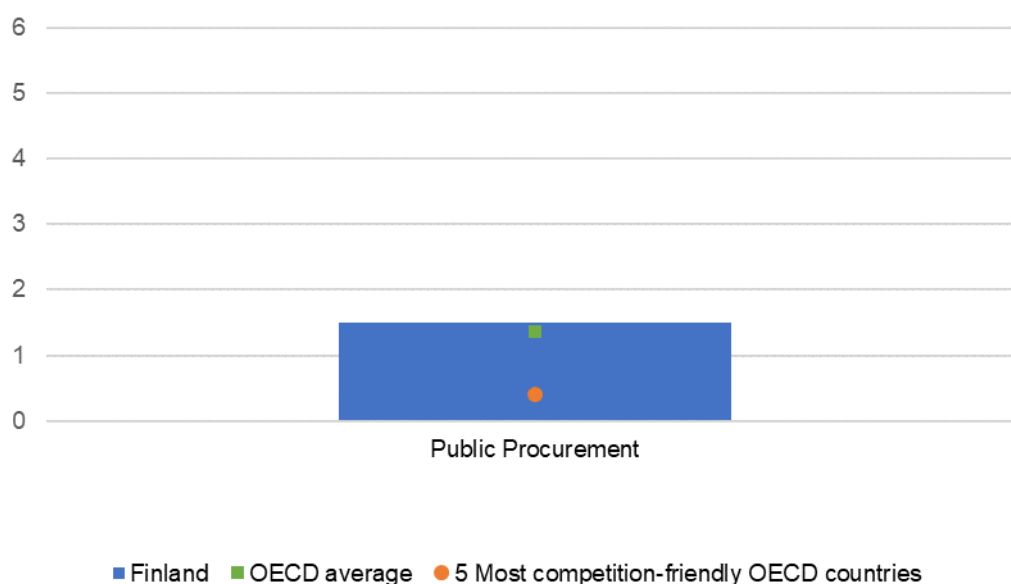
- i) Public Procurement;
- ii) Retail Distribution; and
- iii) Retail Sales of Medicines

3.1. Public Procurement

As shown in Figure 1, Finland scores just above the OECD average in the low-level indicator of Public Procurement, which measures the degree to which regulation ensures a level playing field in the access to public contracts for the provision of goods, service and public works.

Figure 32. PMR economy-wide indicator for Public Procurement

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

This result implies that country has room for improvement in this area. In particular, Finland could introducing a mandatory requirement for the contracting authority to collect information on the goods, services and public works it plans to procure before deciding its procurement strategy and designing the tender. Gathering such information would allow the contracting authority to tailor the tender design to the features of the market at hand. An additional regulatory weakness is that contracting authorities often provide reference prices in tender documents (i.e. any indication of a price that would be acceptable/not acceptable for each individual component of the tender). This practice can distort price competition and foster collusion.

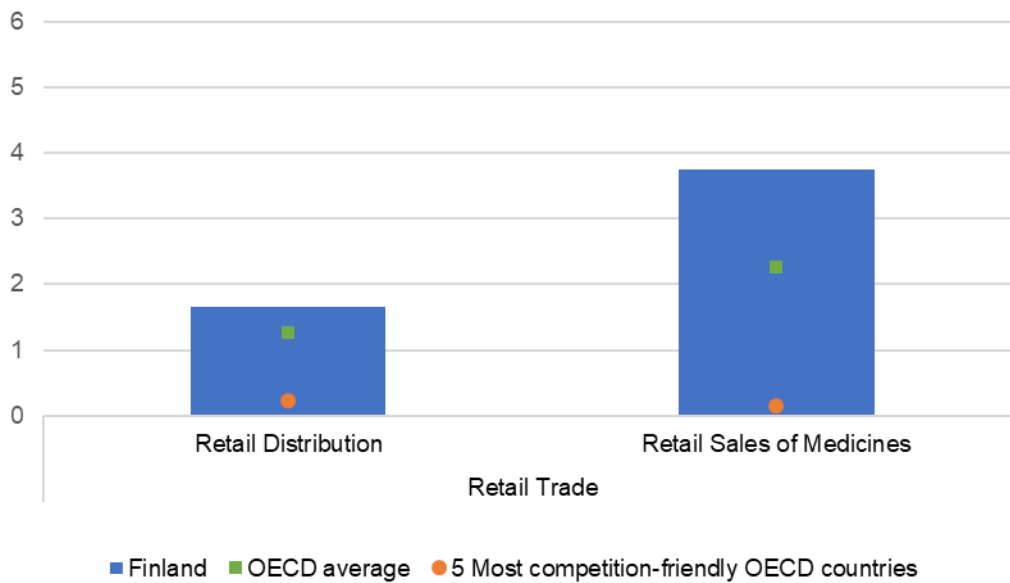
If Finland addressed these regulatory weaknesses, it would decrease its score in the PMR low-level indicator on Public Procurement from 1.50 to 0.00.

3.2. Retail Distribution and Retail Sales of Medicines

Figure 3 shows that Finland scores above the OECD average in both the Retail Distribution and the Retail Sales of Medicines sector indicators.

Figure 33. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the area of Retail Distribution, Finland's results are driven by a burdensome licensing regime. Specific licences, beyond those related to health and safety and environmental regulation, are required for establishing clothing and food and beverages outlets, even when these outlets do not sell special products (such as alcohol), and clothing outlets are required to register in a specific registry beyond the standard commercial registry for all businesses. More importantly, commercial interest groups are involved in decisions to grant authorizations for individual retail outlets.

If Finland removed these regulatory barriers, the country's score in the low-level indicator would decrease from 1.65 to 0.76¹⁰².

When it comes to the Retail Sales of Medicines, Finland imposes considerable restrictions in this area. In particular, there are limits on the number of pharmacies that can be located in the same geographic area only pharmacists can own a pharmacy, and a single person or entity cannot own more than one pharmacy. There is evidence that removing demographic and geographic constraints on new pharmacies can have a positive impact on competition.¹⁰³

¹⁰² Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹⁰³ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research, (2012); Davud Rostam-Afschar, Maximiliane Unsorg (2021). [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen

Moreover, only pharmacies can sell non-prescription medicines. Allowing other outlets, such as supermarkets, to sell non-prescription medicines could further facilitate access to medicines. Last, the prices of all non-prescription medicines are regulated.

Eliminating these restrictions would reduce Finland's score in the Retail Sale of Medicines sector indicator from 3.75 to 0.00.

4. Certain infrastructure investment priorities and the regulatory setup of the underlying sectors

In the Plan, Finland is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (Investment P1C1I1 - Energy infrastructure investments to enhance the framework conditions for attracting investment in clean energy, with a focus on energy system integration, energy storage and transport. The investment shall support projects that promote the construction of energy infrastructure e.g. electricity grids and electricity transmission capacity; Investment P1C1I2 – Investments in new energy technology – The investment shall provide support for large-scale projects in the demonstration phase with a priority on technical feasibility for e.g. offshore wind energy production; Investment P1C1I3 – Investment and reform package in Åland with the objective of promoting the production of renewable energy in the Åland autonomous region: support to the preparatory phase of an offshore wind power project and to solar energy production)
- **Rail transport** (Investment P2C1I2 – Digirail project – Finland aims to introduce the European Rail Traffic Management System (ERTMS) on the entire national network by 2040, along with the 4G and 5G-based Future Railway Mobile Communication System)
- **E-communication** (Investment P2C1I1 – Digital connectivity to increase the quality and availability of communication connections in areas where such connections are not provided based on market mechanisms alone – broadband connections supported under the scheme shall offer at least a capacity of 100 Mbit per second)

According to a recent study by the OECD (Demmou and Franco, 2020),¹⁰⁴ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Finland's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010). [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#). See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

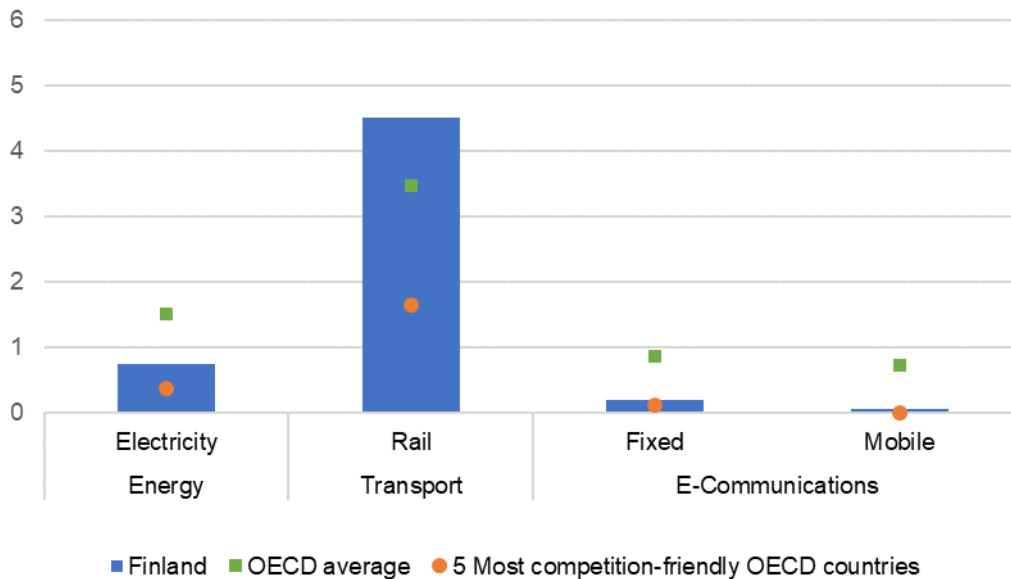
¹⁰⁴ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data](#). OECD Economics Department Working Papers No. 1609.

4.1. Insights from PMR sector indicators for network industries

Figure a shows how Finland performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 34. PMR sector indicators for Electricity, Transport by rail and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- The regulatory framework of the **electricity** sector, as measured by the PMR indicator, is not far from international best practices. The country's score in the electricity sector indicator is mostly driven by the state holding stakes in the largest electricity generator and retailer, *Fortum Corporation*.
- Finland's score in the **rail transport** sector is well above the OECD average. The score is driven by the fact that, while the freight transport market is open to competition, the passenger transport market is a monopoly and that the operator that dominates both markets, VR group, is entirely state owned.
- The regulation of the **e-communications** sector, as captured by the PMR indicators, is very close to international best practices.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹⁰⁵ complements the

¹⁰⁵ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

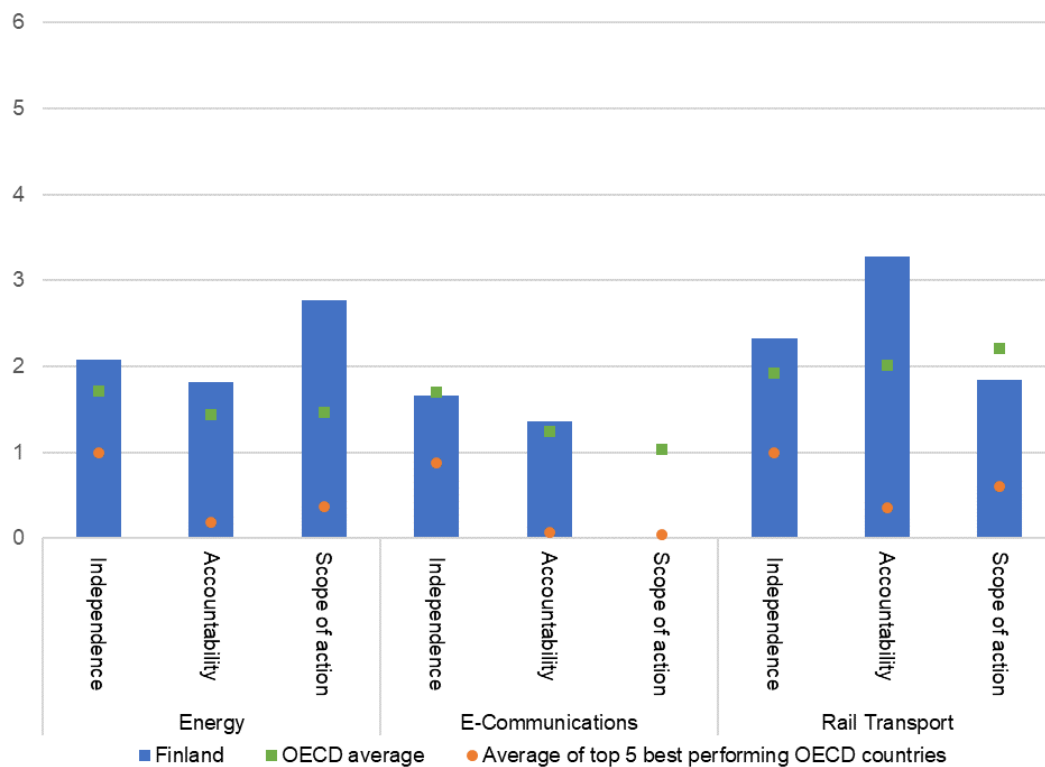
overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 5 shows a gap between governance arrangements of the energy sector regulator in Finland and international best practices, as the scores in the independence and accountability components are significantly above the OECD average. In addition, there is room for improvement in the independence and accountability components of the Rail Transport regulator. However, the governance arrangements of the E-communications sector regulator are in line with or below the OECD average in all the three components.

Figure 35. Indicators of Governance of Sector Regulators for Energy, E-communications and Rail Transport



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar does not appear on the chart for a specific indicator, it means that the value for that indicator is 0.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

The energy regulator reflects fewer governance arrangements to safeguard independence than the average energy regulator across OECD economies. Its regulatory arrangements could be improved to ensure that appropriate checks limit the possibility of arbitrary dismissal of executives by the government. Moreover, an independent panel could participate in their selection, and the parliament could be involved in their final appointment instead of just the government. Lastly, a cooling-off period could be introduced to ensure that the agency head and the board members avoid conflicts of interests after the end of their term of office.

The accountability of the regulator could also be enhanced. For example, it could be required to regularly publish a forward-looking action plan and to present a report on its activities to parliamentary committees.

Finally, the scope of action of the energy regulator is narrow compared to its OECD peers. For instance, the regulator does not issue industry and consumer standards, nor does it enforce compliance with these standards via inspections and fines. In addition, the regulator does not mediate in disputes between market actors and regulated entities, nor reach final decisions in such disputes.

Rail Transport

Several governance arrangements could help the rail transport regulator to become more independent. First, an independent panel could participate in the selection of the agency head and board members, and the parliament could be involved in their final appointment instead of just the government. Furthermore, there could be prior employment restrictions for these positions. Finally, Finland could publish the criteria that could lead to the dismissal of these executives during their term of office.

The rail regulator performs worse in terms of accountability than the average rail regulator across OECD economies. There may be room for the regulator to strengthen its accountability to parliament by, for example, being required to answer requests from or attend hearings organized by the parliamentary committees. In addition, the rail regulator could be required to be more transparent about its activities by regularly publishing: i) a report on its activities; ii) all its decisions, resolutions and agreements; iii) a forward-looking action plan, and iv) information on its financial performance.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: France

The aim of this note is to provide an assessment of the likely impact that the French National Recovery and Resilience Plan¹⁰⁶ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹⁰⁷. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing France's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹⁰⁶ The assessment was based on the

- Recovery and Resilience Plan of Belgium, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Belgium.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Belgium.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹⁰⁷ All information, indicator values and methodology related to the PMR indicators can be found in the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by France could have an impact on the PMR indicators. These are outlined in Table 1.

Table 16. Measures in the Recovery and Resilience Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly)
Component 3 Reform C3.R1 (page 251 of the original Plan)	<p>Mobility law ('Loi d'Orientation des Mobilités')</p> <p>The mobility law contains a comprehensive package of policy interventions on governance and, regulation of the road transport sector, as well as investment plans. Among them, it briefly mentions that terms and conditions of opening up the Ile-de-France road transport services to competition will be clarified.</p>	<p>The opening to competition of road transport services may have an impact on the <u>Road Transport</u> sector indicator and the <u>Barriers in Network Sectors</u> low-level indicator. The exact details of this reform are not clarified in the Plan; hence it is not possible to assess the quantitative impact on these indicators.</p>
Component 5 Reform C5.R1 (page 318 of the original Plan)	<p>Law on accelerating and simplifying public action ("loi ASAP")</p> <p>The objective of the ASAP law, promulgated in December 2020, is to simplify administrative procedures for both businesses and individuals. The Plan mentions in particular the following measures:</p> <ul style="list-style-type: none"> (i) Administrative procedures are simplified and streamlined to ease the burden on businesses (though mostly for industrial installations). (ii) Rules for Public procurement in exceptional circumstances and for SMEs have been eased (iii) Online pharmacies no longer need to wait for an authorisation to operate, they are now subject to a notification process. 	<p>Measure (i) may have an impact on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> and/or the <u>Licences and Permits</u> low-level indicators, and measure (ii) may have an impact on the <u>Public procurement</u> low-level indicator. However, the information included in the Plan is not enough to assess the impact of these simplifications on these PMR indicators.</p> <p>Measure (iii) facilitates competition in the retail sale of medicines, but it is unlikely to improve France's score in the <u>Retail Sales of Medicines</u> sector indicator, because the PMR indicators only consider whether online sales are allowed or not.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹⁰⁸ made the following general observations on France's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

¹⁰⁸ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of France and delivering a Council opinion on the 2019 Stability Programme of France, COM/2019/510 final,

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of France and delivering a Council opinion on the 2020 Stability Programme of France, COM/2020/510 final.

Table 17. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p><u>Barriers to entry and competition in regulated professions</u></p> <p>Regulatory restrictiveness in France is higher than the EEA average in accounting and legal services. Main barriers arise from restrictive authorisation requirements, reserves of activities, and shareholding and voting rights requirements.</p>	<i>No measure related to regulated professions has been identified in the Plan.</i>
<p><u>Barriers in the retail sector</u></p> <p>A number of operational restrictions still affects the efficiency of brick and mortar retail businesses and puts them at a disadvantage compared to those that rely on e-commerce.</p>	<i>No measure related to the retail sector has been identified in the Plan.</i>
<p><u>Administrative Burden</u></p> <p>France's overall business environment has improved, but the country needs to continue its efforts to reduce the administrative burden on firms.</p>	<p>There are multiple measures in France's Plan aimed at simplifying the administrative procedures for businesses, however the only one that <i>may have an impact on the PMR indicators</i> is</p> <p style="text-align: center;">Reform C5.R1. Law on accelerating and simplifying public action</p> <p>This measure has already been discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly.¹⁰⁹ Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for France.¹¹⁰

In the rest of this section, the following indicators are assessed among those where France's values are above the OECD average:

- i) Retail Distribution;
- ii) Retail Sale of Medicines; and
- iii) Administrative Burden on Start-ups.

¹⁰⁹ The latest PMR values available for France refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹¹⁰ All country fiches are available in the [PMR webpage](#)

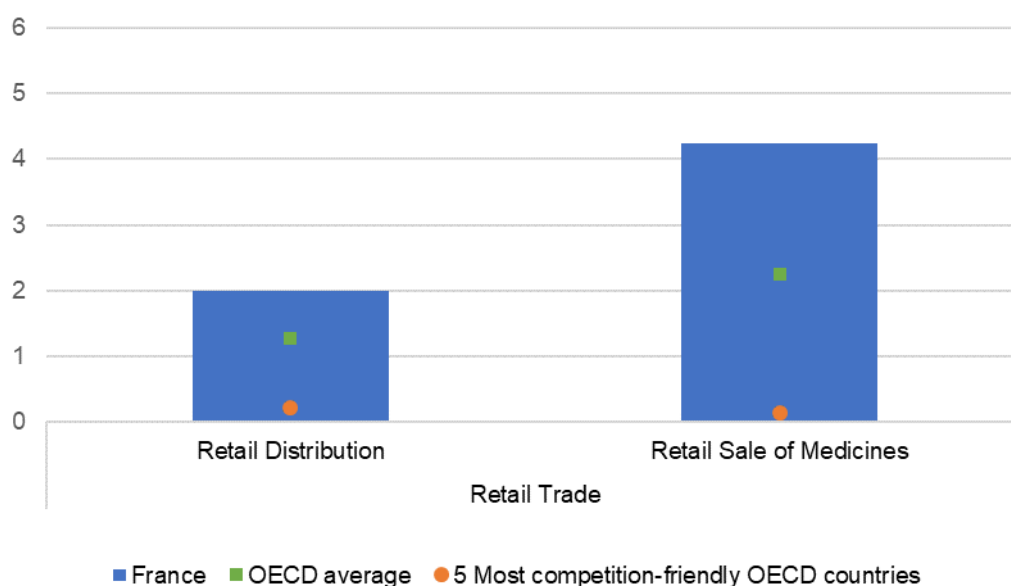
iv)

3.1. Retail Distribution and Retail Sales of Medicines

Figure 2 shows the country's scores in the two sector indicators that measure the regulatory framework in the area of Retail Trade: i) Retail Distribution, and ii) Retail Sales of Medicines. France has ample room for improvement in both indicators¹¹¹.

Figure 36. PMR sector indicators on Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the Retail Distribution sector, the burdensome licensing regime for retail outlets creates unnecessary barriers to entry in France. Establishing a retail outlet requires registration in a specific register¹¹², and very large shops also require a specific authorisation. There is evidence that removing requirements for outlet registration and authorisations can favour entry, innovation and efficiency¹¹³.

In addition, although shop opening hours have been relaxed in recent years, they are still less flexible in France than in many other OECD countries. For example, outside of some specific shopping areas, there are restrictions on how many Sundays shops can be opened during in a year.

¹¹¹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹¹² It should be noted that in 2019 the Action Plan for the Growth and Transformation of Businesses (PACTE) was adopted, as part of this France foresees adopting measures to simplify the registration procedures in May 2022. Yet, the exact details of these simplifications are not available; hence, it is not possible to estimate their effect on the PMR indicators. See: <https://www.economie.gouv.fr/loi-pacte-simplifier-creation-entreprise#>

¹¹³ For example see Nicoletti, Giuseppe & Boylaud, Olivier (2001), "Regulatory reform in retail distribution", OECD Economic Studies.

Moreover, seasonal sales can be held only during specific periods of the year. Outside these periods, retailers are not allowed to sell articles below costs. In addition, businesses are required to notify the relevant authorities to undertake an end-of-business sale.

If France removed these restrictions, it could foster greater competition in the retail sector and it would improve its score in the PMR sector indicator for Retail Distribution from 2.00 to 0.78.

France's PMR sector indicator on the Retail Sales of Medicines is much higher than the OECD average, which is already quite high. This is due to the presence of restrictions on the minimum distance between pharmacies, the number of pharmacies that can be located in the same geographic area, and who can own a pharmacy (only pharmacists). In addition, there are also some restrictions on the number of pharmacies a single pharmacist can own (between 4 and 10, but not more), and most non-prescription medicines can be sold only in pharmacies. France could foster a more competitive market for the retail sale of medicines by easing rules on pharmacies' ownership and removing any barriers related to geographic or demographic requirements¹¹⁴. In addition, allowing other outlets, such as para-pharmacies and supermarkets, to sell non-prescription medicines could further improve access to these medicines. This is especially important in Europe, where the population is rapidly ageing.

Eliminating the above-mentioned restrictions would enhance France's score in the Retail Sale of Medicines PMR sector indicator from 4.25 to 1.00.

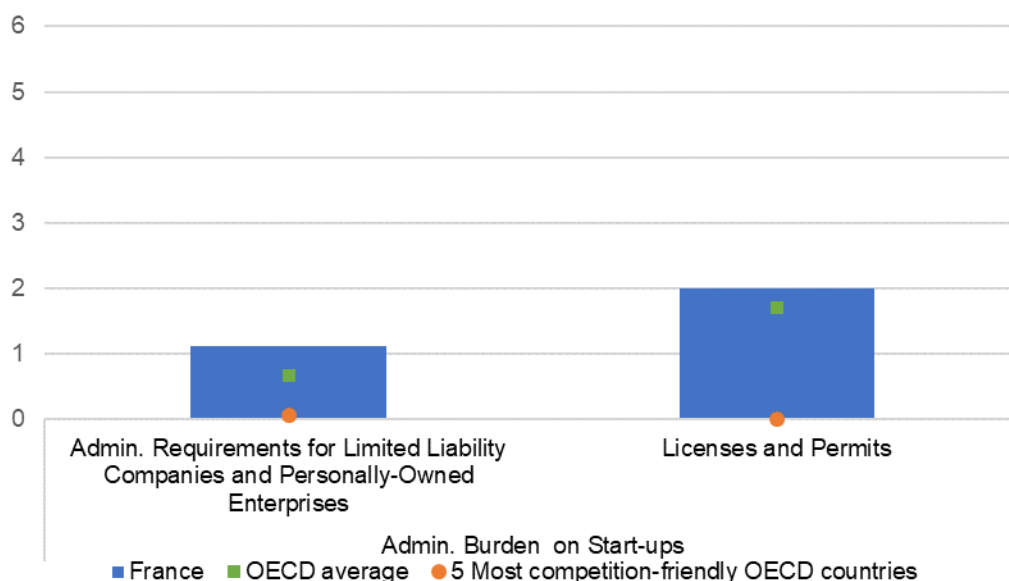
3.2. Administrative Burden on Start-ups

As shown in Figure 3, France scored above the OECD average in both low-level indicators included in the area of Administrative Burden on Start-ups: i) Administrative Requirement for Limited Liability Companies and Personally-Owned Enterprises; and ii) Licences and Permits, which measures the existence of initiatives to simplify licensing procedures and programmes to review and reduce the number of licences.

¹¹⁴ A number of papers show that removing demographic and geographic rules for opening new pharmacies can have a positive impact on competition. See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021): "[Entry regulation and competition evidence from retail and labor markets of pharmacists](#)", University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): "[Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#)". See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

Figure 37. Low-level PMR indicators included in Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

France's high score in the Administrative Requirement for Limited Liability Companies and Personally-Owned Enterprises is due to the fact that France requires a larger number of procedures to set-up a business than most OECD countries. Beyond minimising these, the country would reduce the burden on entrepreneurs if all the procedures could be carried out by contacting a single institution. Empirical evidence shows that high compliance costs and the complexity of regulations remain a major obstacles to entrepreneurial activity, ultimately harming employment and productivity growth¹¹⁵.

It should be acknowledged that France adopted the PACTE law¹¹⁶ in May 2019. This law simplified the procedure for setting up a new business by reducing the time and costs involved. This reform is likely to lower the country's score in the Administrative Requirement for Limited Liability Companies and Personally-Owned Enterprises low-level indicator. However, the exact effects are difficult to calculate without a very detailed analysis of its impact on each of the administrative steps that need to be undertaken to set up a new firm.

Regarding the regulatory set-up related to Licences and Permits, the PACTE law also established a one-stop-shop where new businesses can obtain all the necessary authorisations, permits and licences. Given that the lack of such a one stop shop was one of the main reason for the country's high score in the Licences and Permits low-level indicator in 2018, this measure already reduces France's score in this low-level indicator from 2.00 to 1.00¹¹⁷.

¹¹⁵ Cusmano, L., M. Koreen and L. Pissareva (2018), "[2018 OECD Ministerial Conference on SMEs: Key Issues Paper](#)", *OECD SME and Entrepreneurship Papers*, No. 7, OECD Publishing, Paris.

¹¹⁶ [LAW no. 2019-486 of May 22 \(2019\)](#) relating to the growth and transformation of companies. <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038496102>

¹¹⁷ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, France is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (Investment C3.17 – Strengthening the resilience of electricity networks and energy transition in rural areas)
- **Rail transport** (Investment C3.11 – Support to the railway sector: modernising the railway network by replacing tracks, crossing bars, ballast, switches, catenaries and signalisation signs; invest in preselected transport infrastructure projects, e.g. renovation of local railway lines, freight lines and embedded logistic platforms; renovation of tunnels)
- **Water transport** (Investment C3.14 – Acceleration of work on transport infrastructure, e.g. renovation of river networks, in particular locks and dams, modernisation of the digital management system for maritime affairs; Investment C3.16 – Greening of harbours)
- **E-communications** (Investment C9I5 – High-speed broadband plan to encourage the acceleration of the deployment of Next Generation Access (NGA) networks, in particular in optic fibre, with speeds above 100 Mbps and generally exceeding 1 Gbps)
- **Water** (Investment C2.16 – Secure water networks: renovation and rehabilitation of 450 kilometres of networks in France, modernization of clean water and sanitation distribution networks, upgrading of wastewater treatment plants and the disconnection of rainwater discharges from the networks, investments in the sanitization of more than 35,000 tonnes of sewage sludge, upgrade water and sanitation networks)

According to a recent study by the OECD (Demmou and Franco, 2020),¹¹⁸ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since France's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

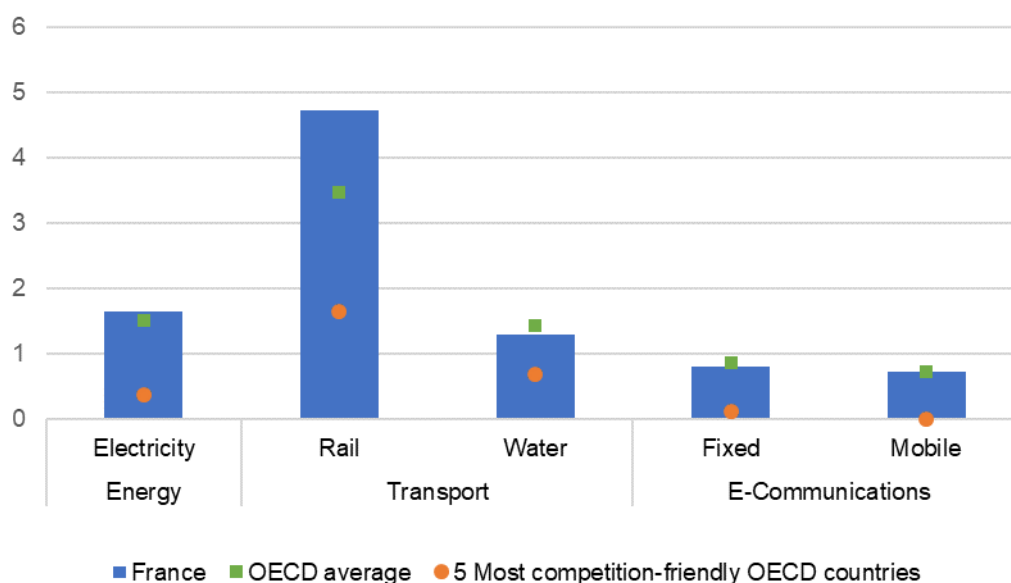
4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how France performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

¹¹⁸ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

Figure 38. PMR sector indicators for Electricity, Rail* and Water Transport, and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* The 2018 PMR result for the rail transport sector does not reflect recent reforms that have removed some regulatory constraints to competition. Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity** sector, France scores above the average of the five best performing OECD countries because the government controls the incumbent operator and because electricity retail prices are still regulated for households and small businesses¹¹⁹, even though the retail sector is open to competition.
- In the **rail transport** sector, France's score is very high because there were regulatory constraints to competition and the incumbent is publicly owned. However, after the information for the 2018 PMR indicators were collected, France opened up the passenger transport services competition immediately: the new railway law No. 2018-515¹²⁰ introduced competitive tendering procedures for the allocation of public service contracts from December 2019 and allowed open access competition in high speed lines from December 2020. If this reform was taken into account, the score for the Rail Sector PMR indicator would decrease from **4.71**, shown in Figure 4, to **3.43**¹²¹.
- France's score in the sector indicator on **water transport** sector is very close to the OECD average. Nonetheless, France could further improve its regulatory set-up by replacing the licensing system currently in place for setting up firms offering freight transport services with a less burdensome

¹¹⁹ Despite the opening of the French retail market to competition in 2017, most households and small businesses have a contract with *Electricité de France (EDF)*, whose prices are fixed by public authorities.

¹²⁰ See: [LAW no. 2018-515 of June 27, 2018](#) for a new railway pact.

¹²¹ This reform would also lower France's score in the Barriers in Network Sectors low-level indicator that feeds into the Economy-wide PMR indicator, which decrease from **1.01** to **0.91**.

notification system. France could also allow freight transport firms from countries other than EU member states to provide cabotage services.

- France's score in the **e-communications** sector indicator is close to the OECD average. The country's regulatory regime is indeed close to international best practices, as measure by the PMR indicators, but the government still holds shares in Orange SA, which is active both in the mobile and fixed sectors.
- In the **water** sector, France could further align its regulatory framework with international best practices by enabling the trade, lease and transfer of the rights to abstract groundwater and surface water.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹²² complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

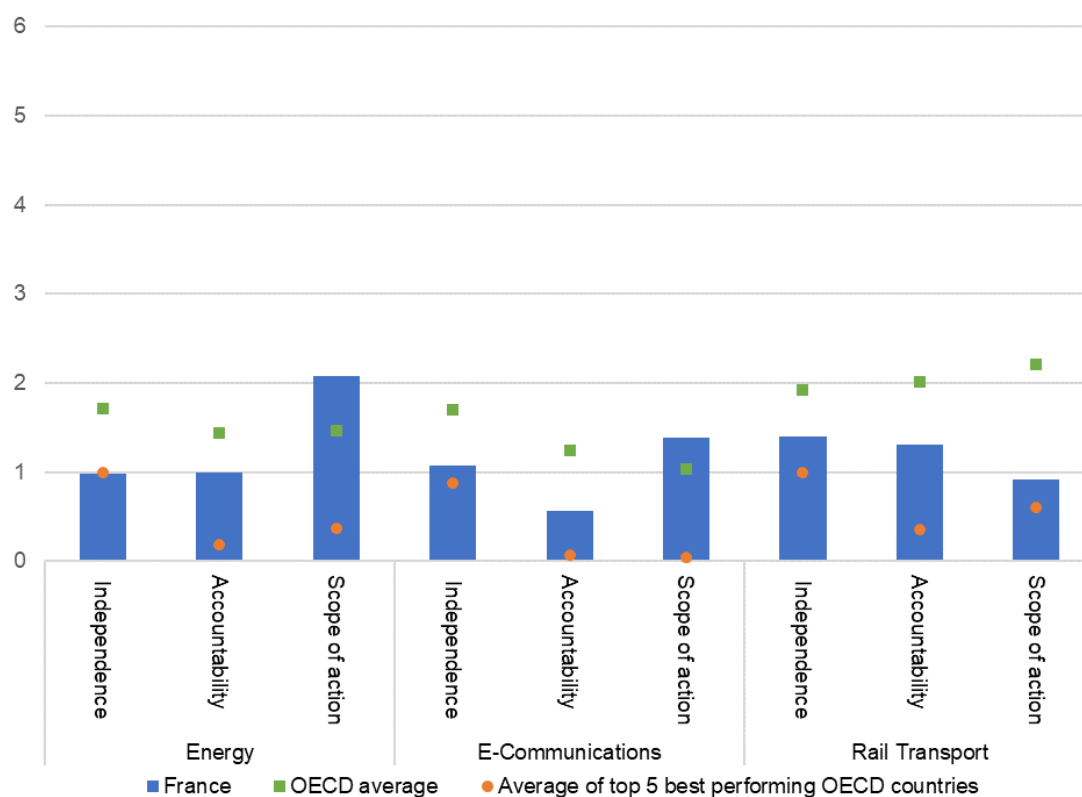
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows France's scores in the three components for the Energy, E-communications and Rail Transport regulators, together with the relevant OECD average and the average of the five best performing OECD countries.

¹²² The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 39. Indicators of Governance of Sector Regulators for Energy, E-communications and Rail Transport¹²³



Note: The database does not include all OECD countries in the e-communications and rail transport sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

France performs well in the accountability and the independence components for all regulators, where it scores below the OECD average.

France's high score in the scope of action component for the energy and the e-communications regulator reflects the fact that these regulators carry fewer functions than most of its OECD peers. As an example, the regulators do not issue industry and consumer standards, and do not enforce compliance with these via inspections and fines.

¹²³ It should be noted that the Governance of Sector Regulators database does not contain information regarding the water sector regulator in France.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Germany

The aim of this note is to provide an assessment of the likely impact that the German National Recovery and Resilience Plan¹²⁴ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹²⁵. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Germany's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹²⁴ The assessment was based on the

- Recovery and Resilience Plan of Germany, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Germany.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Germany.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹²⁵ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#)

1. Measures included in the Plan that may affect the PMR scores

Only two measures in the Plan submitted by Germany could have an impact on the PMR. These are outlined in Table 1.

Table 18. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly)
Reform 6.1.3	<p><u>Digitalisation of the administration – modernisation of registers</u></p> <p>The objective of the measure is to enable a simple, secure and digital exchange of data stored in various German registers and to allow citizens and companies to submit their data only once. The measure consists of the development of the necessary technical architecture and connecting at least 18 of the most important registers. (2026 Q3)</p>	<p>Both the modernization of the registries and the Online Access Act might have an impact on the low-level indicator on <u>Administrative Requirements for Liability Companies and Personally-Owned Enterprises</u>, since they may reduce the number of procedures required, and the number of institutions that need to be contacted to set-up a business.</p> <p>However, the information in the Plan is not detailed enough to determine whether the reforms will effectively have an impact on this score.</p>
Reform 6.1.2	<p><u>Digitalisation of the administration – implementation of the Online Access Act</u></p> <p>The objective of the measure is to make public services digitally available by 2022, in line with the Online Access Act¹⁰. At least 100 of the most important administrative services of the Länder are implemented nationwide as one-for-all services, as well as 115 Federal Government services. (2022 Q4.)</p>	

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹²⁶ made the following general observations on Germany's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 19. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p><u>Barriers in Professions:</u></p> <p>The EU Council recommended Germany to reduce barriers to competition in the business services sector, as they remain high in comparison to other EU Member States. This recommendation concerns various areas, including regulated professional services, such as architecture, engineering, and legal ones, where regulatory restrictions, such as reserve of activities and regulation on prices and fees, stifle competition.</p>	<p><i>No measures related to regulated professions have been identified in the Plan.</i></p>
<p><u>Administrative Burdens:</u></p> <p>The EU Council recommended Germany to reduce the regulatory and administrative burden for businesses.</p>	<p>There are multiple reforms included in the Plan that affect the administrative burden on businesses, though the only two that <i>may have an impact on the PMR indicators</i> are:</p>

¹²⁶ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Germany and delivering a Council opinion on the 2019 Stability Programme of Germany, COM/2019/505 final, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Germany and delivering a Council opinion on the 2020 Stability Programme of Germany, COM/2020/505 final.

Reform 6.1.3: Digitalisation of the administration – modernisation of registers.
 Reform 6.1.2: Digitalisation of the administration – implementation of the Online Access Act.

These measures have been discussed in Table 1.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan¹²⁷

The country's scores in the 2018 PMR vintage help in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Germany.¹²⁸

In the rest of this section the following indicators are assessed:

- i) Administrative Requirements for Limited Liability Companies and Personally-Owned Enterprises; and
- ii) Professional Services.

3.1. Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises

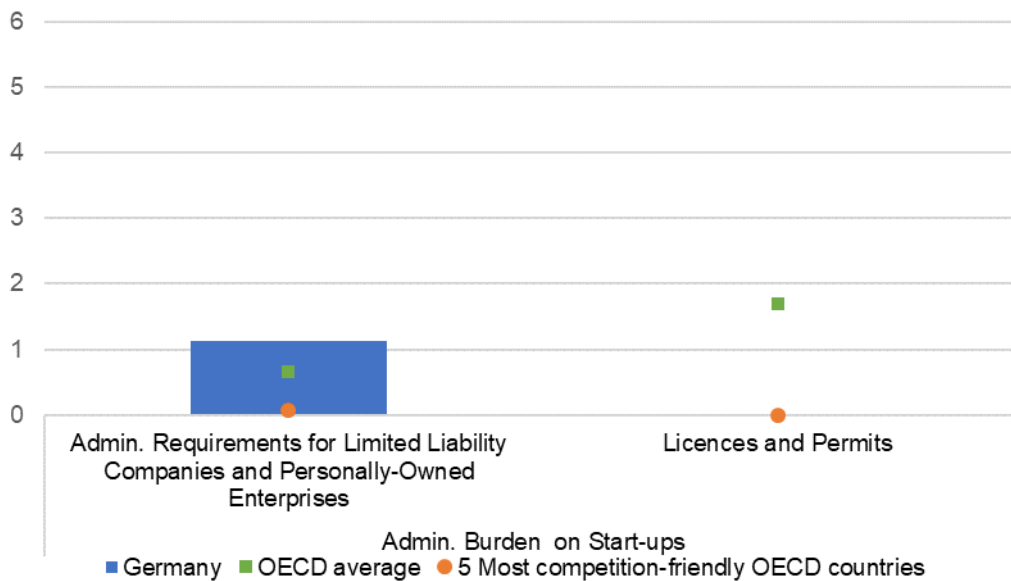
Figure 1 shows Germany's values in the low-level indicator on Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises, which captures the requirements that must be met to set up a limited liability company or a personally owned enterprise. The figure also shows the other low-level indicator that contributes to measuring the Administrative Burden on Start-ups: Licences and Permits.

¹²⁷ The latest PMR values available for Germany refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹²⁸ All country fiches are available on the [PMR webpage](#).

Figure 40. The two low-level PMR indicators that measure the Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

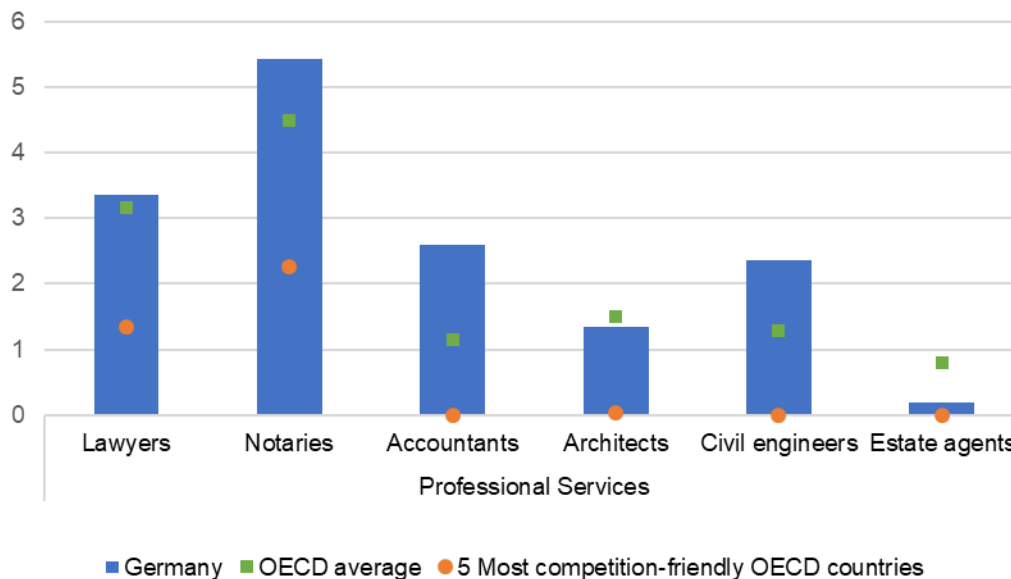
While Germany’s score in Licences and Permits is very low, as the country is close to international best practices, the administrative requirements necessary to set up a new business are more burdensome than in the average OECD country. The high score in this area is mostly due to the large number of procedures that need to be carried out, and the multiple bodies that need to be contacted in order to set up a limited liability company, and, to a lesser extent, to set-up a personally-owned enterprise. The country could benefit from a simplification of the process and a reduction of the number of bodies that need to be contacted.

3.2. Professional Services

Figure 2 shows the results of the 2018 PMR indicators for the six professions assessed in the PMR indicators, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 41. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and, in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

These values suggest that Germany's regulatory framework for Lawyers, Notaries, Accountants and Civil Engineers is more restrictive than in the average OECD economy, while Germany has a more competition-friendly set-up when it comes to Architects and Real Estate Agents.

Lawyers face several entry and conduct barriers. There is a single pathway to access the profession, which also requires passing an exam. Opening up additional pathways could foster entry and job mobility. In addition, membership in a professional organisation is required to legally practice. As for the regulation of their conduct, the fees for many of their services are regulated, lawyers are restricted from setting up a business with some other professionals, and there are some restrictions on who can have ownership or voting rights in firms that provide legal services. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of managements skills for these firms.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce some of the regulatory constraints and create some competition in this profession. Most notably, Germany could consider relaxing

the quantitative constraints on the number of notaries, the territorial restrictions on their ability practices, and liberalise their fees.¹²⁹

Accountants face less entry restrictions than lawyers and notaries. Still, they must become members of a professional organisation before they can legally practice. Constraints also exist on their conduct, in particular, accountants are restricted from setting up a business with some other professionals and there are restrictions on who can have ownership-type interests and on who can exert voting rights in firms providing accountancy services. Considering that accountants are a separate profession from auditors, the regulatory constraints they face are quite high.

Civil engineers face more regulatory restrictions than in their counterparts in many other OECD countries in particular with respect to their conduct. In particular, there are constraints on who can have ownership-type interests and on who can exert voting rights in civil engineering firms and civil engineers are prohibited from undertaking certain forms of advertising and marketing of their services. In addition, in 2018 the fees for some of their services were subject to price regulation, however, in 2020 these fees were liberalised and now only recommended fees apply to these activities. This reform has improved Germany's scores in these sector indicators relative to the values shown in Figure 2 above (from 2.36 to 2.12)¹³⁰.

Empirical research has shown that reducing regulatory barriers to the provision of professional services could lead to more entry in the professions, a reduction in prices and a wider offer of services for consumers, and to the emergence of innovative ways of doing business.¹³¹

If Germany eliminated the regulatory constraints discussed above, the scores in the PMR sector indicators for the relevant professions would improve. Table 3 below shows the impact on the scores for these professions.

¹²⁹ A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : [“Private Monopoly and Restricted Entry – Evidence from the Notary Profession”](#)).

¹³⁰ This reform applies also to Architects, bringing the value of the relevant indicator from 1.34 to 1.15.

¹³¹ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), “Economic Impact of Regulation in the Field of Liberal Professions in Different Member States”, WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), [“The economic impact of the Services Directive: A first assessment following implementation”](#), No 456, European Economy - Economic Papers 2008 – 2015

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission (2017) [“Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions”](#)).

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) [“A Welfare Analysis of Occupational Licensing in U.S. States”](#)).

Table 20. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW PMR value after suggested reforms ¹³²
Lawyers	3.36	1.16
Notaries	5.43	4.21
Accountants	2.59	0.79
Civil Engineers	2.36 (2.12 after 2020 reform)	1.18

Source: OECD simulations based on the OECD 2018 PMR database.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Germany is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (1.1.1 Hydrogen projects within the framework of IPCEIs, aiming at building electrolysis capabilities; 1.1.5 Flagship projects for research and innovation in the context of the National Hydrogen Strategy, addressing challenges of serial production of water electrolyzers and integrating offshore production and its derivatives using offshore wind energy);
- **Rail transport** (Investment 1.2.6. Support to promote alternative rail propulsion offering financial support for the procurement of innovative rail vehicles or to the conversion to alternative engines with significant CO² savings; Investment 2.2.4. Promoting the digitalisation of rail by replacing conventional interlocking/fast-track programmes to speed up the roll-out of the 'Digital Rail Germany').

According to a recent study by the OECD (Demmou and Franco, 2020),¹³³ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Germany's Plan includes infrastructure investments in some network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

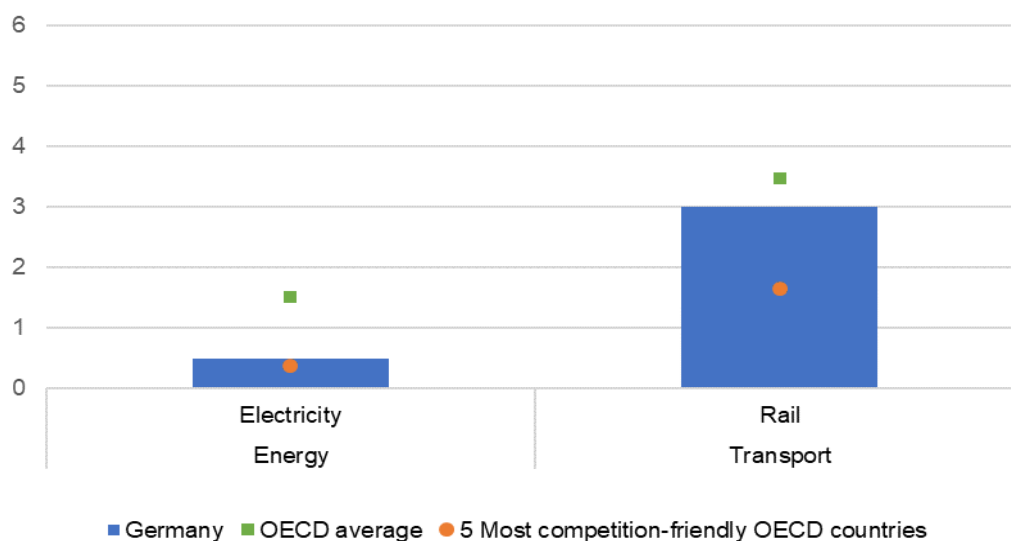
Figure 3 shows how Germany performed in the 2018 PMR sector indicators for the networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

¹³² Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹³³ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 42. PMR sector indicators for Electricity and Rail Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity** sector, Germany has one of the five most competition-friendly regulatory set-ups among OECD countries.
- Germany scores slightly below the OECD average in the **rail transport** sector, because the market is open to competition on most routes. However, Germany's score is above the average of the five most competition-friendly OECD countries because public service contracts, where these are used, are not allocated through competitive tenders on some routes. In addition, the government controls the largest firm in both the passenger and freight transport segments.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹³⁴ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

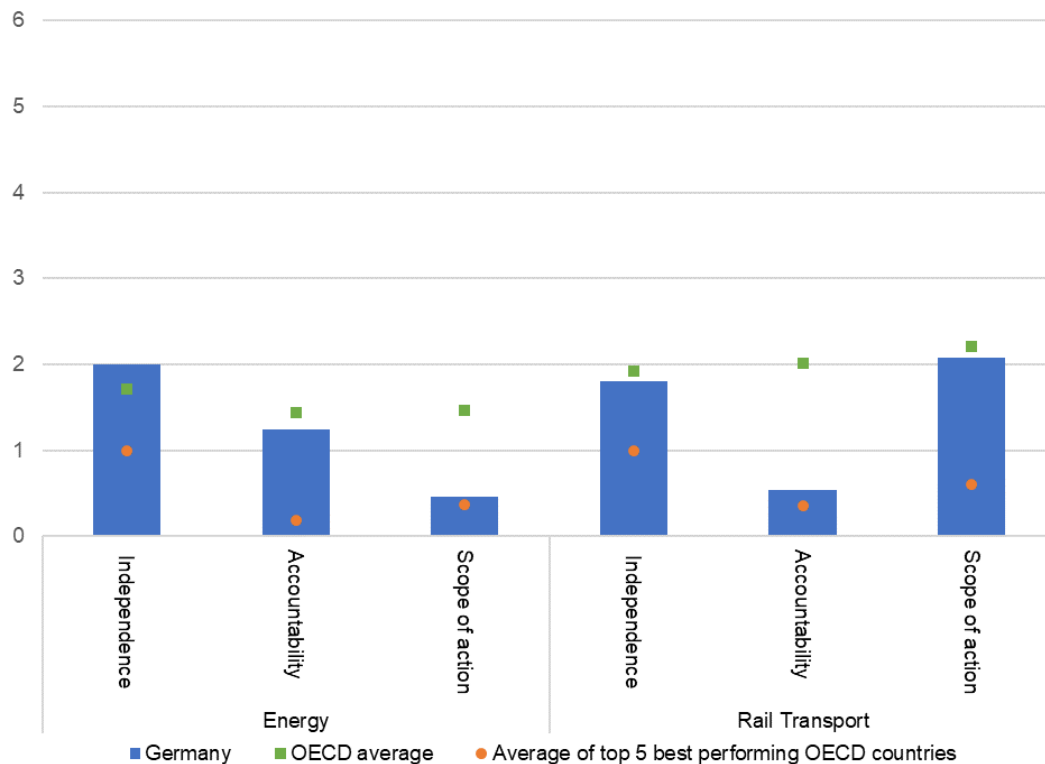
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

¹³⁴ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 shows Germany's results for the Energy and Rail Transport regulators.

Figure 43. Indicators of Governance of sector regulators for Energy and Rail Transport



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy

Germany has room for improving the independence component of the energy regulator. For example, it could require that an independent panel participates in the selection of the agency head and board members, and involve the parliament in their final appointment instead of just the government. Moreover, legislation could define the skills necessary to access these positions and introduce a cooling-off period to avoid conflicts of interests. Finally, the government alone has the power to dismiss the agency head or the board members: introducing additional 'checks' can limit the possibility of arbitrary dismissal.

The accountability of the energy regulator could also be improved. There may be room for the regulator to strengthen its accountability to parliament by, for example, being required to regularly present a report on its activities to parliamentary committees.

Rail Transport

Despite scoring below the OECD average, the independence of the rail regulator could also be further strengthened. The recommendations made above for the energy regulator would apply here too.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Ireland

The aim of this note is to provide an assessment of the likely impact that the Irish National Recovery and Resilience Plan¹³⁵ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹³⁶. Given that limited measures in the Plan may have an impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Ireland's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory setup of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹³⁵ The assessment was based on the

- Recovery and Resilience Plan of Ireland, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Ireland.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Ireland.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹³⁶ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only one measure in the Plan submitted by Ireland may have an impact on the PMR. This is outlined in Table 1.

Table 21. Measure in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment on impact on PMR (Index scale 0 to 6 from most to least competition-friendly)
Reform: 3.4	<p><u>Reducing Regulatory Barriers To Entrepreneurship</u></p> <p>The objective of the measure is to remove unnecessary regulatory obstacles for SMEs when it comes to establishing and growing their business.</p> <p>The reform consists in the design, implementation, and verification of application of the SME Test. In addition, the reform consists in the publication of a project report on the development of a single SME Portal to provide assistance and supports for SMEs.</p> <p>(2023 Q1)</p>	<p>The introduction of the SME Test in the regulatory impact assessment process will help alleviate the regulatory burdens on SMEs, since it requires policy-makers to evaluate and minimize the potential burdens that new regulations may impose on these firms. However, it will not have an impact on the country's scores in the PMR since it falls beyond the scope of the PMR indicators.</p> <p>However, The reform may have an impact on the <u>Administrative Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator if it reduces the number of procedures required, and the number of institutions that need to be contacted, in order to set-up a business. This goes beyond the creation of a SME Portal to provide assistance and support to SMEs. The Plan does not contain sufficient information to evaluate whether the reform incorporates these elements.</p> <p>The <u>Licences and Permits</u> PMR low-level indicator may also be affected by this reform, but again the information included in the Plan proves insufficient to determine this. A more detailed assessment of this regulatory area is provided in part 3.3</p> <p>..</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹³⁷ made the following general observations on Ireland's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

¹³⁷ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Ireland and delivering a Council opinion on the 2019 Stability Programme of Ireland, COM/2019/507 final,

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Ireland and delivering a Council opinion on the 2020 Stability Programme of Ireland, COM/2020/507 final,

Table 22. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Administrative Burden</p> <p>Regulatory barriers to entrepreneurship negatively affect firm entry and exit and thereby the productivity of indigenous Irish firms.</p>	<p>The following measure in the Plan addresses the recommendation on reducing administrative burden on businesses and <i>may have an impact on the PMR</i></p> <p style="text-align: center;">Reform: 3.4 – Reducing Regulatory Barriers To Entrepreneurship</p> <p>This reform has already been discussed in Table 1.</p>
<p>Retail trade</p> <p>Barriers to entry into retail markets represent a challenge. Ireland scores among the top five countries with the greatest number of procedural requirements as regards the establishment of retail outlets. Retailers face procedural obstacles which delay and increase the costs of opening new shops and may have a negative impact on market structure and dynamics.</p>	<p><i>No measure related to the retail sector has been identified in the Plan.</i></p> <p>It should be mentioned however, that based on the European Commission's 2020 country report on Ireland, the Irish Authorities have taken some steps to address barriers to the opening of new shops by setting up the new Planning Regulator.¹³⁸</p>
<p>Barriers in Professions</p> <p>Since legal services are an important input for other business services, restrictions in that sector contributes to the high cost of other services (e.g. insurance).</p> <p>The new Legal Services Regulation Act remains to be implemented, as the introduction of regulations continues to experience significant delays, even if preparatory consultations are ongoing. Delays in implementing this reform contributes to the high cost of legal services in Ireland, to the detriment of business, small and medium enterprises in particular, and individuals.</p>	<p><i>No measure related to professional or legal services has been identified in the Plan.</i></p> <p>It should be acknowledged that the government approved the General Scheme of the Courts and Civil Law Bill 2021¹³⁹ that aims – among other objectives – to ease the restrictions on inter-professional partnerships for legal professionals in the framework of amending the Legal Services Regulation Act 2015. The approval of the Bill by the Parliament is still pending. In its current form, the bill will only allow solicitors and barristers to provide joint legal services. This will not affect the PMR scores for Professional Services, which would only improve if cooperation between professionals in different sectors (notaries, lawyers, accountants etc.) was allowed.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage¹⁴⁰ can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD has selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Ireland.¹⁴¹

¹³⁸ See: [Country Report Ireland 2020](#) – Accompanying the document 2020 European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011.

¹³⁹ The General Scheme of the Courts and Civil Law Bill can be accessed [here](#).

¹⁴⁰ The latest PMR values available for Ireland refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹⁴¹ All country fiches are available on the [PMR webpage](#)

In the rest of this section, the following indicators are assessed in more depth:

- i) Simplification and Evaluation of Regulations;
- ii) Licences and Permits; and
- iii) Rail Transport.

3.1. Simplification and Evaluation of Regulations

Figure 1 shows the low-level indicators included in the area of Simplification and Evaluation of Regulations:

i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;

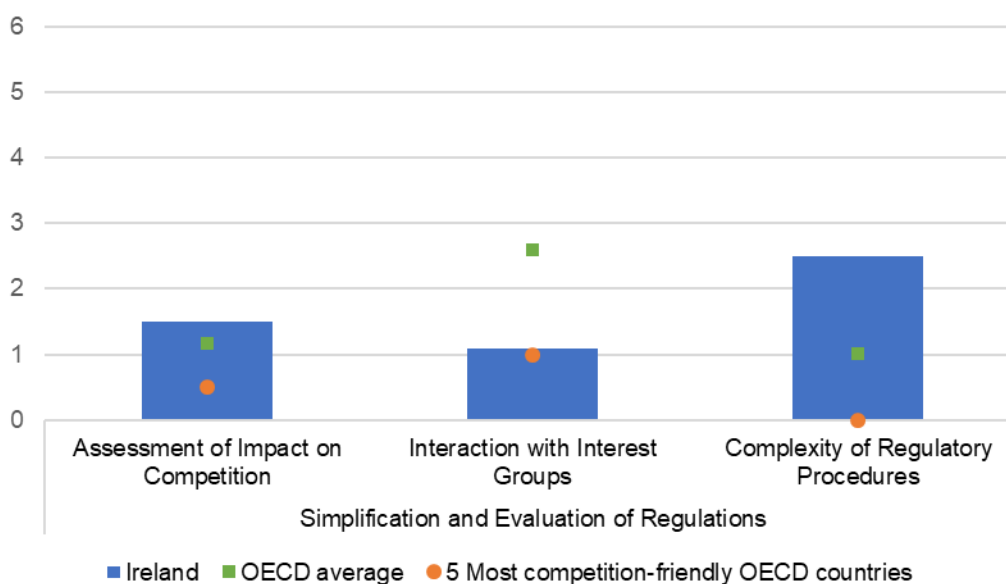
ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities; and.

iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

Ireland is one of the top performers in the area of interaction with interest groups, but scores above the OECD average in the other two low-level indicators.

Figure 44. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the area of assessing the impact of new regulations on competition, Ireland would benefit from improving its Regulatory Impact Assessment (RIA) framework. Conducting RIAs for major primary laws and subordinate regulations is mandatory in Ireland. However, the RIA quality is reviewed by the same Ministries sponsoring the regulations in the first place. To ensure that the goals embodied in the RIA are

achieved, Ireland should instead consider giving these oversight functions to an independent government body.¹⁴² If a separate and independent body reviewed the quality of RIAs, it could more systematically question the regulatory proposals if they do not balance costs and benefits appropriately. Reform 3.4 of the Plan (see Table 1) introduces in all RIAs the obligation to perform a test evaluating the burdens that new regulations may impose on SME. This test will complement the already existing requirement to assess the impact of new regulations on competition, but it will not have an impact on this PMR indicator¹⁴³.

In addition, in case a market study performed by the competition authority reveals restrictions on competition due to existing laws or regulations, the government is not required to publicly respond to explain whether they will comply with them and if not for what reasons. This can weaken the ability of this policy instrument to effectively address regulatory obstacles to competition imposed by the country's own legal framework.

Addressing the regulatory weaknesses listed above would guarantee that the impact of new and existing regulations on competition is carefully considered. As a result, Ireland's score in the Assessment of Impact on Competition PMR low-level indicator would decrease from 1.50 to 0.38.

Ireland's high score in the Complexity of Regulatory Procedures low-level indicator is due to a number of factors. First, the usage of plain language is not required when drafting new laws and regulations, which may make it harder for stakeholders to understand and comply with legislation. Second, while the government publishes online a list of primary laws that will be prepared, modified, reformed, or repealed over the next six months, the same is not done for subordinate regulations. This reduces the transparency of the legislative action and may prevent stakeholders from being aware of imminent regulatory changes. Finally, there is no explicit programme to reduce the compliance costs and administrative burdens imposed by existing regulation on businesses¹⁴⁴. Compliance costs undermine the profits of current firms and act as a barrier to the entry of new firms.

If Ireland addressed the above mentioned regulatory weaknesses, its score in the low-level indicator of Complexity of Regulatory Procedures would be considerably reduced from 2.50 to 0.00.

3.2. Licences and Permits

Figure 2 shows Ireland's score in Licences and Permits low-level indicator, which measures the existence of initiatives to simplify licensing procedures and of programs to review and reduce the number of licences. It also includes the other low-level indicator included in the area of Administrative Burden: Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises, which captures the necessary requirements to set up limited liability companies and personally owned enterprises.

Ireland scores below the OECD average in the latter, but its regulatory set-up in the area of licences and permits is very far from international best practices.

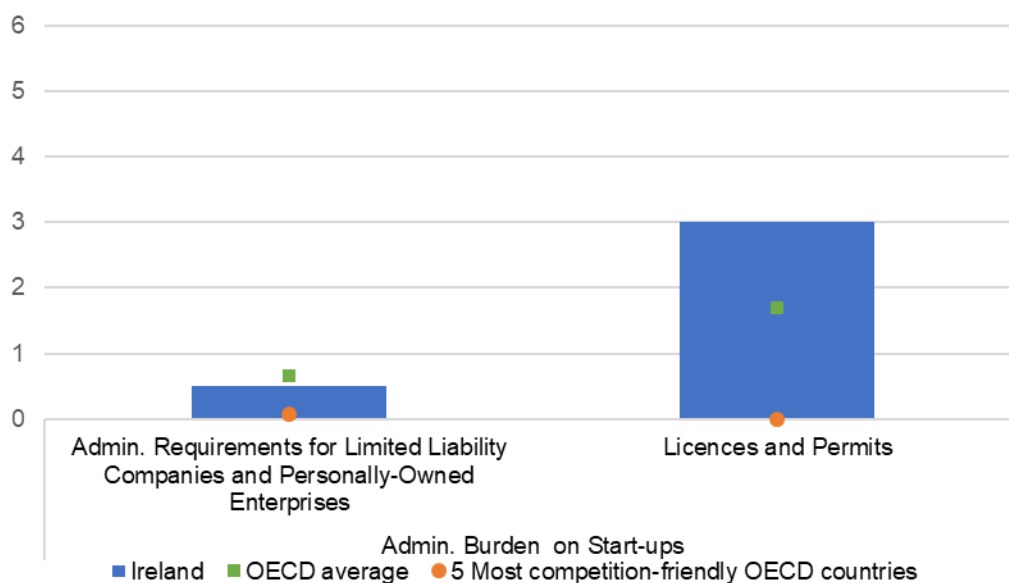
¹⁴² See also [OECD \(2021\)](#), OECD Regulatory Policy Outlook 2021, OECD Publishing, Paris, page 250.

¹⁴³ The PMR indicators does not assess in details all the assessments that are required as part of a RIA.

¹⁴⁴ The new SME Test included in Reform 3.4 of the Plan (see Table 1) partially addresses this problem, but it is aimed at minimising the administrative burdens imposed on SMEs by *new* regulation, while this indicator only measures initiatives to reduce the *existing* burdens.

Figure 45. Low-level PMR indicators included in the Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The country could simplify its licensing process by introducing a one-stop shop that issues all licences and permits and that accepts all notifications necessary to start a business. It should be acknowledged that local one-stop-shops existed since 2018 to provide information related to setting up a business, but this was not captured in the PMR indicators. In addition, in 2021 Ireland launched the Start in Ireland¹⁴⁵, a centralised web portal to provide information on all necessary notifications, permits and licences that are required to start a business in a centralised web portal. However, Ireland could go a step further and ensure that all licences and permits could *actually* be obtained from this portal, which would reduce the score in the indicator from 3 to 2.

Furthermore, Ireland could consider introducing a "silent is consent" rule that would reduce the waiting time to obtain a licence. In addition, the national government could keep track of the number of permits and licences required, given that, without a clear overview of the status quo, it is difficult to introduce any real administrative simplification.

If Ireland addresses these regulatory weaknesses, its score in the Licences and Permits low-level indicator would significantly improve from 2 to 0.

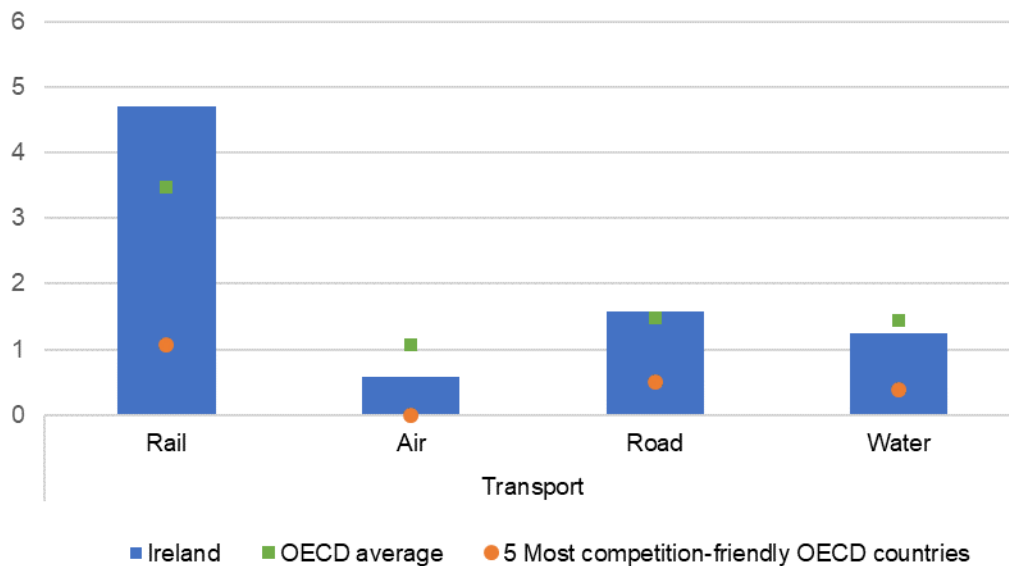
3.3. Rail Transport

Figure 3 indicates shows the country's scores in the Rail Transport sector indicator, alongside those for the other transport sectors. Ireland is well above the OECD average in the former, while the regulatory set-up in the Road, Air and Water Transport sectors are close to or better than in the average OECD member.

¹⁴⁵ The platform can be accessed on this [website](#).

Figure 46. PMR sector indicator for Transport

< Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The high score in the rail transport sector is mostly driven by the fact that the market for passenger transport is not open to competition. There is no open competition and train operators cannot compete in tenders to obtain contracts for the provision of rail services.

If Ireland introduced a tendering procedure to allocate public service contracts for the provision of passenger transport services, it would improve its score in the PMR sector-indicator of Rail Transport from 4.71 to 3.00¹⁴⁶.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Ireland is proposing to invest in the following sectors that are included in the PMR indicators:

- **Water** (Investment 1.7 – River basin management plan with the aim to improve waste water infrastructure. The investment consists of: (i) the upgrade of at least 10 small water treatment plants (ii) the realisation of feasibility studies on at least 20 waste water treatment plants; and (iii) the monitoring of biological and physico-chemical indicators of at least 20 sites and the development of capability for establishing required treatment standards to support achieving Water Framework Directive objectives)

¹⁴⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

According to a recent study by the OECD (Demmou and Franco, 2020),¹⁴⁷ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Ireland's Plan includes infrastructure investments in the water utility sector, assessing how effective is the regulatory framework and the governance of the sector regulator can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive. Thus, some insights that can be derived from the OECD's PMR indicators and Indicators on Governance of Sector Regulators are provided in the following two sections. However, it should be noted that the main policy issue¹⁴⁸ concerning this sector is whether the current funding model can provide the national water utility supplier (Irish Water) with proper incentives and adequate resources to ensure that it delivers its duties in a high-quality and efficient manner and performs all necessary infrastructure investments.

The largest part of Irish Water's revenues comes directly from the government budget, and a smaller part comes from water charges for customers. While Irish Water can require non-domestic customers to pay cost-based charges, which are set by the company and approved by the Commission for Regulated Utilities, domestic users cannot be charged for the water they consume. The cost of providing water to these users is funded directly by the state up to a given yearly allowance, which is quite generous. Therefore, domestic consumers have limited incentives to make an efficient use of water resources and to address leakages.

4.1. Insights from PMR indicators for network industries

In the water sector, Ireland's regulatory framework could be brought closer to international best practices as measured by the PMR indicators. The main weaknesses that should be addressed relate to the fact that the entitlements to abstract groundwater and surface water are not separated from land ownership and that there is no secondary market for these entitlements nor is there a regular reallocation process to ensure an efficient use of these entitlements.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹⁴⁹ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;

¹⁴⁷ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

¹⁴⁸ See [OECD \(2021\)](#), OECD Environmental Performance Reviews: Ireland 2021, OECD Environmental Performance Reviews, OECD Publishing, Paris, page 107.

and [OECD \(2018\)](#), Driving Performance at Ireland's Commission for Regulation of Utilities, The Governance of Regulators, OECD Publishing, Paris.

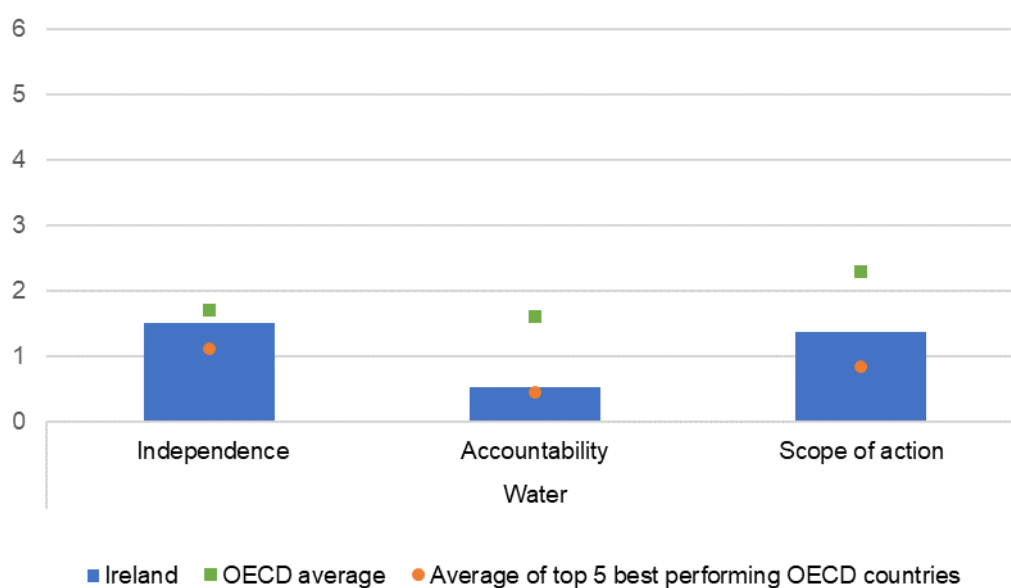
¹⁴⁹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

An assessment of Ireland's 2018 scores for the Water regulator suggests the country performs quite well compared to most OECD countries in terms of its independence and accountability, and has a broader scope of action.

Figure 47. Indicator on the Governance of Sector Regulators for Water



Note: The database does not include all OECD countries in some sectors. The water sector does not have a regulator in many OECD countries, so the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxembourg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland and Türkiye. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Despite these scores, there is still scope to align its independence with international best practices. Several arrangements could be introduced to this end. First, the country could introduce restrictions regarding the employment history of the agency head and board members, and define the skills required to access these positions. This would help to ensure that they are effectively independent from the industry they are entrusted to regulate, while guaranteeing that they have the relevant competences. In addition, final appointment procedures could involve the parliament instead of just the government.

While the scope of action of the water regulator is relatively broad, it does not include the power to issue and revoke licences or to determine industry standards. In addition, as mentioned above, the water regulator can approve water charges for non-domestic users, but not for domestic users (as these customers cannot be charged for their water consumption, up to a given allowance).

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Greece

The aim of this note is to provide an assessment of the likely impact that the Greek National Recovery and Resilience Plan¹⁵⁰ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹⁵¹. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Greece's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹⁵⁰ The assessment was based on the

- Recovery and Resilience Plan of Greece, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Greece.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Greece.

Please note that the assessment of the actual implementation of the reforms are outside the scope of this exercise.

¹⁵¹ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Greece could have an impact on the PMR. These are outlined in Table 1.

Table 23. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment on impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
Reform 16860	<p><u>Streamline the efficient operation of the new electricity market model</u></p> <p>The reform consists of streamlining of the licensing framework for Renewable Energy Sources (RES), including simplification and digitalization of procedures, short and binding administrative response times and accountability procedures for unnecessary delays, reduction of the necessary documentation and procedures, as well as a new dedicated framework for offshore RES plants. (2022 Q2)</p> <p>The reform shall also establish a market monitoring system for the National Regulatory Authority (RAE) and the participation of demand-side response (DSR) in the balancing market. (2022 Q2)</p>	<p>The simplification of the licensing framework for RES will not affect Greece's PMR scores given that sector-specific administrative barriers are not captured by the PMR indicators.</p> <p>The reform will also enable demand-side response in the balancing market. If this allowed all domestic and non-domestic consumers to sell demand response to a third party, this would improve the country's score in the <u>Electricity</u> sector indicator (from 1.79 to 1.36) and in the <u>Barriers in Network Sectors</u> low-level indicator (from 1.42 to 1.29).</p>
Reform 16979	<p><u>Establishment of new water and waste water regulatory authority</u></p> <p>The reform shall establish a single body, the National Water Regulatory Authority (NWRA), responsible for implementing the policy for a rational management of water resources designed by the Ministry of Environment and Energy. The new Authority is expected to strengthen the institutional framework and supervise the sector, including the rationalization of water tariff policy in line with the 'polluter pays' principle and ensuring the sustainability of water services in Greece. (2023 Q4)</p>	<p>The reform wants to enhance the regulatory environment of the water sector, hence it may affect some of the PMR low-level indicators. However, the information provided in the Plan is too limited to determine which indicators would be impacted and to quantify this impact.</p> <p>If the newly established regulatory body was entrusted with collecting and publishing comparable data on the efficiency and performance levels of all water service suppliers, this would introduce some form of yardstick competition in the market and it would improve Greece's score in the <u>Command and Control Regulation</u> low-level indicator (from 1.89 to 1.70).</p>
Reform 16929	<p><u>Towards Public Administration's "customer"-oriented services through simplification and improvement of processes, systems enhancements and compliance with European strategies and policies</u></p> <p>The reform consists in implementing a medium-term strategy for the reduction of administrative burdens and the creation of customer-centric services within the public administration.</p> <p>The priorities include the simplification/digitalisation of services to start-ups of sole proprietorships, start-up requirements for all types of companies, and post-registration processes. (2025 Q4)</p>	<p>All three reforms aim to reduce administrative burden for businesses, thus they may influence Greece's score in the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u>, but only if they reduced the number of procedures to be undertaken, and the number of bodies to be contacted, in order to set-up a business. The Plan does not contain enough details to establish this and quantify the potential effects of the reforms.</p>
Reform 16591	<p><u>Ease of doing business</u></p> <p>The reform aims to ease the administrative and regulatory burden on businesses. It comprises of a series of interventions to reduce the complexity, time and cost of administrative processes. (2024 Q2)</p>	

Reform 16543	<p><u>Actions for the simplification of the business environment and its upgrading in quality and safety</u></p> <p>The reform aims to create an attractive business environment conducive to investment, to facilitate firm entry and job creation, and to ensure effective market surveillance. The reform comprises of a set of actions to simplify procedures and requirements relating to business activity, while enhancing regulatory certainty and quality.</p> <p>(2025 Q4)</p>	
Reform 16952	<p><u>Strengthening the national anti-corruption framework.</u></p> <p>This measure envisages the implementation of regulatory interventions in whistle-blowers protection, lobbying, and conflicts of interest.</p> <p>(2025 Q4)</p>	<p>The measures related to lobbying are likely to have an impact on the <u>Interactions with Interest Groups</u> low-level indicator, because this is an area in which Greece has ample room for improvement Section 3.2 will explore further this regulatory area. Yet, the lack of details in the Plan makes it difficult to assess the definite impact it will have on the PMR indicators.</p> <p>Any regulatory interventions addressing conflict of interests involving public officials will not have an effect on the above-mentioned low-level indicator, given that Greece is already in line with international best practices as captured by the PMR indicators.</p>
Reform 16657	<p><u>Modern institutional framework for State Owned Enterprises</u></p> <p>This reform shall define corporate governance guidelines and specific rules for the management of state-owned enterprises, such as the appointment of the chairman, CEOs and executive directors by the board, and provisions for the establishment of internal audit committees to ensure transparency. The reform shall also establish a digital registry to record all enterprises, organizations and any other legal entities in which the state participates, promoting the effective monitoring and control the state's participation.</p> <p>(2022 Q4)</p>	<p>The reform is likely to affect the <u>Governance of SOEs</u> low-level indicator, but the lack of details in the Plan makes it difficult to quantify the exact impact. If the appointment of CEOs was left solely in the hands of the board Greece's score in the <u>Governance of SOEs</u> low-level indicator would improve (from 1.8 to 1.5).</p>
Reform 16711	<p><u>Professionalisation of the Public Procurement domain</u></p> <p>The reform shall improve the public procurement framework in Greece, and support addressing the current weaknesses through the following elements:</p> <p>(i) reform of the regulatory framework for public procurement, including adoption of secondary legislation to fully operationalise the new public procurement legal framework, actions to further simplify and improve the regulatory framework, and to ensure the effective implementation and resilience of public procurement system; (ii) digital transformation of the public procurement domain and end-to-end eProcurement including evaluation and redesign of information systems, data analytics, and public / private sector synergies; (iii) wider strategic goals and policy initiatives such as green procurement, procure2innovate, infrastructure modernisation, SME access to procurement, procurement as a leverage tool, efficient use of resources and social procurement; (iv) governance framework for public procurement (supervision, implementation monitoring, audit, and professionalisation of staff involved in public procurement). (2025 Q4)</p>	<p>The reform may have an impact on the PMR low-level indicator on <u>Public procurement</u>, though the limited information present in the Plan makes it difficult to quantify the effect.</p> <p>In 2018, Greece's score in this indicator was in line with the OECD average, though the country could further improve its regulatory set-up in this area if it required contracting authorities to systematically collect information on the goods, services, and public works that they intend to procure before designing a tender. If this changed, Greece's score would decrease from 1.13 to 0.38.</p>

Reform 16929	<p><u>Towards Public Administration's "customer"-oriented services through simplification and improvement of processes, systems enhancements and compliance with European strategies and policies</u></p> <p>One of the objectives of this reform is the implementation of the National Programme for Process Simplification, including the set-up of the national registry of procedures and <u>full set up of the Observatory for monitoring the impact of regulation</u> and the National Registry of Procedures ('Diavlos'). The reform shall include the completion of simplification/digitalisation of: impact assessment processes. (2025 Q4)</p>	<p>The reform does not contain many details about the Observatory and its requirements, hence it is not possible to determine the impact on the country's score in the PMR low-level indicator on the <u>Assessment of Impact on Competition</u>. Further details about how Greece's score in the low-level indicator could be improved are provided in part 3.1</p>
Reform 16592	<p><u>Trade facilitation</u></p> <p>The reform aims at facilitate trade by streamlining administrative procedures for companies operating in Greece. Notably the reform shall a) review and simplify existing pre-customs and customs procedures, b) identify any unnecessary administrative burdens and/or costs for companies, c) allow for the establishment of a Single and Integrated IT system (Single Window) in line with international best practices, d) establish a monitoring system to ensure proper and efficient implementation of cross-border trade controls. The reform builds on and complements the institutional reform that was initiated in 2019 with the integration of all export promotion and trade facilitation responsibilities under the Ministry of Foreign Affairs. (2023 Q4)</p>	<p>This reform may have an impact on the <u>Barriers to Trade Facilitation</u> PMR low-level indicator. However, the details included in the Plan are not sufficiently detailed to calculate the impact of the reform.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹⁵² made the following general observations on Greece's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 24. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p><u>Public Procurement:</u></p> <p>Greece could benefit from more efficient and sustainable public procurement as an integral part of its efforts to improve and rationalize public spending, as well as guarantee a competitive business environment. This would require addressing identified deficiencies, such as the persistent phenomenon of excessively low</p>	<p>There are multiple measures addressing the area of public procurement, and that are likely to improve the use of public money. The only one that <i>may have an impact on the PMR indicators</i> is</p> <p>Reform 16711 – Professionalisation of the Public Procurement domain.</p>

¹⁵² See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Greece and delivering a Council opinion on the 2019 Stability Programme of Greece, COM/2019/501 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Greece and delivering a Council opinion on the 2020 Stability Programme of Greece, COM/2020/501 final.

tenders, through appropriate legislative and administrative measures.	This measure has already been discussed in Table 1.
<p>Administrative Burden:</p> <p>A strategic approach to accelerating the use of digital technologies across all economic sectors, including in the public administration, and the interoperability of various information systems, particularly the market surveillance database would help bridge the productivity gap with euro area countries and ease up on administrative burden.</p>	<p>There are multiple measures in the Plan to reduce the administrative burden on businesses. However, the measures that <i>may have an impact on the PMR indicators</i> are</p> <p>Reform 16929 – Towards Public Administration’s “customer”-oriented services through simplification and improvement of processes, systems enhancements and compliance with European strategies and policies</p> <p>Reform 16591 – Ease of doing business.</p> <p>Reform 16543 – Actions for the simplification of the business environment and its upgrading in quality and safety.</p> <p>These measures have already been discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country’s scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly¹⁵³. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country’s PMR results, as this is not the purpose of this note. An assessment of the country’s results across all PMR indicators can be found in the OECD PMR country fiche for Greece.¹⁵⁴

In the rest of this section, the following sets of indicators are assessed:

- i) Simplification and Evaluation of Regulations
- ii) Retail Distribution; and Retail Sales of Medicines.

3.1. Simplification and Evaluation of Regulations

Figure 1 shows Greece’s scores in the area of Simplification and Evaluation of Regulation¹⁵⁵. This includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures the extent to which countries evaluate the impact of new and existing regulations on competition;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulations and for ensuring transparency in lobbying activities; and.
- iii) Complexity of Regulatory Procedures, which measures the government’s efforts in reducing and simplifying the administrative burden of interacting with the government.

Greece’s regulatory set-up is very far from international best practices in all three domains.

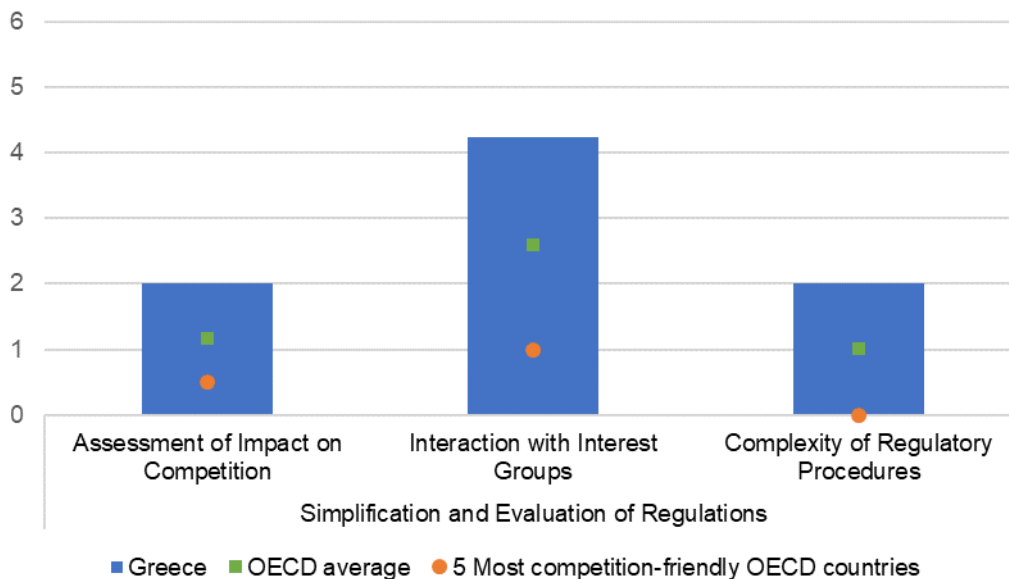
¹⁵³ The latest PMR values available for Greece refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹⁵⁴ All country fiches are available on the [PMR webpage](#)

¹⁵⁵ The section includes information from Greece’s OECD Regulatory Policy Outlook 2021 country profile, which accounts for regulatory changes after 2018. The profile is available on the OECD’s Regulatory Policy [website](#).

Figure 48. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

To bring the regulatory set-up closer to international best practices in the area of Assessment of Impact on Competition¹⁵⁶, Greece could extend the requirement to conduct RIAs to all subordinate regulations. Currently, this requirement exists only for primary laws and major subordinate regulations, without a clear threshold to determine when a subordinate regulation is considered relevant enough to require a RIA. Moreover, Greece could require that all RIAs for subordinate regulations to include an assessment of their impact on competition.

A further improvement would be if policy-makers did not limit the RIA to the identification and assessment of the costs and benefits of their preferred regulatory option, but considered also potential alternative options. An extensive assessment would allow policymakers to properly compare the options at their disposal and select the best one.

Finally, in case a market study performed by the competition authority reveals restrictions on competition due to existing laws or regulations, the government is not required to publicly respond and explain whether they will follow up on them or, if not, for what reasons. The lack of such an obligation can reduce the ability of this policy instrument to remove regulatory obstacles to competition.

Addressing these weaknesses would ensure that potential distortions to the competitive process raised by new and existing regulations are minimised, and Greece's score in the Assessment of Impact on Competition low-level indicator would further decrease from **1.63** to **0.00**.

¹⁵⁶ It is worth acknowledging that Greece introduced positive reforms in the area of ex-post evaluation, which is not covered by the PMR indicators. In particular, [Law 4622 \(Government Gazette 133 A/2019\)](#) made periodic ex post evaluations mandatory for all primary laws and for major subordinate regulations. It also strengthened the evaluation techniques and oversight functions related to ex post evaluations.

In the area of Interaction with Interest Groups, Greece adopted Law 4622 in 2019, which introduced written guidance on how to conduct stakeholder engagement for the development of primary laws. This measure already improves its score from 4.23 to 3.96. However, Greece should consider extending the scope of this guidance to subordinate regulations to further increase the efficacy of this governance tool.

The Greek Plan already foresees the adoption of regulations related to lobbying (see Table 1). Yet, the details of these measures are very vague. Therefore, some specific measures that could help Greece to enhance its regulatory framework in this area are discussed below.

Greece could adopt national regulation laying down the rules for the interaction between public officials and interest groups during the regulatory process. To increase the transparency of lobbying activities, it could introduce a mandatory requirement for interest groups to register in a public registry. In addition, public officials involved in the regulatory process could be required to make their agenda publicly available and to disclose the identity of the interest groups that were consulted in each regulatory process. Moreover, the identity of the permanent advisory bodies could be publicly disclosed. Finally, a cooling-off period for public officials could be introduced, thus restricting their ability to use their former work connections for lobbying activities.

The country would also benefit from allowing citizens to provide feedback on existing regulations to support policymakers in assessing their effectiveness.

If Greece addressed all the regulatory weaknesses listed in this section, its score in the Interaction with Interest Groups low-level indicator would be further reduced from 3.96 to 0.00.

Greece could significantly reduce the Complexity of Regulatory Procedures through some targeted adjustments to its regulatory framework. Firstly, a general policy requiring the use of 'plain language' when drafting regulations could be introduced. Secondly, the government could be required to publish an online list of all primary laws and subordinate regulations that it plans to prepare, modify, reform, or repeal over the following six months.

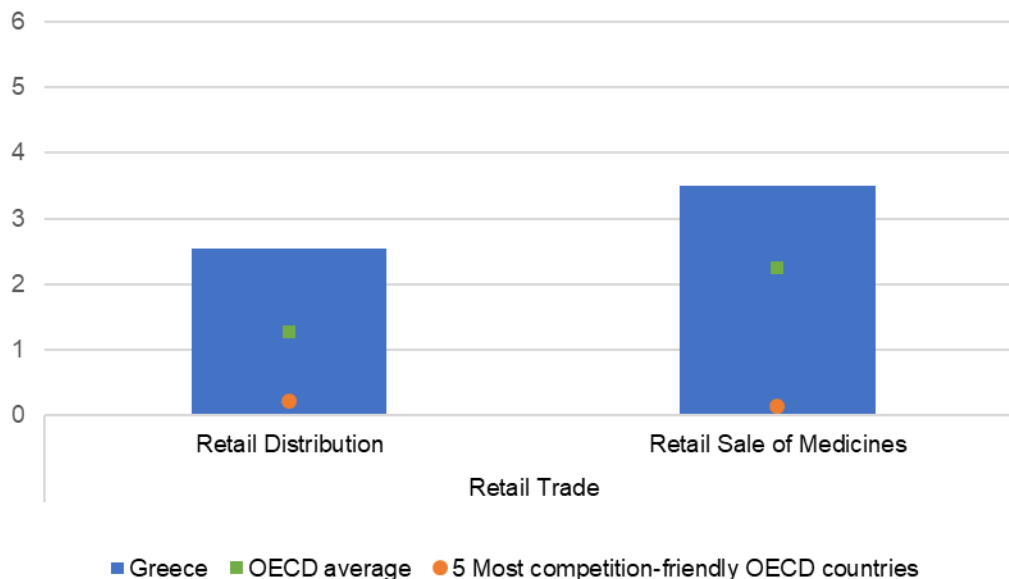
Adopting these two requirements would make regulations and laws easier to understand and comply with and they would provide greater clarity about the country's forthcoming regulatory agenda. As a result, the country's score in the Complexity of Regulatory Procedures low-level indicator would drop from 2.00 to 0.00.

3.2. Retail Distribution and Retail Sales of Medicines

Figure 2 indicates that Greece scores above the OECD average in both the Retail Distribution and the Retail Sales of Medicines sector indicators.

Figure 49. PMR sector indicator for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

When it comes to Retail Distribution, the score is driven by the burdensome licensing regime imposed on retail outlets. For example, establishing a retail outlet in the clothing sector requires an authorisation if the shop exceeds specific surface thresholds, while in the food and beverages sector an authorisation is required for all retail outlets. These authorisations are required in addition to those related to health and environmental issues. Specific authorisations are also required to sell certain goods (e.g. self-care medical devices, electronic cigarettes, and LPG) and to perform an end-of-business sales. Existing economic literature suggests that removing requirements for outlet registration and authorisations can favour entry, innovation, and efficiency.¹⁵⁷

Furthermore, Retail shops are allowed to open only on limited number of Sundays a year.¹⁵⁸

Finally, the retail prices for books, liquefied petroleum gas and a subset of non-prescription medicines are regulated.¹⁵⁹

¹⁵⁷ For example see Nicoletti, Giuseppe & Boylaud, Olivier (2001). "[Regulatory reform in retail distribution](#)", OECD Economic Studies.

¹⁵⁸ It can be remarked that in November 2020, the Greek government adopted legislation L.4753/2020 to extend Sunday retail trading to certain shops (e.g., small shops in low-population areas or shops in touristic areas) and open markets under certain conditions. However, the general restrictions on Sunday opening remain in place.

¹⁵⁹ Empirical research conducted in Greece shows that removing price restrictions on books could lead to price reductions. See Kontolaimou, Alexandra & Prodromidis, Pródromos-Ioánnis & Konstantakopoulou, Ioanna (2020), "[The issue of fixed book pricing: Evidence based on the Greek experience](#)", Centre for Planning and Economic Research (KEPE), Cyprus Economic policy Review vol. 13.

If Greece removed all these restrictions, it would foster entry and competition in the retail sector and it would improve its score in the Retail Distribution sector indicator (from 2.54 to 0.87¹⁶⁰).

Several restrictions are in place with respect to the Retail Sale of Medicines. These restrictions are related to the minimum physical distance between two pharmacies; the number of pharmacies that can be located in the same geographic area; and who can own a pharmacy (only pharmacists). Moreover, pharmacies cannot set their opening and closing hours.

Greece could foster a more competitive market for the sale of pharmaceuticals by easing the regulation of pharmacies' ownership and removing any geographic or demographic barriers.¹⁶¹ This would also enhance Greece's score in the Retail Sale of Medicines sector indicator (from 3.50 to 0.50).

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Greece is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (Measure 16926 – Support of the installation of storage systems to enhance renewable energy (RES) penetration, providing grants for the installation of up to 1 380 MW capacity of energy storage in the electricity system; Measure 16870 – Interventions for the electricity interconnection of islands and the upgrading of the electricity network. The investment aims at improving the connectivity of the Cyclades' Island and increasing generation in the Islands and the Peloponnesse; Measures 16901 and 16900 – upgrading the Hellenic Electricity Distribution Network Operator (HEDNO) network and increasing installed capacity for new RES connection).
- **E-communications** (Measure 16834 – 5G Corridors – Develop 5G networks that shall provide coverage of all Greek motorways that are part of the Trans-European Transport Networks, for Connected and Autonomous Mobility; Measure 16962 – Submarine fiber cables, connecting mainland Greece with its islands to remove a major obstacle in the availability of high-speed broadband services to end-users; Measure 16818 – Fiber optic infrastructure in buildings. The investment promotes the installation of the fibre optic infrastructure in residential and commercial buildings and end-users' connection with very high capacity networks (VHCN)).
- **Rail Transport** (Measure 16954 – Interventions for the upgrade and redeployment of the Greek rail network system and infrastructure; Measure 16892 – Digital Transformation of the Hellenic Railways Organization).
- **Road Transport** (Measure 16954 – Road Safety Upgrade; Measure 16628 – Central Greece Highway E-65: Trikala- Egnatia Section; Measure 16630 – Cretan Northern Highway).
- **Water Transport** (Measure 16975 – Upgrade Interventions for Regional Ports).

¹⁶⁰ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹⁶¹ There is evidence that removing demographic and geographic rules for opening a new pharmacy can have a positive impact on competition.

See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto "Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research, (2012), available at [\(PDF\) Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service? \(researchgate.net\)](#); Davud Rostam-Afschar, Maximiliane Unsorg (2021) : [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#); See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

- **Water** (Measure 16898 - Water Supply Projects in Western Greece and the islands of Lesbos and Corfu; Measure 16846 – Urban Wastewater and Sludge Management Infrastructures from Wastewater Treatment; Measure 16850 – Drinking Water Supply and Saving Infrastructures to improve the availability and quality of drinking water, and reduce leakage and public health risks related to water infrastructure).

According to a recent study by the OECD (Demmou and Franco, 2020),¹⁶² sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

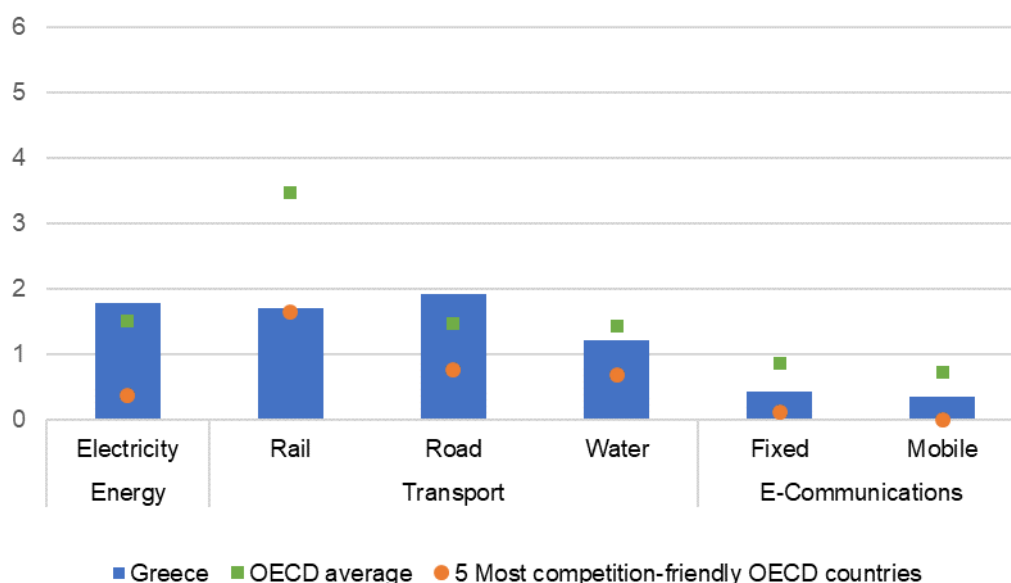
Since Greece's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Greece performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 50. PMR sector indicators for Energy, E-Communications, and Rail, Road and Water Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

¹⁶² Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

The following conclusions can be derived from this figure and the assessment of the relevant indicators:

- In the **electricity** sector, Greece's regulatory framework is close to the OECD average, though the score is much higher than the average of the five best performing countries. The main reason is that the state controls the largest firm in the production, import and retail supply segments. In addition, consumers are not allowed to sell demand-response to third parties – as already mentioned in Table 1.
- Greece's score in the **rail transport** sector indicator is quite low and in line with the average of the five best performing OECD economies. The relatively good score is explained by the fact that the government does not control or own any firms in any segments of the rail sector passenger and rail freight operators (TrainOSE is fully owned by the Italian Ferrovie dello Stato Italiane Group (FSI)). However, the country could further align itself with international best practices by using competitive tenders to allocate public service contracts, rather than through more opaque administrative procedures.
- In the **road transport** sector, Greece has ample room for improvement. In order to enhance competition in the road freight sector, the country could move from the current licensing regime to a leaner notification system. In the long distance passenger transport by coach sector, operators have exclusive right to operate over a specific area and these rights were directly awarded through an administrative procedure until the end of 2019. It should be acknowledged that Greece introduced a competitive tendering procedure to award them in 2020 – to comply with EU Regulation No. 1370/2007 –, thus introducing some competition in this market.
- Greece's score in the **water transport** sector is below the OECD average and mostly in line with international best practices. However, Greece could further improve the regulatory framework of the sector by requiring vertical separation between port authorities and operators of terminal facilities offering commercial services.
- In the **e-communications** sector, Greece is close to international best practices. Still, the government retains special voting rights in the largest fixed and mobile operator (Hellenic Telecommunications Organisation S.A., a.k.a OTE Group), which explains the gap relative to the average of the five most competition-friendly OECD countries.
- In the **water** sector, Greece could further enhance its regulatory set-up by allowing the trade, lease or transfer of the groundwater and surface water abstraction entitlements. Alternatively, in lack of the possibility of trading, it should at least consider the regular reallocation of these entitlements.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹⁶³ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

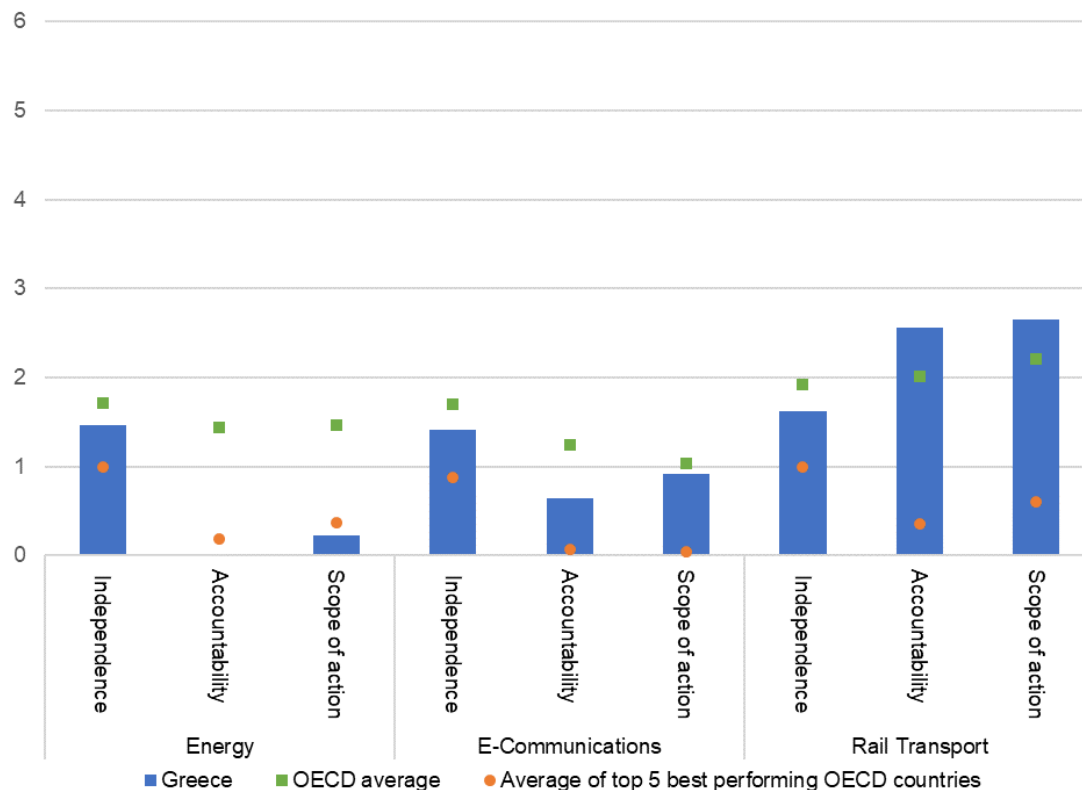
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

¹⁶³ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows Greece's scores in the three components for the Energy, E-communications and Rail Transport regulators, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 51. Indicators on the Governance of Sector Regulators for Energy, E-communications and Rail Transport¹⁶⁴



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 Database on the Governance of Sector Regulators.

Greece performs better than most OECD countries in the governance of the Energy and E-communications sector regulators. The scores in the three components are below the OECD average. Despite these good scores, the country can do more to improve the independence of these regulators. Moreover, the country has room for improvement in the accountability component of the Rail Transport sector regulator, where it scores above the OECD average.

¹⁶⁴ It should be noted that the Governance of Sector Regulators database does not contain information regarding the water sector regulator in Greece as the regulator did not provide information.

Energy

Despite Greece's good scores in all the governance components of the energy regulator, the country could introduce further arrangements to align the independence of the regulator with international best practices. In particular, the government could be forbidden from giving advice to the regulator on its work programme.

Regarding the independence of the agency head and the board members, an independent panel could participate in the selection of the agency head and board members, and involve the parliament in their final appointment instead of just government alone. Furthermore, legislation could define the skills required to access these positions.

E-communications

Greece's e-communications regulator has better governance arrangements in place than most OECD countries, across all components. Still, the recommendations identified for the energy regulator related to the skills and the selection of the agency head and board members could also be introduced for the e-communications regulator.

Rail Transport

Despite scoring below the OECD average in the independence of the rail regulator, Greece could increase the independence of the head of the agency and the board members by implementing the same recommendations offered above for the energy regulator.

The governance arrangements of the regulator could also be modified to enhance its accountability. For example, it could be mandatory for the regulator to publish all of its draft decisions, collect feedback from stakeholders, and respond to it. In addition, the regulator should not be subject to a mandatory approval by the government on proposals for new regulation that it is empowered to issue. Lastly, to increase its transparency, the regulator could be required to publish online a forward-looking action plan.

The score in the scope of action component reflects that the regulator carries out fewer functions than its OECD peers do. For instance, the regulator does not issue industry and consumer standards, guidelines, and codes of conduct. In addition, the rail regulator does not impose price controls on monopolistic activities.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Italy

The aim of this note is to provide an assessment of the likely impact that the Italian National Recovery and Resilience Plan¹⁶⁵ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹⁶⁶. Given that reform measures in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Italy's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹⁶⁵ The assessment was based on the

- Recovery and Resilience Plan of Italy, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Italy.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Italy.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹⁶⁶ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR webpage](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Italy could have an impact on the PMR. These are outlined in Table 1.

Table 25. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
M1C2. Reform 2.	<p><u>Annual Competition Laws 2021, 2022, 2023 and 2024</u></p> <p>The Competition Law shall be adopted each year, increasing competitive procedures to award public service contracts for local public services (notably in waste and public transport), including new regulations on the way concessions are awarded and renewed in ports, highways, electric charging stations and hydropower facilities to incumbent operators in many sectors, providing for the proper regulation of public services contracts, revising the rules on aggregation and applying the general principle of proportionality in the length and proper compensation of public service contracts.</p> <p>The Competition Law will also increase incentives for Regions to tender their public services contracts for regional rail services. A clear separation between the functions of regulation/control and the management of the contracts shall also be introduced. With regard to sector-specific measures, the annual Competition Laws shall include measures in the sectors of energy (electricity, gas and water), waste management and transport (ports, rail and highways), which shall complement the investments and reforms under Missions 2 and 3 (see sequential number M1C2-6 for details).</p> <p>Flanking measures to ensure the uptake of competition in electricity retail markets shall enter into force at the latest on 31st December 2022. The Annual Competition Law 2022 shall notably adopt the Electricity Network Development Plan and promote the deployment of 2nd generation smart electricity meters, which shall reach 33 million units throughout Italy at the 31st December 2025.</p> <p>Moreover, the Laws shall improve the business environment at least through: (i) the alignment of merger control rules with EU law, (ii) the consolidation, digitalisation and professionalization of market surveillance authorities and (iii) reduction the time of accreditation for providing information about employees, from seven to four days to reduce the number of days to set up a business. B.2. Milestones, targets, indicators, and timetable for monitoring and implementation for non-repayable financial support. (Annual laws: 2021Q4, 2022Q4, 2023Q4, 2024Q4)</p>	<p>The reform is likely to improve the <u>Rail Transport</u> PMR sector indicator. Specifically, if as a result of the reform, all public service contracts for the provision of rail services were allocated through competitive tenders, Italy's score would improve from 3.29 to 2.86. This would also marginally decrease Italy's score in the <u>Barriers in Network Sectors</u> PMR low-level indicator from 0.97 to 0.94.</p> <p>The reform also includes measures to foster competition in the electricity retail market. The most important one is the phasing out of regulated prices for micro-enterprises and households. These regulated prices affect costumers that do not choose a supplier in the free market and are instead supplied by a default retailer under a regulated 'standard offer'. Although the phasing out of these regulated tariffs will contribute to a more competitive retail market, this measure will not have an impact on the PMR sector indicator on <u>Electricity</u>, since it does not cover this special pricing regime. The other measures that will affect the electricity sector also relate to issues that are not covered by the PMR.</p> <p>Measures related to the concessions of ports, highways, electric charging stations and hydropower facilities will not affect the PMR scores since they touch upon areas that are not covered in the PMR indicators. The same applies to changes to merger control rules and to the regime of market surveillance authorities.</p> <p>The reduction of the time of accreditation for providing information about employees will not have an impact on the PMR low-level indicator on <u>Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises</u>, since this does not assess the time it takes to complete the procedures necessary to set-up a business.</p>

M1C1. Reform 1.10	<p><u>Reform of the public procurement legislative framework</u>¹⁶⁷</p> <p>The reform includes some measures that may affect the PMR. In particular, the second step of this reform consists in a set of amendments to the Public Procurement Code to be implemented by the second quarter of 2023, with actions aimed at: reducing the fragmentation of contracting authorities; requiring the setting of an e-platform as a basic requirement to participate in the nationwide evaluation of procurement capacity; and empowering the national anti-corruption authority to review the qualification of contracting authorities. The scope of the reform shall be also to further simplify and digitalize the procedures of central purchasing bodies and define interoperability and interconnectivity requirements, making the national e-Procurement System operational by the end of 2023. (Q4 2023)</p>	<p>The reform is unlikely to improve Italy's score in the <u>Public procurement</u> low-level indicator. In October 2018, the government introduced as a mandatory requirement the electronic submission of bids. This step already improved the score in this low-level indicator from 1.5 to 0.75. The PMR indicators do not capture the extent to which this requirement is enforced.</p> <p>The only measure that could further improve Italy's score in the low-level indicator is the prohibition to provide reference prices in the tender documentation for services, goods and public works (from 0.75 to 0). A reference price is any indication of a price that would be acceptable or not acceptable for each individual component of the tender. The milestones in the Plan suggest that this element is not considered in the reform.</p>
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2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹⁶⁸ made the following general observations on Italy's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 26. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the National Recovery and Resilience Plan
<p><u>Administrative Burden</u></p> <p>Improvements to the business environment would facilitate entrepreneurship, and better framework conditions for competition would favour a more efficient allocation of resources and productivity gains.</p>	<p>There are measures in the Plan that will reduce the administrative burden on businesses. However, <i>these measures will not affect the PMR score</i>.</p> <p>These measures have been briefly discussed in Table 1.</p>
<p><u>Barriers in services</u></p> <p>Significant barriers to competition persist in certain sectors, such as business services and retail. Improving the quality of the regulatory framework would ensure a level playing field for both innovative platforms and traditional operators, unleashing the full potential of the collaborative economy and fairer competition in all sectors.</p>	<p><i>No measures related to improving competition in business services and retail have been identified in the Plan.</i></p>

¹⁶⁷ The [European Semester 2020](#) country report for Italy highlighted the lack of improvements in making more transparent, streamlining, and rationalising and public procurement, including the technical work to build a well-functioning e-procurement system.

¹⁶⁸ See: Recommendation for a [COUNCIL RECOMMENDATION on the 2019](#) National Reform Programme of Italy and delivering a Council opinion on the 2019 Stability Programme of Italy, COM/2019/501 final.

and Recommendation for a [COUNCIL RECOMMENDATION on the 2020](#) National Reform Programme of Italy and delivering a Council opinion on the 2020 Stability Programme of Italy, COM/2020/501 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1591720597858&uri=CELEX%3A52020DC0501>

<p>Public procurement</p> <p>Increasing competitive processes to award public service contracts and concessions for access to public goods would positively affect the quality of services. Lack of regulatory stability in the public procurement system could jeopardise some key benefits of previous reforms and contribute to defer investment.</p>	<p>The following measures related to public procurement <i>may have an impact on the PMR indicators</i>:</p> <p>M1C1. Reform 1.10. Reform of the public procurement legislative framework.</p> <p>M1C2. Reform 2. Annual Competition Laws 2021, 2022, 2023 and 2024.</p> <p>These measures have already been discussed in Table 1.</p>
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3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage¹⁶⁹ can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Italy.¹⁷⁰

In the rest of this section, the following indicators are assessed:

- i) Interaction with Interest Groups;
- ii) Professional Services; and
- iii) Retail Distribution and Retail Sales of Medicines

3.1. Interaction with Interest Groups

Figure 1 shows the low-level indicator of Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities. This indicator falls within the area of Simplification and Evaluation of Regulations, which also incorporates the low-level indicators on Assessment of Impact on Competition and Complexity of Regulatory Procedures.

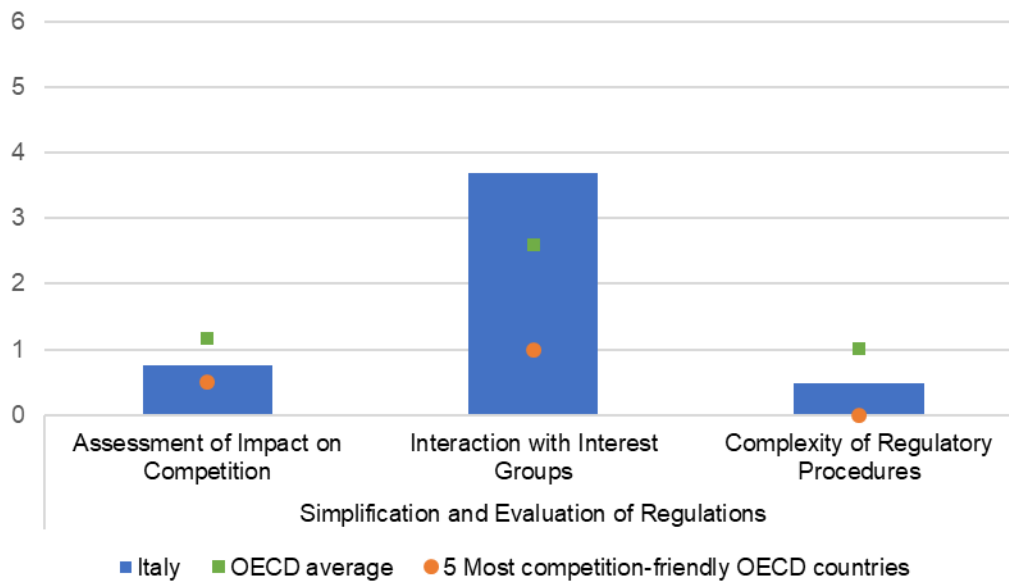
Italy scores above the OECD average in the Interaction with Interest Groups low-level indicator, but scores better than most OECD countries in the other two indicators.

¹⁶⁹ The latest PMR values available for Italy refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

¹⁷⁰ All country fiches are available on the [PMR webpage](#).

Figure 1. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The country would benefit from the adoption of a national regulation laying down rules to discipline the interaction between policy-makers and interest groups and ensuring that it does not distort the regulatory process. To increase transparency in the lobbying process, this regulation could also require all interest groups to register in a public registry and impose fines in case of non-compliance. In addition, public officials involved in regulatory procedures could be required to make their agenda publicly available and to reveal the identity of any interest group that was consulted in each stage of the regulatory process. Moreover, it could be compulsory to disclose the identity of the members of permanent advisory bodies.

In addition, cooling-off periods for members of the legislative bodies and of the cabinet could be introduced, thus restricting their ability to use their former employment connections for lobbying activities, and members of legislative bodies could be subject to conflict of interest rules.

When it comes to consultation processes when developing primary law and secondary regulations, policy-makers should be required to consider and respond to any comments received from stakeholders.

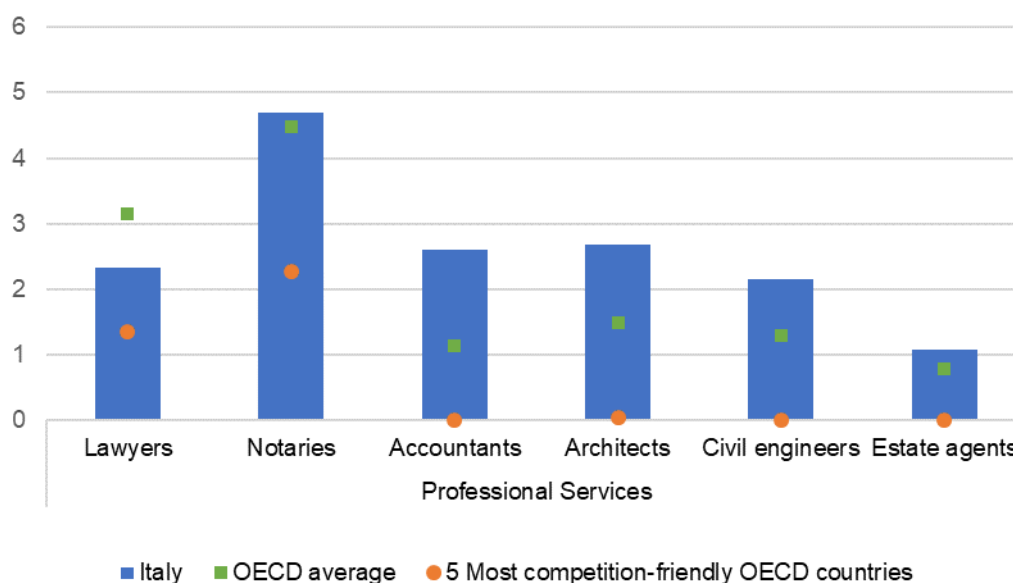
If Italy addressed all these regulatory weaknesses listed, its score in the low-level indicator on the Interaction with Interest Groups would be reduced from 3.68 to 0.00.

3.2. Professional Services

As Figure 3 illustrates, in the six professions assessed in the PMR indicators, the regulatory framework imposes a number of constraints that limit the ability of these professionals to compete¹⁷¹. These barriers are particularly high for Notaries, Accountants, Civil Engineers and Architects, where Italy has a score higher than the OECD average. The rest of this section will focus on these 4 professions.

Figure 2. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



*When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

*In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

Accountants face considerable barriers to enter the profession. There is only one pathway to obtain the qualifications necessary to legally practice, which also requires candidates to pass a professional exam. Joining a professional organization is compulsory. In addition, accountants must hold the majority of ownership and voting rights in accounting firms. Moreover, there are partial restrictions to the ability of these professionals to advertise their services. These restrictions are partially explained by the fact that in Italy accountants and auditors are a single profession. However, this leads to the imposing the higher restrictions required for the provision of auditing services also to other activities.

Architects and Civil Engineers face higher regulatory restrictions than in many other OECD compared to other OECD countries. There is only one pathway to obtain the qualifications necessary to enter both professions, which includes a mandatory professional examination. Moreover, membership in the

¹⁷¹ The [European Semester 2020](#) country report for Italy also highlighted the excessive regulation on professional services. There have been no attempts to increase competition in these services since the 2015 Competition Law.

respective professional organizations is compulsory to legally practice. Furthermore, only architects and civil engineers can hold the majority of ownership and voting rights in firms providing, respectively, architectural and civil engineering services. Finally, although fees were liberalised some years ago, professional associations can still recommend fees for some activities.

Estate agents enjoy exclusive rights to i) facilitate contacts between buyers or tenants and sellers, ii) show properties and explain the terms of sale or the conditions of rent and iii) assess the values of properties to be sold or leased. These exclusive rights are not common in OECD countries. In addition, in order to practice, it is always necessary to pass a professional examination administered by the professional chamber.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce regulatory constraints in Italy. In particular, notaries are subject to quantitative constraints and territorial restrictions to their ability practices. It should be noted, however, that their fees are not regulated, which is quite common in other OECD countries.

Empirical research has shown that reducing regulatory barriers in this sector can foster entry and bring about greater competition on quality and prices.¹⁷²

Table 3 below shows the impact that these reforms would have on the PMR sector indicators for the relevant Professional Services.

¹⁷² For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "Economic Impact of Regulation in the Field of Liberal Professions in Different Member States", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, *European Economy - Economic Papers 2008 – 2015*).

A study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: [M. M. Kleiner, E. J. Soltas \(2019\)](#) "A Welfare Analysis of Occupational Licensing in U.S. States").

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Table 27. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW value after suggested reforms ¹⁷³
Notaries	4.69	3.46
Accountants	2.61	0.91
Architects	2.49	0.91
Civil engineers	2.15	0.91
Estate agents	1.07	0.50

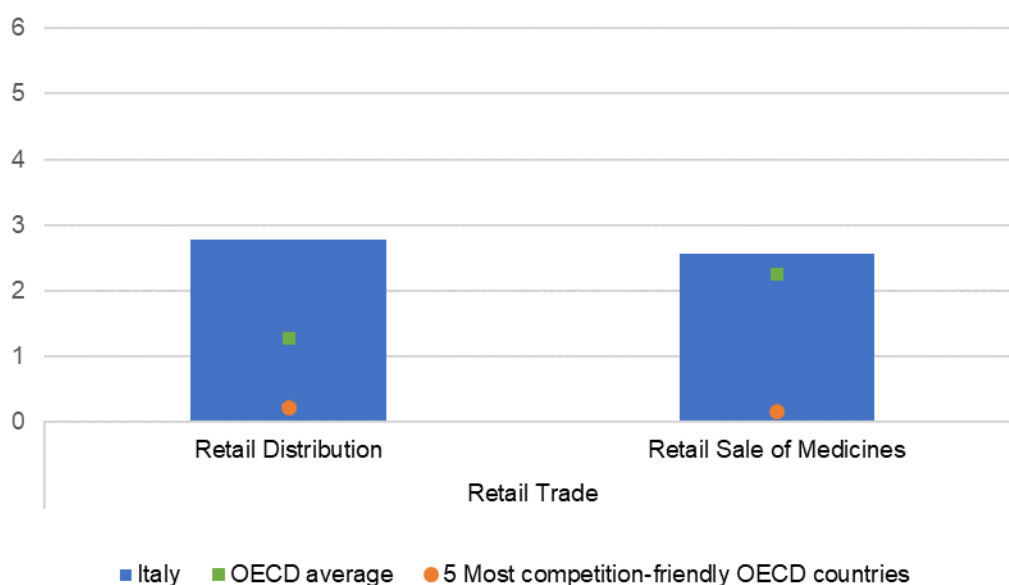
Source: OECD simulations based on the OECD 2018 PMR database

3.3. Retail Distribution and Retail Sales of Medicines

As Figure 4 below indicates, Italy has scope for improvements in the sector indicators for Retail Distribution and Retail Sale of Medicines¹⁷⁴, where the country scores very far from the OECD average.

Figure 3. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The regulatory set-up of the Retail Distribution sector is very far from international best practices. Italy's score in this area is mostly driven by the burdensome licensing and authorisation regime in place for retail outlets. Establishing a retail outlet requires an authorisation, as well as additional licences and permits, on

¹⁷³ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹⁷⁴ The [European Semester 2019](#) and [European Semester 2020](#) country reports for Italy also highlighted the excessive regulation in the retail sector, particularly concerning the establishment of new retail shops. The European Commission's retail restrictiveness indicator also places Italy among the most restrictive EU countries.

the top of those related to health, safety, and environmental protection. In addition, to sell goods or services online retailers must obtain a special licence. Existing economic literature suggests that removing requirements for outlet registration and authorisations can favour entry, innovation, and efficiency.¹⁷⁵ If Italy removed these requirements, it would lower barriers to entry in the retail sector and would reduce the country's score in the Retail Distribution sector indicator from 2.79 to 1.64.

The retail sector is also subject to several restrictions when it comes to seasonal sales. First, retailers cannot engage in sales below costs outside the periods allocated for seasonal sales, and, during these seasonal sales, there are limits on the maximum values of the discounts that can be offered. In addition, retailers must notify public authorities when they wish to carry out end-of-business sales. If Italy removed these restrictions, its score in the Retail Distribution sector indicator would further improve to 0.71¹⁷⁶.

Concerning the retail sale of medicines, Italy would benefit from lifting regulatory restrictions related to the number of pharmacies that can be located in a same geographic area and to the minimum distance between pharmacies that must be respected. There is evidence that removing demographic and geographic constraints on the number of pharmacies could have a positive impact on competition.¹⁷⁷ Further, although non-prescription medicines can be sold in pharmacies, parapharmacies and drugstores, they cannot be sold in other retail outlets, such as supermarkets, and only non-prescription medicines can be sold online. If Italy eliminated these restrictions, its score in the Retail Sale of Medicines sector indicator would decrease from 2.57 to 0.00.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Italy is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity:** (e.g. M2C2. Investment 1.3. 'Promotion of innovative systems (including off-shore)', developing least 100 MW of floating wind and floating photovoltaic power plants, and their energy storage systems; M2C1. Investment 3.1. 'Green Islands', which includes the financing and implementation of projects in renewables and the grid system; M2C1. Investment 3.2. 'Green Communities', fostering the production of energy from local renewable sources, such as micro hydroelectric and wind; M2C2. Investment 2.1. 'Strengthening smart grids'; M2C2. Investment 2.2. 'Interventions to increase the resilience of the power grid'; M2C2. Investment 3.5. 'Hydrogen Research and Development', including investments in the production of hydrogen based on electrolysis from renewable sources; M2C2. Investment 1.2. 'Promotion of RES for energy communities and jointly acting renewables self-consumers', supporting the installation of 2,000 MW of new power generation capacity; M2C2. Investment 3.1. 'Production of Hydrogen in

¹⁷⁵ For example see [Nicoletti, Giuseppe & Boylaud, Olivier](#). "Regulatory reform in retail distribution", OECD Economic Studies, (2001).

¹⁷⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹⁷⁷ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021): [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010). [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#). See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

brownfield sites (Hydrogen Valleys)', creating zones of Hydrogen production from renewable sources and for local use).

- **Transport by rail:** (e.g. M3C1. Investment 1.1. 'High-speed railway connections to the South for passengers and freight', with 274 km of new high-speed railway infrastructure; M3C1. Investment 1.2. 'High-speed lines in the North connecting to rest of Europe', with 180 km of new high-speed railway infrastructure; M3C1. Investment 1.3. 'Diagonal connections', involving the construction of 87 km of high-speed rail; M3C1. Investment 1.4 'European Rail Transport Management System (ERTMS)', equipping 3400 km of rail lines with the RRTMS; M3C1. Investment 1.5. 'Strengthening metropolitan nodes and key national links', upgrading 1280 km. of railway lines across the country; M3C1. Investment 1.6. 'Strengthening regional lines - Upgrading of regional railways (management RFI)' upgrading of 680 km of regional lines whose ownership has been transferred to *Rete Ferroviaria Italiana (RFI)*; M3C1. Investment 1.7. 'Upgrading, electrification and resilience of railways South', including several inter-city lines and links to key infrastructures such as the airport of Oilba and the port of Augusta; Investment 1.8 - Upgrading railway stations (*Rete Ferroviaria Italiana (RFI)* management; in South), upgrading 38 railway stations and making them accessible)
- **Transport by water:** (e.g. Investment 1.1: 'Green ports: renewable energy and energy efficiency interventions at port', aimed at promoting energy efficiency and the use of renewable energies in selected ports; Investment 2.1: 'Digitalisation of the logistic chain').
- **Transport by air:** (e.g. Investment 2.2: 'Digitalization of air traffic management').
- **E-communications:** (M1C2. Investment 3. 'Fast internet connections (Ultra Broadband and 5G)', to complete the national ultra-fast and 5G telecommunications network throughout the national territory).
- **Water:** (M2C2. Investment 4.1 'Primary water infrastructure for the security of water supply', with a particular focus on larger installations in the South of Italy; M2C2. Investment 4.2. 'Reduction of losses in water distribution networks, including digitization and monitoring of networks'; Investment 4.3. 'Investments in the resilience of the irrigation agrosystem for better management of water resources')

According to a recent study by the OECD (Demmou and Franco, 2020),¹⁷⁸ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Italy's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

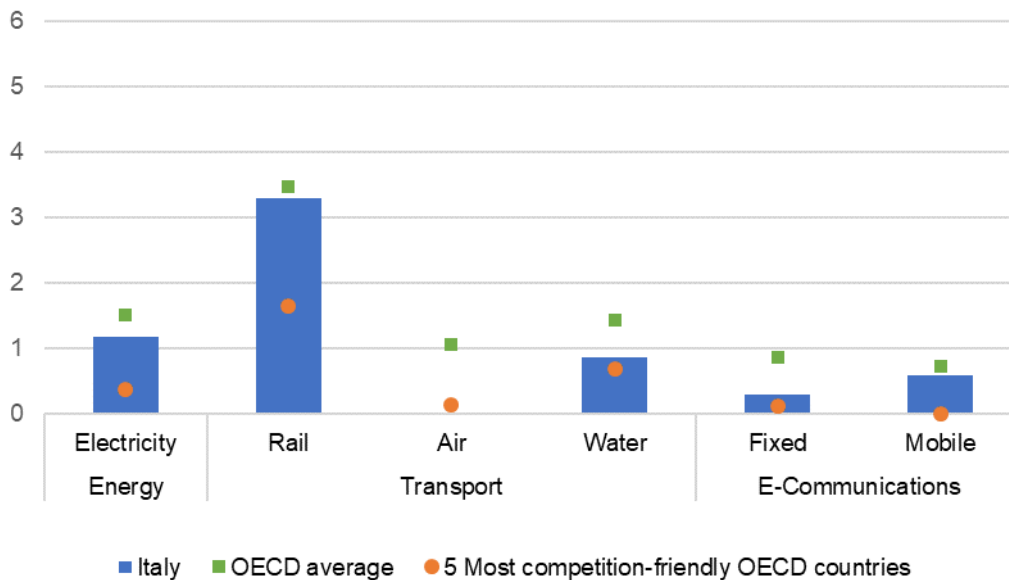
4.1. Insights from PMR sector indicators for network industries

Figure 5 shows how Italy performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

¹⁷⁸ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 5. PMR sector indicators for Electricity, Rail Transport, Air Transport, Water Transport, and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity** sector, Italy's regulatory set-up is slightly better than the OECD average. Markets are open to competition and consumers can freely choose their suppliers. Italy would further improve the score if all consumers were allowed to sell demand response to third parties, not only large industrial ones. The score is mostly explained by the fact that the state controls the largest firm in the generation and retail segments (*ENEL Spa*).
- As regards to **rail transport**, Italy scores slightly better than the OECD average. Italy is one of the few countries in Europe with open competition in the provision of passenger transport services to major national destinations. It would further improve the regulatory set-up in this sector by awarding all public service contracts for rail services through competitive tenders. The Plan includes measures that may incentivise greater use of tenders (see M1C2. Reform 2, Table 1). The fact that the government controls the largest firm in the passenger (*Trenitalia Spa*) and freight transport sectors (*Mercitalia Rail srl*) partially explain still high score.
- The regulatory set-ups in the **air transport** and **water transport** sectors are close to international best practices.
- The regulatory framework in the **e-communications** sector are better than in the average OECD country, however the government holds a golden share in *Telecom Italia S.p.a.*, which provides services in both the fixed and mobile segments.
- There is no PMR sector indicator for the **water** sector, but information on the relevant regulatory framework are included in the economy-wide indicator. Based on this information, it is possible to say that the sector could benefit from permitting the trade or lease of groundwater abstraction rights. In addition, the regulator could be required to publish the data it collects on efficiency and

performance level of these companies to foster yardstick competition and provide incentives towards greater efficiency. The Plan contains reforms related to the water sector (see G.1. Reform 2. 'Reform of the legal framework for a better management and a sustainable use of water' and G.1. Reform 4.2 'Measures to ensure full managerial capacities for integrated water services'). Although these reforms are likely to promote a more efficient and sustainable use of water resources, they do not address the weaknesses highlighted by the PMR indicators.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators¹⁷⁹ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

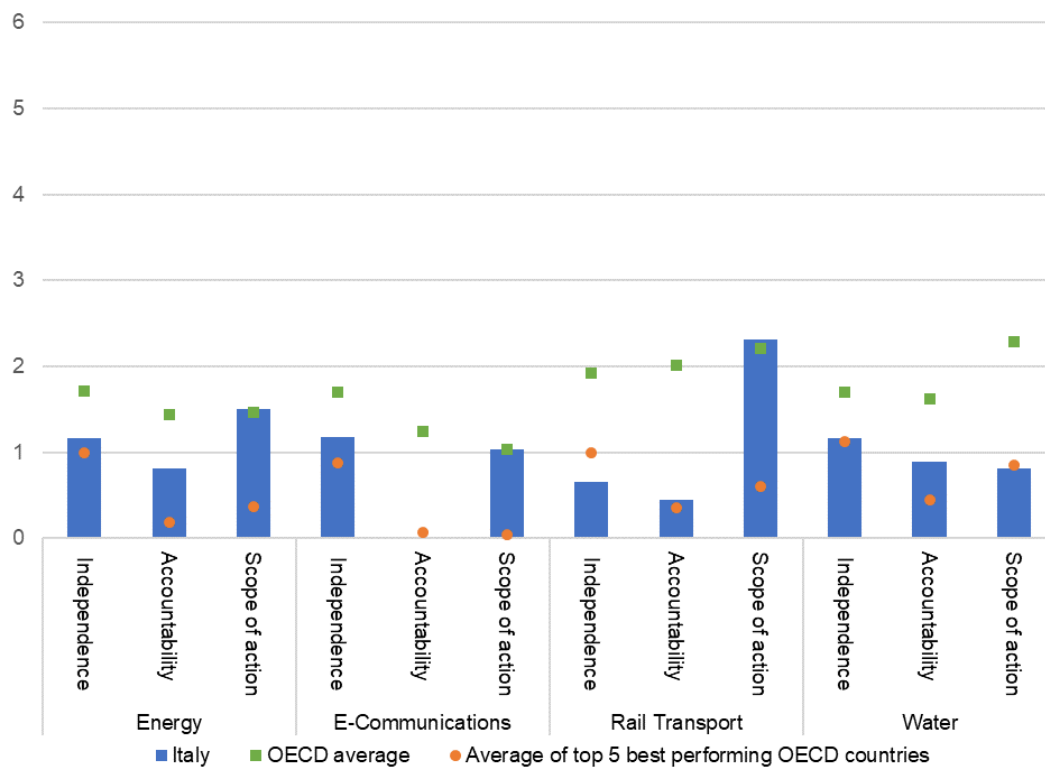
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 6 shows the scores in the 3 components for the regulators of the sectors in which the Plan foresees investments, together with the OECD average and the average of the top 5 best performing OECD countries.

¹⁷⁹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 4. Indicators of Governance of Sector Regulators for Energy, E-communications, Rail Transport and Water



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communication sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. The water sector does not have a regulator in many OECD countries, so the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxembourg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland and Türkiye. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 Database on the Governance of Sector Regulator

As the figure indicates, Italy's sector regulators have a better performance in the independence and accountability components than other OECD regulators. Still, the independence of the agency head and the board members would be further ensured if there were restrictions regarding the employment history of these executives. The Energy, E-communications and Rail Transport regulators have a similar range of functions than those in the average OECD country, while the Water regulator performs more functions than its OECD peers.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Latvia

The aim of this note is to provide an assessment of the likely impact that the Latvian National Recovery and Resilience Plan¹⁸⁰ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators¹⁸¹. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Latvia's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹⁸⁰ The assessment was based on the

- Recovery and Resilience Plan of Latvia, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Latvia.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Latvia.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹⁸¹ All information, indicator values and methodology related to the PMR indicators can be found at the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Latvia could have an impact on the PMR indicators. These are outlined in Table 1.

Table 28. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (Index scale 0 to 6 from most to least competition-friendly)
Investment: 1.2.1.5.i.	<p>Modernisation of electricity transmission and distribution networks</p> <p>In the framework of the investment measure, the Plan envisages the improvement of the energy regulatory framework and the reduction of legal uncertainty for investments in wind energy by specifying cases in which investments may be rejected post impact-assessment and by introducing fast-track resolution mechanism for such cases.</p>	<p>While the measure aims to enhance the regulatory framework of the electricity sector and to foster investment in renewable energies, it will not impact Latvia's scores in the PMR indicators as rules concerning investment facilitation are not captured.</p>
Reform: 6.4.1.r.	<p>Creation of a register of public procurement contracts</p> <p>The reform consists of a) amending the law of public procurement mandating the publication of relevant additional information and b) development of a technical solution for the register of public procurement contracts and making it available online. (2022 Q4)</p>	<p>While these two reforms aim to improve the regulation of public procurement procedures, they would have an impact on the country's score on the <u>Public Procurement</u> PMR low-level indicator.</p> <p>Latvia could still improve its the regulatory framework for public procurement if all contracting authorities were prevented from including a reference price in tender documentations. A reference price is a suggested price or an indication of the price that would be acceptable for each component of the tender. Its inclusion reduces price competition and can foster collusion.</p>
Reform: 6.4.2.r.	<p>Improvement of the Competition Environment</p> <p>The objective of this measure is to improve the competition and reduce conflict of interest and risks of corruption in public tenders as well as to make value-for-money criteria more broadly used in public procurement. The reform consists of amending the rules with respect to conflict of interest requirements for procurement commissions, mandating a broader use of qualitative criteria for contract award, mandating a broader use of market consultations, and broadening exclusion criteria for bidders. (2021 Q4)</p>	

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The 2019 and 2020 recommendations made by the Council of the European Union¹⁸² on Latvia's regulatory set-up contain no observations linked to regulatory weaknesses identified in the PMR indicators.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly¹⁸³. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Latvia.¹⁸⁴

In the rest of this section, the following indicators are assessed:

- i) Lawyers;
- ii) Notaries;
- iii) Retail Sale of Medicines; and
- iv) Assessment of Impact on Competition.

In the latter indicator Latvia had a high score in 2018. However, the relevant regulatory area has seen important reforms in 2019, which have addressed most of the regulatory weaknesses that drove the 2018 results.

3.1. *Lawyers and Notaries*

As shown in Figure 1, Latvia has ample room for improving the regulatory set-ups for Lawyers and Notaries, which are very far from international best practices.

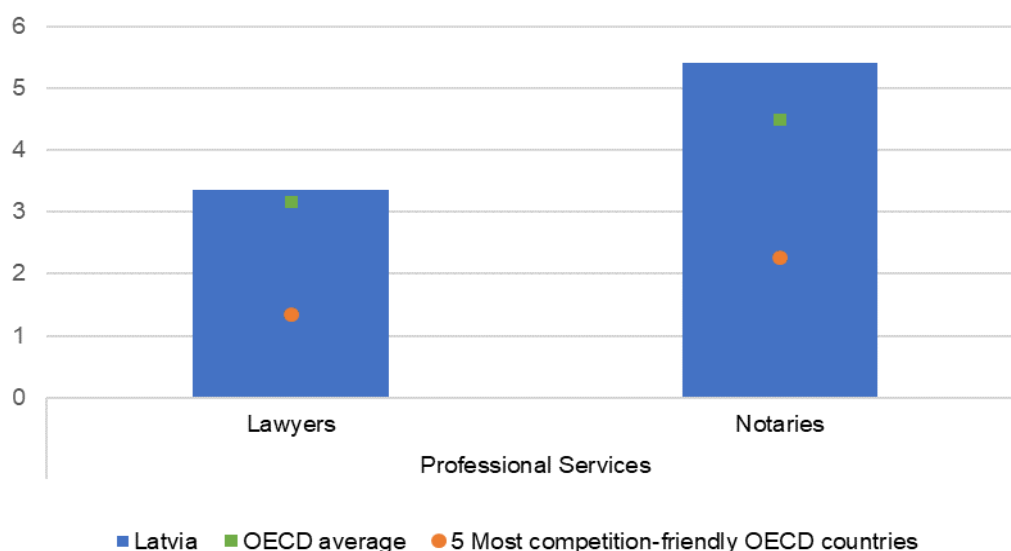
¹⁸² See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Latvia and delivering a Council opinion on the 2019 Stability Programme of Latvia, COM/2019/514 final, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Latvia and delivering a Council opinion on the 2020 Stability Programme of Latvia, COM/2020/514 final.

¹⁸³ The latest PMR values available for the Slovak Republic refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here.

¹⁸⁴ All country fiches are available on the [PMR webpage](#).

Figure 5. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



*When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

Lawyers in Latvia face limited entry restriction, but the regulation of their conduct imposes a number of constraints that could limit access to new sources of funding and of managements skills for legal firms and may stifle the development of innovative business models. Indeed only lawyers can have ownership-type interest or voting rights in a law firm. Moreover, lawyers cannot advertise their services and are not allowed to set up a business with any other regulated professionals. If these restrictions were lifted the PMR sector indicator for Lawyers would decrease (from 3.36 to 1.11)¹⁸⁵.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce regulatory constraints. In Latvia, notaries are subject to very restrictive regulations. In particular, notaries are subject to quantitative constraints and territorial restrictions to their ability practices, and their fees are regulated. If these restrictions were lifted the PMR sector indicator for Notaries would decrease (from 5.42 to 4.19)¹⁸⁶.

¹⁸⁵ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

¹⁸⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

Empirical research has shown that reducing these regulatory constraints on professionals would increase competition and could lead to more entry into the professions, a decrease in fees charged to consumers, and the emergence of innovative business models.^{187 188}

3.2. Retail Sale of Medicines

Figure 2 shows the country's PMR scores in the sector indicators for Retail Sale of Medicines, where the country has significant scope for improving the regulatory set-up. The figure also includes the other sector indicator that relates to Retail Trade, Retail Distribution, where Latvia's score is close to the OECD average.

¹⁸⁷ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "Economic Impact of Regulation in the Field of Liberal Professions in Different Member States", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 2015).

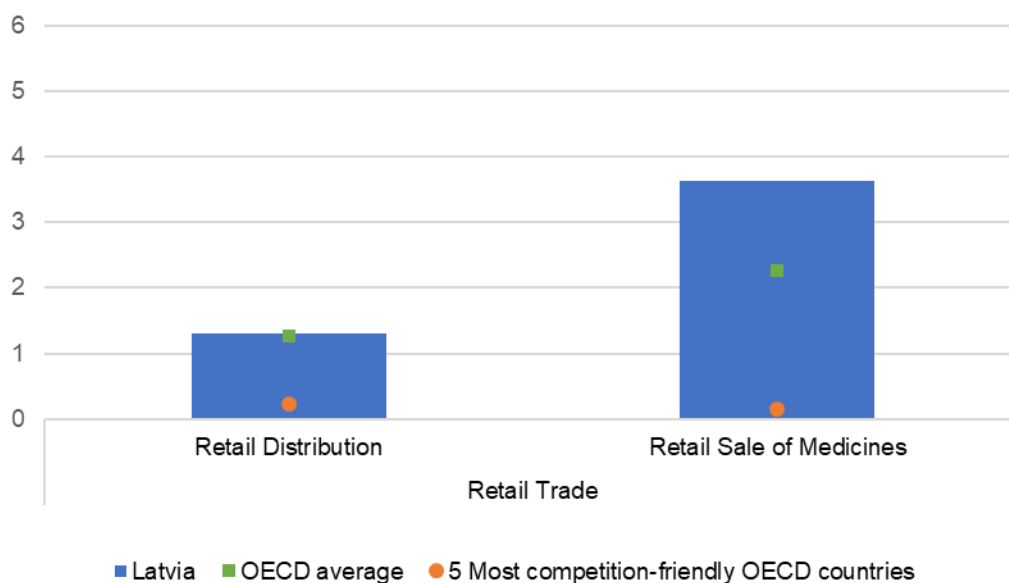
Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)".

¹⁸⁸ A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Figure 6. PMR sector indicators for Retail Distribution and Retail Sale of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The restrictions concerning the retail sales of medicines are related to the number of pharmacies that can be located in the same geographic area; the minimum distance between two pharmacies; who can own a pharmacy and the fact that non-prescription medicines can only be sold by pharmacies. Moreover, all non-prescription medicines are subject to price regulation.

There is evidence that easing the regulation on pharmacy ownership and removing constraints related to geographic or demographic requirements for opening new pharmacies can have a positive impact on competition.¹⁸⁹ In addition, allowing other outlets, such as supermarkets, to sell non-prescription medicines could boost competition and facilitate access to medicines.

Eliminating all these restrictions would reduce Latvia's score in the Retail Sale of Medicines sector indicator (from **3.63** to **0.00**).

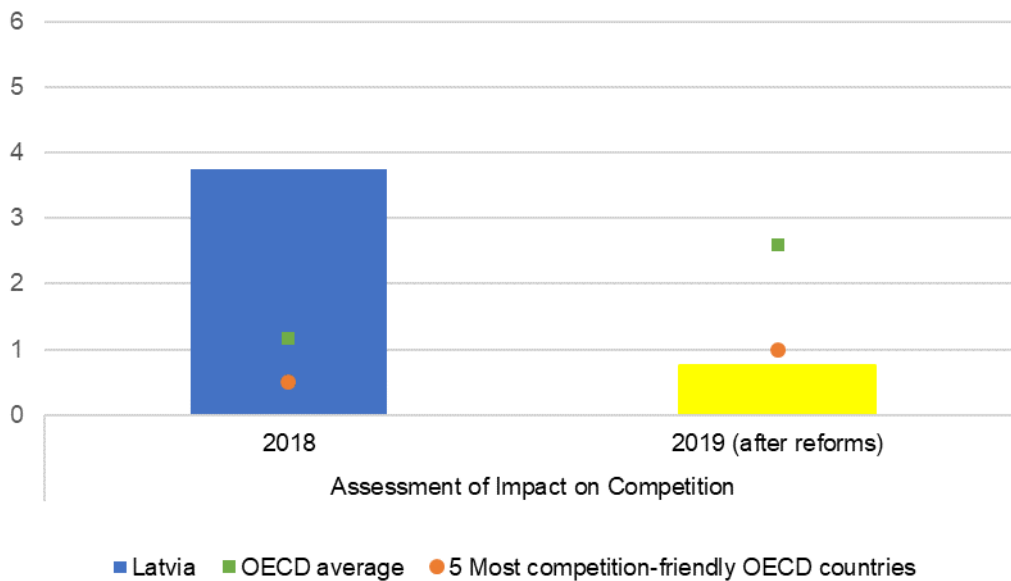
¹⁸⁹ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" (2012) Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021): "[Entry regulation and competition evidence from retail and labor markets of pharmacists](#)", University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen; Office of Fair Trading – prepared by DotEcon (2010): "[Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#)"; See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

3.3. Assessment of Impact on Competition

Figure 3 shows the low-level indicator on the Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed. In 2018, Latvia was very far from international best practice (blue bar), but following extensive reforms in 2019 its score has considerably improve (yellow bar) (from 3.75 to 0.75).

Figure 7. Low-level PMR indicator for Assessment of Impact on Competition

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. The yellow bar shows a simulation of the impact of the reforms on the value of this indicator.

Source: OECD 2018 PMR database

The main regulatory weaknesses that drove the 2018 results, were removed in 2019. More specifically, the obligation to conduct regulatory impact assessment (RIA) for all primary laws and subordinate regulations was introduced. As part of this process, policy-makers have been required to identify and assess the impacts of their preferred regulatory option as well as of alternative regulatory options, including the 'does nothing' one. Written guidance on the preparation of RIA was also published. In addition, a quality review system has been put in place that guaranteed that each RIA is reviewed by a body different from the ministry that sponsors the regulation: the main responsibilities for co-ordinating regulatory policy and promoting regulatory quality are divided among the Ministry of Justice and the State Chancellery.

The value of the indicator is still positive because the country could increase the effectiveness of the advocacy activities of the competition authority. In particular, the government could be required to publicly respond to any recommendation addressed to it in market studies performed by the competition authority. Such a requirement can foster the ability of this policy instrument to effectively address regulatory obstacles to competition arising from existing laws and regulations.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Latvia is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (Investment 1.2.1.5.i. – Modernisation of electricity transmission and distribution networks);
- **Road transport** (Investment 3.1.1.1.i. – Improvement of the network of regional and local roads);
- **Water transport** (Investment 6.1.2.4.i. – Creation of infrastructure for the performance of control services in Kundziņsala: the investment consists in creating an integrated control services infrastructure in Kundziņsala port and major cargo transport hub in Riga);
- **E-communications** (Reform 2.4.1r. – Broadband infrastructure development; 2.4.1.1.i. – Construction of the Passive Infrastructure on the Via Baltica Corridor for 5G coverage; Investment 2.4.1.2i. – Broadband or very high capacity network “last mile” infrastructure development).

According to a recent study by the OECD (Demmou and Franco, 2020),¹⁹⁰ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Latvia’s Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

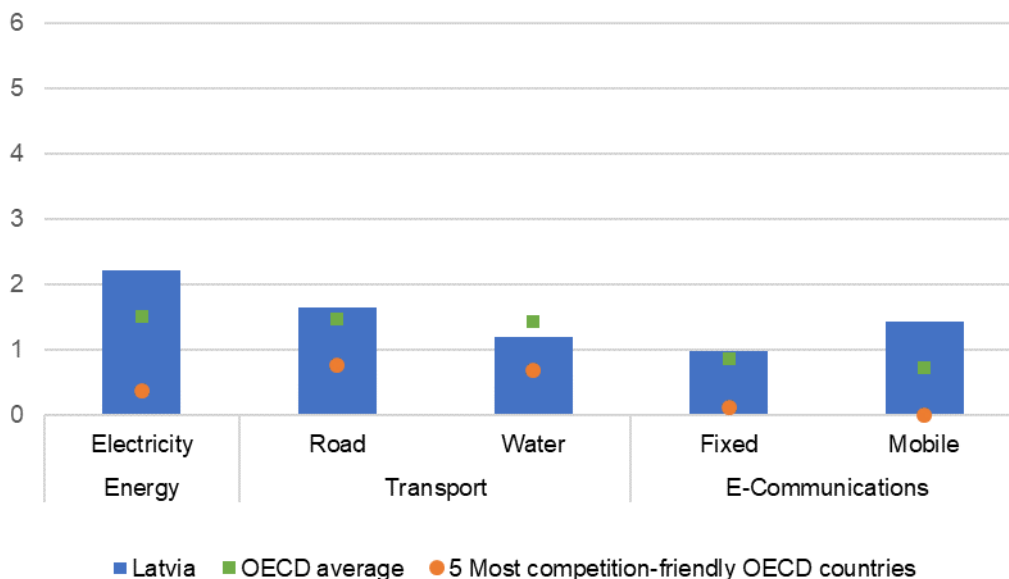
4.1. Insights from PMR sector indicators for network industries

Figure 4 shows Latvia’s scores in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

¹⁹⁰ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 8. PMR sector indicators for Electricity, Road and Water Transport, and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- Latvia's score in the sector indicator for **electricity** is above the OECD average. This is mostly due to the fact that the government fully owns *JSC Latvenergo*, the largest firm in the generation, import and retail supply segments. The country could also consider allowing all categories of consumers to sell demand response.
- The score the **road transport** sector indicator is close to the OECD average. However, Latvia could further improve the regulatory framework by introducing a notification system for setting up new companies, instead of the more burdensome licensing regime. This system should apply both for firms providing freight transport services and long distance passenger transport by coach. Moreover, regulation of prices for the latter services could be discontinued given that the market is open to competition.
- Latvia's score in the **water transport** sector indicator is close to the five best performing OECD economies', but the country could reduce the administrative burden for new entrants by switching from a licensing regime to a leaner notification system. The country could also consider expanding the right to provide cabotage services beyond EU countries.
- The score in the **e-communications** sector indicator, which is above the OECD average, is that the largest firms in the fixed line and mobile markets (TET Ltd. and Latvijas Mobilais Telefons) are controlled by the government and any transfer of rights over spectrum bands must be approved by the regulator.

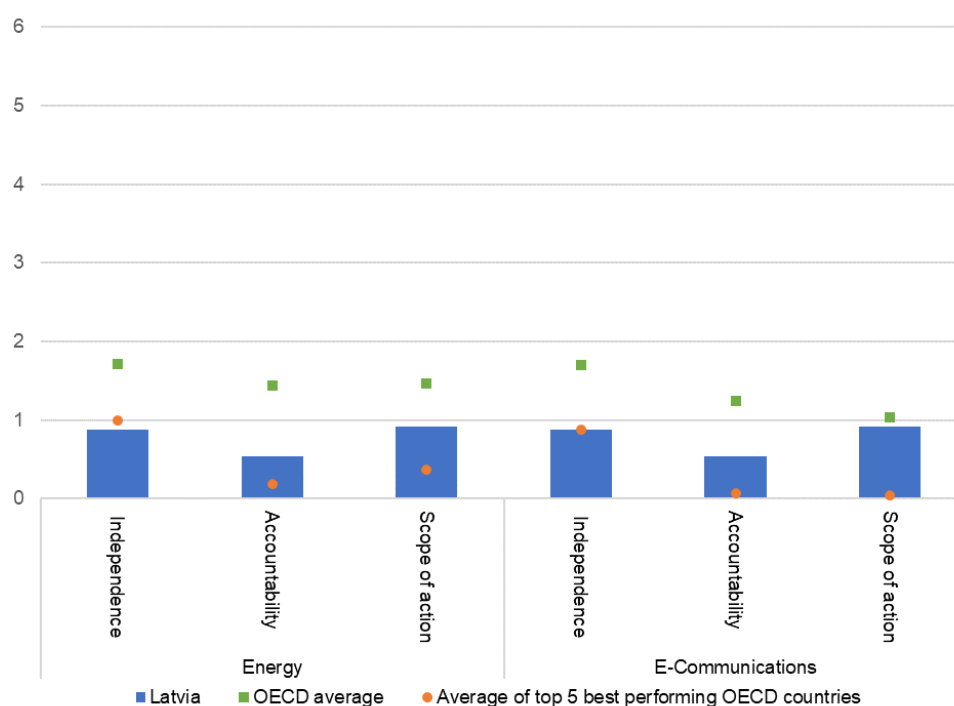
4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators complements the overview of the regulatory environment in the network sectors provided by the PMR indicators¹⁹¹. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 9. Indicators of Governance of Sector Regulators for Energy and E-communications



Note: The database does not include all OECD countries in some sectors. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 Database on the Governance of Sector Regulator.

¹⁹¹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 5 above illustrates Latvia's scores in the three components for the Energy and the E-communications regulators. All values are below the OECD average, which suggest that these regulators already reflect better good practice governance arrangements than most of its OECD peers.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Lithuania

The aim of this note is to provide an assessment of the likely impact that the Lithuanian National Recovery and Resilience Plan¹⁹² (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators.¹⁹³ Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Lithuania's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

¹⁹² The assessment was based on the

- Recovery and Resilience Plan of Lithuania, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Lithuania.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Lithuania.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

¹⁹³ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#)

1. Measures included in the Plan that may affect the PMR scores

None of the policy measures presented in the Plan submitted by Lithuania appears to have an impact on the country's scores in the PMR indicators.

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations¹⁹⁴ made the following general observations on Lithuania's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 29. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Administrative Burden Efforts should be maintained to reduce unnecessary regulatory and administrative burdens and to offer efficient digital public services for businesses.</p>	<p>While there are measures in the Plan aiming to reduce administrative burden in general for businesses, <i>none of them concern areas captured under the PMR indicators. Hence, these measures would not have an impact on the country's PMR scores.</i></p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly.¹⁹⁵ Based on these results, some indicators were selected to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Lithuania.¹⁹⁶

Lithuania scores relatively well in most PMR indicators. In the rest of this section, the following indicators are assessed:

- i) Governance of State-Owned Enterprises (SOEs); and
- ii) Professional Services

¹⁹⁴ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Lithuania and delivering a Council opinion on the 2019 Stability Programme of Lithuania, COM(2020) 515 final, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Lithuania and delivering a Council opinion on the 2020 Stability Programme of Lithuania, COM/2019/515 final.

¹⁹⁵ The latest PMR values available for Lithuania refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

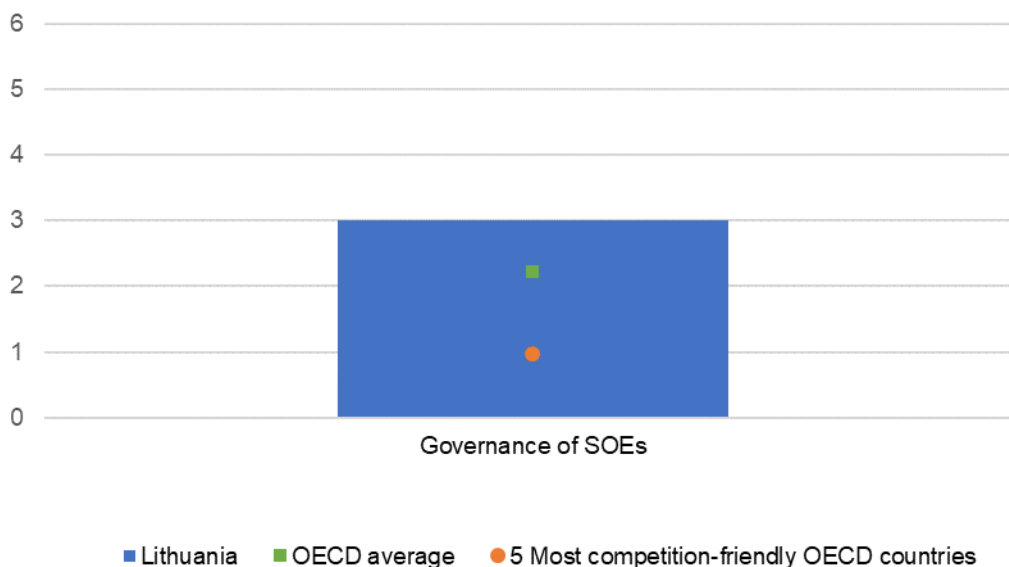
¹⁹⁶ All country fiches are available on the [PMR webpage](#)

3.1. Governance of SOEs

Figure 1 indicates that Lithuania scores worse than the OECD average in the Governance of SOEs low-level indicator. The regulatory set-up in this area is very far from international best practices.

Figure 10. Low-level PMR indicator for Governance of SOEs

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

Lithuania's high score in this area reflects several weaknesses in the governance of SOEs involved in commercial activities, i.e. in activities that are or could be performed in competition with private firms. First, line ministries exercise ownership rights in SOEs and, as a result, there is no full separation between the body that exercises ownership rights in these firms and the one that regulates the sectors where they are active. In addition, the responsibility for appointing the Chief Executive Officers is shared between the board of the firm and public authorities. The country should consider having a single centralised institution, at arm's length from the government, exercising ownership rights over all SOEs, and entrusting the appointment of the CEOs of these firms solely to their boards to limit political interference in the day-to-day running of these enterprises. Moreover, there are still SOEs involved in commercial activities that are not incorporated into limited liability and, thus, are not subject to private company law.¹⁹⁷

If Lithuania addressed these weaknesses in full, it could improve its SOE governance framework and the country's score in the Governance of SOEs low-level indicator would align with international best practices (from 3.00 to 0.30).¹⁹⁸

¹⁹⁷ In 2018, 26 SOEs were regulated by the Law on State and Municipal Enterprises of the Republic of Lithuania.

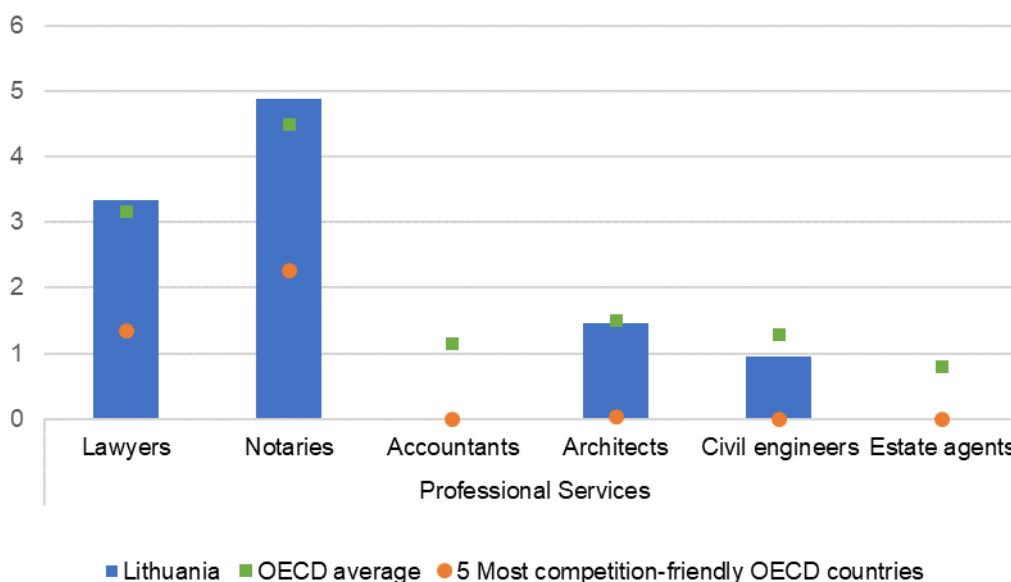
¹⁹⁸ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

3.2. Professional services

Figure 2 shows Lithuania's scores in the sector indicators for professional services.

Figure 11. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database.

Accountants and Real Estate Agents do not face profession-specific regulations, but there is room for improving the regulatory framework of the other four professions: Lawyers, Notaries, Architects and Civil Engineers.

The score for Architects is close to the OECD average and indeed, in Lithuania there are limited restrictions in the regulation of these professionals. The most notable is that there is only one pathway to access this profession. Opening up additional pathways could foster entry and greater job mobility.

Lawyers are more stringently regulated in Lithuania when compared to the OECD average. Legal firms cannot enjoy limited liability and only lawyers can have ownership and voting rights in them. Moreover, lawyers cannot set up a firm with any other professionals. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of management skills for these firms. When it comes to entry, regulation is less constraining as there are two pathways to access the profession. In addition, few activities are reserved to lawyers and the rights to perform them are shared with other professionals. However, lawyers are required to join a professional organisation before they can practice. In addition, there is a nationality requirement to exercise the profession, from which only EU/EEA

nationals are exempted; this prevents non-EU/EEA foreign lawyers to access the profession, even if they were to requalify in the country.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce some of the regulatory constraints and foster some competition in this profession. Most notably, Lithuania could consider relaxing the quantitative constraints on the number of notaries, the territorial restrictions on their ability practices, and liberalise their fees.¹⁹⁹

Empirical research has shown that reducing regulatory barriers to the provision of professional services could lead to more entry in the professions, a reduction in prices, a wider offer of services for consumers, and the emergence of innovative business models.²⁰⁰

Table 2 below shows the impact of removing the regulatory restrictions discussed above on the scores of these PMR sector indicators.

Table 30. Impact of removing major restrictions on PMR sector indicators for professional services

	2018 original value	NEW value after suggested reforms
Lawyers	3.34	1.15
Notaries	4.88	3.77
Architects	1.46	1.16

Source: OECD simulations based on the OECD 2018 PMR database.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Lithuania is proposing to invest in the following sectors that are included in the PMR indicators:

¹⁹⁹ A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : [“Private Monopoly and Restricted Entry – Evidence from the Notary Profession”](#)).

²⁰⁰ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), [“Economic Impact of Regulation in the Field of Liberal Professions in Different Member States”](#), WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated GDP gains, ranging from 0.26% to 1.78% depending on the Member State (see: J. Monteagudo, A. Rutkowski and D. Lorenzani (2012), [“The economic impact of the Services Directive: A first assessment following implementation”](#), No 456, European Economy - Economic Papers 2008 – 2015).

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) [“Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions”](#)).

A study using US data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) [“A Welfare Analysis of Occupational Licensing in U.S. States”](#)).

- **Electricity** (B.1.1.1 Sub-measure 1: 'Preparatory work for the development of offshore wind power plant and related infrastructure'; B.1.1.2 Sub-measure 2: 'Support for the construction of onshore RES plants (solar and wind power) and individual storage facilities', aiming at 302 MW of additional electricity generation capacity from RES; B.1.1.3 Sub-measure 3: 'Installation of other electricity storage infrastructure', in particular four energy storage installations);
- **E-communications** (C.1.5. Investment 2 'Step towards 5G', which aims at facilitating the 5G rollout across the country; C.1.5.1. Sub-measure 1: '5G roadmap'; C.1.5.2. Sub-measure 2: 'Further development of very high capacity networks', aiming at the construction of 50 new towers (masts) and 2000 km of fibre in remote and rural areas where there is currently no private operator).

According to a recent study by the OECD (Demmou and Franco, 2020),²⁰¹ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Lithuania's Plan includes infrastructure investments in some network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

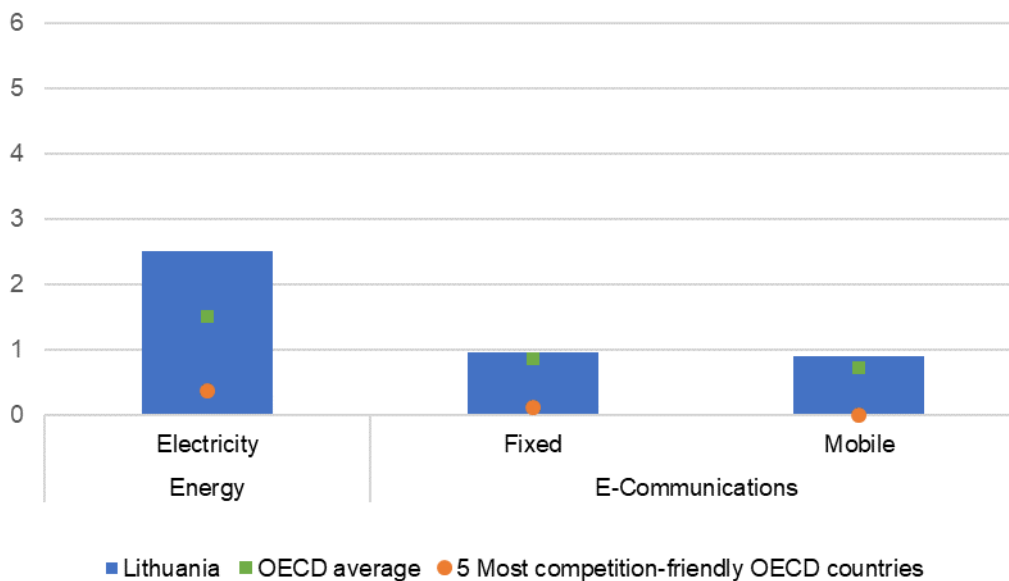
4.1. Insights from PMR sector indicators for network industries

Figure 3 shows how Lithuania performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

²⁰¹ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 12. PMR sector indicators for Electricity and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity sector**, Lithuania scores worse than the OECD average. This is partially due to the fact that the government controls the largest firms in the generation, import and retail supply segments.²⁰² In addition, in 2018 electricity retail tariffs were regulated for most household consumers and the regulated tariffs were not based on the costs of the most efficient supplier, despite the market being open to competition. However, the latter is going to change as a result of a 2020 amendment to the Electricity Law that foresees the phasing out of regulation on retail prices for households in three stages.²⁰³ Lithuania could further facilitate competition in the retail segment by requiring retail suppliers to include in consumers' bills detailed information on their annual consumption and on the charges applied to it. Greater transparency would make it easier for consumers to compare competing offers and switch to better alternatives.
- The regulation of the **e-communications** sector is in line with the OECD average. The score is mostly explained by the government's control over the largest company operating in both the fixed and mobile segments, *AB Lietuvos radijos ir televizijos centras*.

²⁰² The high level of government ownership in the energy sector was also identified as an area of concern in Lithuania's 2020 European Semester country report. See [2020 European Semester](#): Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011, COM(2020) 150,

²⁰³ More information on this reform can be found in the following [Commission report](#).

4.2. Insights from OECD indicators on the Governance of Sector Regulators

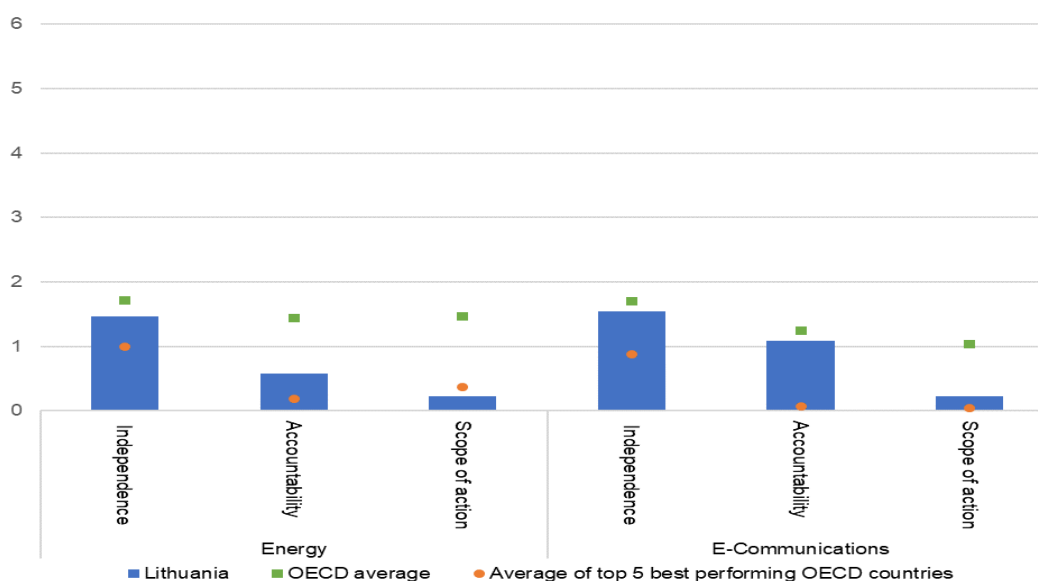
The assessment of the OECD Indicators on the Governance of Sector Regulators²⁰⁴ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows Lithuania's scores in the three components for the Energy and the E-communications regulators, which are all below the OECD average.

Figure 13. Indicators of Governance of Sector Regulators for Energy and E-communications



Note: Not all OECD countries have sector regulators in all the sectors examined. For the Energy Regulator, the averages include all OECD countries. For the E-communications Regulator, the averages include all OECD countries except Estonia. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators.

Despite these good scores, Lithuania could introduce some additional governance arrangements to enhance the independence of both regulators and reduce the risk of the government exercising influence over these bodies. For instance, an independent panel could participate in the selection process for the

²⁰⁴ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

agency head and the board members and the parliament could be involved in their final appointment instead of just the government. In addition, restrictions regarding the employment history of these executives could be introduced.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Luxembourg

The aim of this note is to provide an assessment of the likely impact that Luxembourg's National Recovery and Resilience Plan²⁰⁵ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁰⁶. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Luxembourg's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following 4 areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁰⁵ The assessment was based on the

- Recovery and Resilience Plan of Luxembourg, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Luxembourg.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Luxembourg.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁰⁶ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only one measure in the Plan submitted by Luxembourg could have an impact on the PMR. This is outlined in Table 1.

Table 31. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR (scores) (Index scale 0 to 6 from most to least competition-friendly)
3B.Investment 2.	<p>Development of MyGuichet – Project 2/3 – Various Citizen to Government (C2G) and Business to Government (B2G) procedures</p> <p>Investment 2 is aimed at introducing 12 new online services – aligned with the priorities of the Single Digital Gateway Regulation – to expand the digital offer to citizens and businesses and simplifying different administrative processes.</p>	<p>The measure could have an impact on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> sub-indicator, for which Luxembourg scores slightly above the OECD average. Yet, the information included in the Plan is insufficient to evaluate this.</p> <p>The reform would lead to an improvement in the country's score if it reduced the number of individual procedures required, and the number of public bodies that need to be contacted, in order to set up a new business.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁰⁷ made the following general observations on Luxembourg's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 32. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Barriers in Professions</p> <p>While Luxembourg remains committed to improving the regulatory environment for the business services sector, regulatory barriers are still high in several sectors, such as legal, accounting, architecture and engineering services, according to the European Commission's restrictiveness indicator. The OECD's intra-EEA Services Trade Restrictiveness Index published in December 2018 also confirmed that Luxembourg's level of regulatory restrictiveness vis-à-vis other EU Member States is higher than the Single Market average for these sectors.</p>	<p><i>No measures related to regulated professions have been identified in the Plan. Given that the 2018 PMR indicators also identified the regulation of certain professions where there is room for improvement, Luxembourg's regulatory stance in this area is analysed more in details in part 3.2.</i></p>

²⁰⁷ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Luxembourg and delivering a Council opinion on the 2019 Stability Programme of Luxembourg, COM(2019) 516 final, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Luxembourg and delivering a Council opinion on the 2020 Stability Programme of Luxembourg, COM(2020) 516 final.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan ²⁰⁸

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Luxembourg.²⁰⁹

In the rest of this section, the following indicators are assessed more in depth:

- i) Governance of State-Owned Enterprises (SOEs);
- ii) Interaction with Interest Groups;
- iii) Professional Services and
- iv) Retail Distribution and Retail Sales of Medicines.

3.1. Governance of SOEs

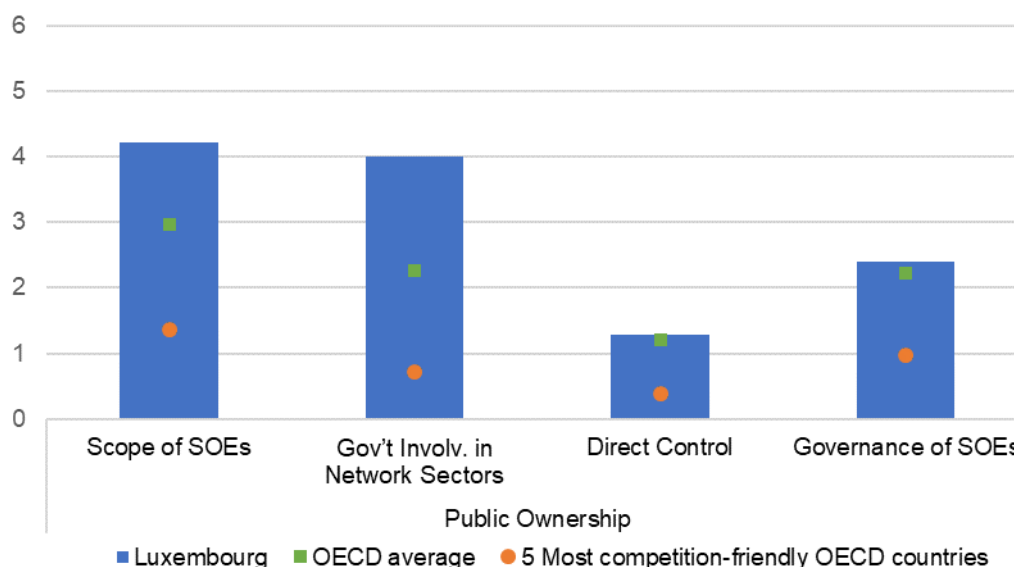
Figure 1 shows Luxembourg's score in the low-level indicator for Governance of SOEs. This belongs to the mid-level Public Ownership indicator, together with other three low-level indicators: Scope of SOEs, Government Involvement in Network Sectors and Direct Control. Luxembourg scores above the OECD average in all four low-level indicators.

²⁰⁸ The latest PMR values available for Luxembourg refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²⁰⁹ All country fiches are available on the [PMR webpage](#).

Figure 14. The 4 low-level PMR indicators included in Public Ownership

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The analysis of this figure shows that public ownership is more extensive in Luxembourg than in most OECD countries, especially in network sectors. Hence, it is especially important that the governance of SOEs ensure that they compete on a level playing field with private competitors.

The assessment of the Governance of SOEs low-level indicator reveals that the country is not fully in line with key OECD best practices. Line ministries exercise ownership rights in SOEs, which also implies that in certain sectors there is no separation between ownership and regulatory powers. Luxembourg could consider centralising all ownership rights in SOEs under one institution that operate at arm's length from the government.

Moreover, the separation of competitive and non-competitive activities – for those SOEs that provide both – is not ensured in all sectors, which may grant SOEs an undue advantage or disadvantage relative to their private competitors. Finally, in certain cases, public authorities are involved in the choice of the Chief Executive Officer (CEO), which should be the sole responsibility of the board.

If Luxembourg implemented these reforms, it would improve the governance of these firms contributing to levelling the playing field on which SOEs compete with private firms and would reduce its score in the Governance of SOEs low-level indicator from 2.40 to 0.60²¹⁰.

3.2. Interaction with Interest Groups

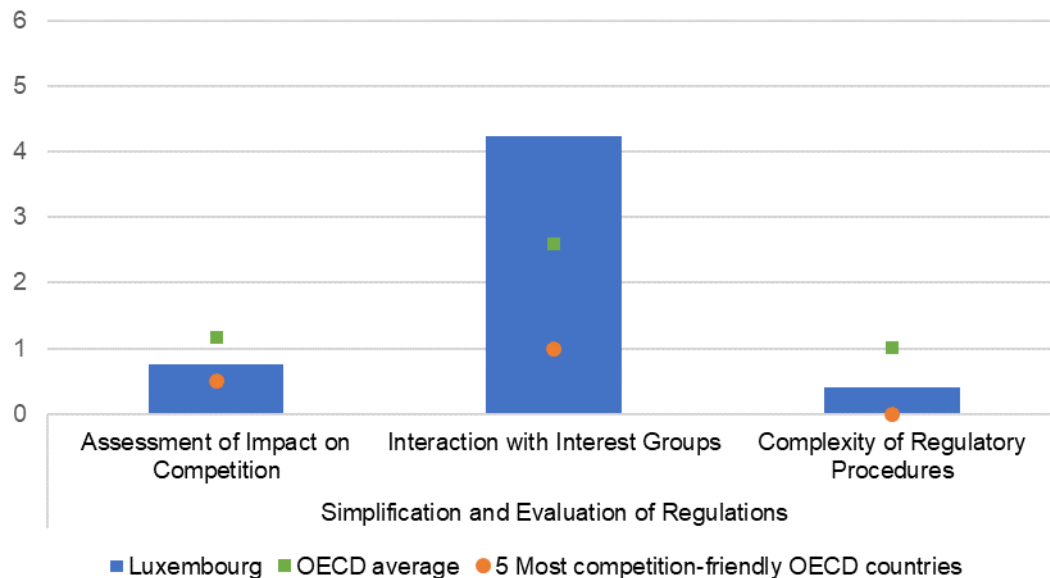
Figure 2 shows the low-level indicator of Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities. This indicator is included, together Assessment of Impact on Competition and Complexity of Regulatory Procedures, in the area of

²¹⁰ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

Simplification and Evaluation of Regulations. Luxembourg scores below the OECD average in the last two low-level indicators, but is very far from international best practices in the first one.

Figure 15. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

Luxembourg could significantly improve its regulatory framework in the area of Interaction with Interest Groups by adopting legislation that lays down the rules for the interaction between public officials and interest groups during the regulatory process. In addition, to increase the transparency of lobbying activities, Luxembourg could also make compulsory for interest groups to register in a public registry, and enforce this by imposing sanctions on non-compliant actors and could require public officials involved in the regulatory process to make their agenda of meetings publicly available. The country could also require that interest groups consulted in each regulatory process are publicly disclosed, together with the identity of the members of permanent advisory bodies involved in regulatory processes. Finally, the country could consider expanding the scope of the regulation that imposes a cooling-off period for members of the government after leaving office to apply to all public officials.

When it comes to the involvement of stakeholders in the development of new regulations, although engaging with stakeholders is required, no written guidance is available on how to conduct stakeholder engagement and there is no general requirement for regulators to consider comments received from stakeholders.

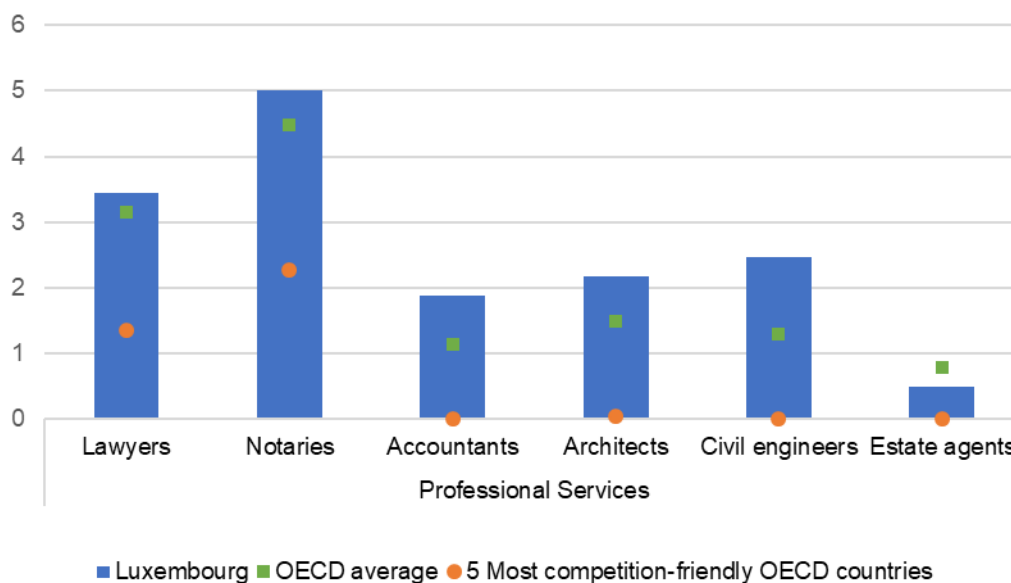
If Luxembourg addressed these weaknesses, it would ensure that stakeholders' views are taken into account, while reducing the risk of undue influences in the regulatory design process. This would also result in a considerable reduction in the score for the Interaction with Interest Groups low-level indicator from 4.23 to 0.00.

3.3. Professional Services

Figure 3 shows the country's PMR scores in the sector indicators for Lawyers, Notaries, Accountants, Architects, Civil Engineers and Real Estate Agents. The regulatory stance for all professions, except real estate agents, is more restrictive than in the OECD average country²¹¹.

Figure 16. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

With respect to Lawyers, there are regulatory restrictions that affect both entry and conduct. There is only one pathway to access the profession, which includes the requirement to pass a professional examination. Moreover, it is necessary to hold an EU citizenship and to join a professional organisation to legally practice. On conduct, there are restrictions on who can hold ownership interests and voting rights in firms providing legal services and lawyers face some restrictions on their ability to advertise and market their services. Besides, inter-professional business co-operation between lawyers and other professionals is not allowed. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of managements skills for these firms.

²¹¹ In the 2020 European Semester assessment for Luxembourg it was noted that unnecessary restrictions were persistent for several professions, and suggested that lawyers faced particularly strong constraints.

See: '[2020 European Semester](#): Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011, COM(2020) 150 final.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers this factor, there is scope to reduce regulatory constraints. Most notably, Luxembourg could consider relaxing the quantitative constraints on the number of notaries, and liberalise their fees. Yet, it should be highlighted that in Luxembourg there are no territorial restrictions on their ability practices, which are present in most other OECD countries.

With respect to Accountants –the main entry barrier is that there is only one pathway to access the profession, which includes the requirement to pass a professional examination. In addition, professional organisation membership is required in order to practice. In terms of conduct regulation side, there are some restrictions concerning who can have ownership interests and voting rights in firms providing accounting services.

While Architects face less restrictive entry requirements, as there are multiple pathways to access the profession, their conduct regulation is more stringent. Besides restrictions on who can hold ownership and voting rights in firms providing architectural services, these professionals also face restrictions in their ability to advertise and market their services.

Civil Engineers face higher restrictions than many of their OECD peers. In particular, there is only one pathway to access the profession and membership in a professional association is compulsory to legally practice. In addition, as in the case of architects, there are some constraints on who can have ownership and voting rights in firms providing civil engineering services, and engineers face some restrictions when advertising and marketing their activities.

Empirical research has shown that reducing regulatory barriers to the provision of professional services could lead to more entry in the professions, a reduction in prices, a wider offer of services for consumers, and the emergence of innovative ways of doing business.²¹²

Table 3 shows the impact that removing all the restrictions discussed above would have on the PMR scores for these professions.

²¹² For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "[Economic Impact of Regulation in the Field of Liberal Professions in Different Member States](#)", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 2015).

Moreover, a study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)").

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Table 33. Impact of removing major restrictions on PMR sector indicators for professional services

	2018 original value	NEW value after suggested reforms ²¹³
Lawyers	3.45	0.91
Notaries	5.02	4.34
Accountants	1.89	0.59
Architects	2.18	1.24
Civil Engineers	2.48	0.94

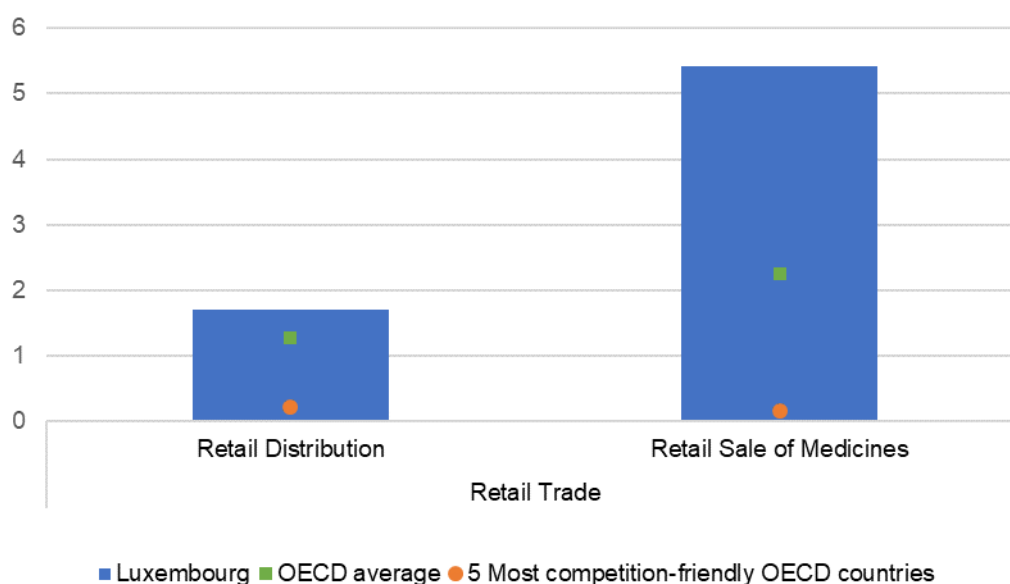
Source: OECD simulations based on the OECD 2018 PMR database

3.4. Retail Distribution and Retail Sales of Medicines

Figure 4 shows the country's PMR scores in the area of retail trade, which includes the Retail Distribution and the Retail Sale of Medicines sector indicators.

Figure 17. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the area of Retail Distribution, Luxembourg's score is driven by its burdensome licensing regime for retail outlets. First, it was always necessary to obtain an authorisation to establishing a retail outlet, and additional licences are also required. It should be acknowledged that, after the data for the PMR indicators were collected, Luxembourg adopted a new regulation that abolished the requirement for a specific authorisation for large commercial outlets (with sales area exceeding 400 m²)²¹⁴. However, Luxembourg

²¹³ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²¹⁴ See Law of 18 July 2018 amending 1) the amended law of 29 June 1989 reforming the cabaret regime; 2) the amended law of 2 September 2011 regulating access to the professions of craftsman, trader, industrialist and certain

could consider adopting further measures to eliminate all additional authorisations and licences for retail outlets, given that the existing economic literature suggests that the removal of these requirements can favour entry, innovation, and efficiency.²¹⁵

Finally, shop-opening hours are strictly regulated and the retail price of gasoline is regulated.

If Luxembourg addressed the above listed regulatory weaknesses, its score in the PMR sector-indicator of Retail Distribution would decrease from 1.71 to 0.25²¹⁶.

Several regulatory restrictions also affect the retail sales of medicines. These include restrictions on the number of pharmacies that can be located in a given geographic area; on who can own a pharmacy (only a pharmacist), and on the number of pharmacies a pharmacist can own (only one). There is evidence that removing demographic and geographic constraints on opening a new pharmacy could have a positive impact on competition.²¹⁷

Moreover, pharmacies hold the exclusive right to sell non-prescription medicines, which are also subject to price regulation, and only non-prescription medicines can be sold online. Allowing other outlets, to sell non-prescription medicines, as well as relaxing restrictions on the online sale of prescription medicines, could boost competition and facilitate access to medicines by consumers.

Last, but not least, pharmacies are also not free to determine their opening hours.

If Luxembourg eliminated these regulatory restrictions, its score in the Retail Sale of Medicines sector indicator from 5.43 to 0.00.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

None of the investments included in the Plan submitted by Luxembourg relate to sectors included in the PMR indicators.

liberal professions; and 3) the law of 23 December 2016 on sales on sale and sidewalk and misleading and comparative advertising. The Law can be accessed on [this website](#).

²¹⁵ For example see Nicoletti, Giuseppe & Boylaud, Olivier, "[Regulatory reform in retail distribution](#)" (2021), OECD Economic Studies.

²¹⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²¹⁷ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021): [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen.; Office of Fair Trading – prepared by DotEcon (2010): [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#); See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Portugal

The aim of this note is to provide an assessment of the likely impact that the Portuguese National Recovery and Resilience Plan²¹⁸ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²¹⁹. Given that limited reform measures in the Plan may have an impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Portugal's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following 4 areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²¹⁸ The assessment was based on the

- Recovery and Resilience Plan of Portugal, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Portugal.
- [REVISED ANNEX](#) to the Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Portugal.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²¹⁹ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Portuguese Plan could have an impact on the PMR. These are outlined in Table 1.

Table 34. Measures in the Recovery and Resilience Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
Reform TC-r23	<p><u>Reform of the Blue Economy Infrastructure Ecosystem</u></p> <p>The reform aims to enhance the regulatory set-up of the water transport sector by implementing the Port Tech Clusters Network legislation, as established by the Council of Ministers Resolution No 175/2017²²⁰, and to expand its scope to the decarbonisation of the economy, as established in the Council of Ministers Resolution No 184/2021²²¹</p>	<p>The reform of the Port Tech Clusters Network legislation will not have an impact on the PMR scores of Portugal, since the areas addressed (mostly measures related to increasing investments in ports, and foster their digitalization and decarbonisation) are not covered by the PMR indicators.</p> <p>The measures that may improve Portugal's PMR score in the water transport sector are discussed in section 4.1.</p>
Reform RE-r16	<p><u>Reducing restrictions in highly regulated professions</u></p> <p>The objective of this reform is to reduce restrictions in highly regulated professions, mainly to foster competition in the provision of business services.</p> <p>The reform shall at least:</p> <ul style="list-style-type: none"> i) separate the regulation and representation functions in professional associations; ii) reduce the list of reserved professions (access to professions may be restricted only to safeguard constitutional interests, according to the principles of necessity and proportionality); iii) end restrictions to ownership and management of business services firms, provided managers respect the legal regime for the prevention of 'conflict of interests'; and, iv) allow multidisciplinary business services firms. <p>(2022 Q4)</p>	<p>Project of Law No. 974/XIV/3a²²², which would introduce this reform, is under discussion by the Portuguese Parliament and, if approved in its current form, will have an impact on the PMR sector indicators for <u>Professional Services</u>.</p> <p>Out of the four initiatives, (ii) (iii) and (iv) will substantially improve the PMR score for the professions included in the reform and covered by the PMR, while (i) will not affect the PMR, as the separation of the regulation and the representation functions of professional associations is not considered in the PMR indicators. The impact of these reform proposals is discussed more in details in part 3.5 below.</p>

²²⁰ You can access this Council of Ministers Resolution [here](#).

²²¹ You can access this Council of Ministers Resolution [here](#).

²²² See: [Project of Law No. 974/XIV/3](#) – Amendment to Law No. 2/2013, of January 10th and Law 53/2015, of June 11th, to strengthen the public interest, autonomy and independence of regulation and promoting access to professional activities.

<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=121163>

Reform TD-r34	<p><u>Digital, simple, inclusive and secure public services for citizens and businesses.</u></p> <p>The objective of the reform is to implement the 'digital by definition' paradigm in public services, to make it more user orientated, increasing accessibility and reduce the administrative burden for citizens and businesses, including by relying on the use of cloud services.</p> <p>The reform shall consist of the implementation of measures to ensure that the needed legal framework is in place for the digital transition, in particular for the implementation of the single digital gateway and the 'once only principle'.</p> <p>The reform is anchored in the Action Plan for the Digital Transition, established by the Council of Ministers Resolution No 30/2020²²³, which includes as an objective the digitalization of the 25 public services most used by citizens and companies.</p> <p>(2021 Q3)</p>	<p>This reform and the associated investments may have a positive impact on the PMR low-level indicator on <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u>, which measures the extent of the administrative requirements necessary to set up new enterprises. Most procedures to open a business covered by the PMR are already available online in Portugal. Hence, the digitalization of further services is unlikely to affect the PMR scores. However, not all the procedures can be carried out through a one-stop shop. Some still require to contact online the different institutions (e.g. obtaining insurance, notifying the tax office and the social security office...). In this regard, the centralization of services under single online portals may improve Portugal's score in the low-level indicator, as it would reduce the number of bodies that need to be contacted to set up a new business.</p> <p>Given the limited information included in the Plan, it is not possible to determine whether the measures will have an impact on the low-level indicator.</p>
Investment TD-C19- i02	<p><u>Sustainable electronic services</u></p> <p>This investment builds on reform TD-r34 in establishing a coordinated management of public administration data ecosystem, incorporating secure identification solutions, data access control mechanisms and statistical information. It shall promote the reuse of data collected by public authorities, implementing the 'once only' principle by relying on the interoperability and integration of IT systems, and broadening the use of electronic identification solutions. This will result in the increase of digital public services available to citizens and businesses re-using data available in the iAP catalogue.</p> <p>(2021 Q3)</p>	
Reform TD-r32	<p><u>Modernization and Simplification of Public Financial Management</u></p> <p>The reform is an all-encompassing fiscal-structural reform, which shall consist of mutually reinforcing initiatives.</p> <p>The fourth initiative relates to state-owned enterprises (SOEs) and includes the following milestones:</p> <ul style="list-style-type: none"> • 17.6: Entry into force of a new management template under a new system of incentives/penalties for the management of state-owned enterprises.²²⁴ • 17.7: Entry into force of a new model for analyzing and disclosing the financial situation of state-owned enterprises. • 17.8: Number of budget and activities plans of state-owned enterprises consistently to be approved by the Minister of Finance and respective line Minister(s). <p>(2024 Q4)</p>	<p>The milestones envisaged in the reform are aligned with OECD best practices and are likely to have a positive impact on the governance of SOEs. However, they are not assessed in the <u>Governance of SOEs</u> PMR low-level indicator, hence they could not affect the relevant score. Other elements of this reform may have an impact on this low-level indicator but this cannot be determined from the limited details included in the Plan. Greater clarity will be achieved once the law will enter into force and all the planned initiatives are gradually implemented. It should be noted that Portugal already scores better than the OECD average in this low-level indicator, but it has still room for improvement.</p>

²²³ You can access this Council of Ministers Resolution [here](#).

²²⁴ The new management contract template has entered into force on 24 December 2021, through Government Order ('Portaria') No 317-A/2021 of 23 December (published on Portugal's Official Journal, No 247, second supplement, first series, of 2021-12-23, pages 2 – 13).

Reform TD-r33	<p>Economic justice and business environment</p> <p>The reform shall include the identification of the barriers to investment in the field of licensing, with a view to reduce procedural inefficiencies and reap the benefits of the digitalization and interoperability between services, implementing the 'only once' principle, as the key focus of the reform as regards business environment. (2025 Q4).</p>	<p>Although simplifying the licensing procedures, the reform will not have an impact on the <u>Licences and Permits</u> low-level indicator, since Portugal scores in line with international best practices in this area.</p>
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2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²²⁵ made the following general observations on Portugal's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 35. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Administrative Burden and Licences and Permits:</p> <p>Reforms aimed at administrative simplification have been largely absent [...]. Priority should be given in particular to limiting the number of documents that have to be submitted and either replacing authorization schemes with simple declarations of compliance with applicable conditions or, for the more sensitive sectors, simplifying authorizations by reducing decision times and adopting tacit approval. The streamlining of procedures for specific sectors is still lacking. Excessive administrative charges remain in place, notably in the construction sector. [...]</p> <p>Portugal should reduce the administrative and regulatory burden on businesses, mainly by reducing sector-specific barriers to licensing.</p>	<p>The following measure related to administrative burdens has been identified in the Plan that <i>may have an impact on the PMR indicators</i>:</p> <p style="padding-left: 40px;">Reform TD-r34. – Digital, simple, inclusive and secure public services for citizens and businesses</p> <p>The following measure related to licensing has been identified in the Plan. However, this is <i>unlikely to have an impact on the PMR indicators</i>:</p> <p style="padding-left: 40px;">Reform TD-r33 – Economic justice and business environment.</p> <p>These measures have already been discussed in Table 1.</p>
<p>Governance of SOEs:</p> <p>Ensuring adherence to initial activity plans and efforts for a more timely, transparent and comprehensive monitoring were delayed and have been slow in translating into corrective action where needed. In particular, a sufficient level of ex-ante transparency regarding the financing of state-owned enterprises through recapitalisations and loans has not been ensured.</p> <p>Portugal should improve the financial sustainability of state-owned enterprises, while ensuring more timely, transparent and comprehensive monitoring.</p>	<p>The following measure in the Plan <i>can have an impact on the PMR indicators</i>:</p> <p style="padding-left: 40px;">Reform TD-r32. Modernization and Simplification of Public Financial Management.</p> <p>This measure is already discussed in Table 1.</p>

²²⁵ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Portugal and delivering a Council opinion on the 2019 Stability Programme of Portugal, COM/2019/522 final, and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Portugal and delivering a Council opinion on the 2020 Stability Programme of Portugal, COM/2020/522 final.

<p>Public procurement: Shortcomings in planning and monitoring public procurement hinder competition. The performance of public procurement could be improved by introducing structured and quantified planning and ensuring closer supervision of the execution phase of contracts.</p>	<p><i>No measures related to public procurement that may have an impact on Portugal's PMR indicators have been identified in the Plan.</i></p> <p>It should be noted that Portugal's public procurement regulatory framework is mostly in line with international best practices as captured by the PMR indicators. The only measure the country could further enhance its score in the <u>Public Procurement</u> PMR low-level indicator is to forbid procuring authorities from including a reference price in the tender documentation, as this discourages competition and can favour collusive practices²²⁶.</p>
<p>Barriers in professions: Portugal has made an effort to reduce the regulatory burden for highly regulated professions, notably with the introduction of the 2013 framework law. In some cases, however, this progress was halted or even reversed with the adoption of bylaws for the individual professions and the introduction of a ban on corporate groups. Regulatory and administrative restrictions on business and professional services prevail, raising concerns about competition, price levels, innovation and the quality of services. Portugal should develop a roadmap to reduce restrictions in highly regulated professions.</p>	<p>The following measure in the Plan <i>may have an impact on the PMR indicators:</i></p> <p style="padding-left: 40px;">Reform RE-r16. Reducing restrictions in highly regulated professions</p> <p>This measure is already discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly²²⁷. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Portugal.²²⁸

In the rest of this section, the following indicators are assessed:

- i) Simplification and Evaluation of Regulations;
- ii) Retail Distribution and Retail Sale of Medicines
- iii) Professional Services.

3.1. Simplification and Evaluation of Regulations

Figure 1 shows the mid-level indicator of Simplification and Evaluation of Regulations, which includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;

²²⁶ A reference price is any indication of a price that would be acceptable/not acceptable for each individual component of the tender.

²²⁷ The latest PMR values available for Portugal refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²²⁸ All country fiches are available on the [PMR webpage](#).

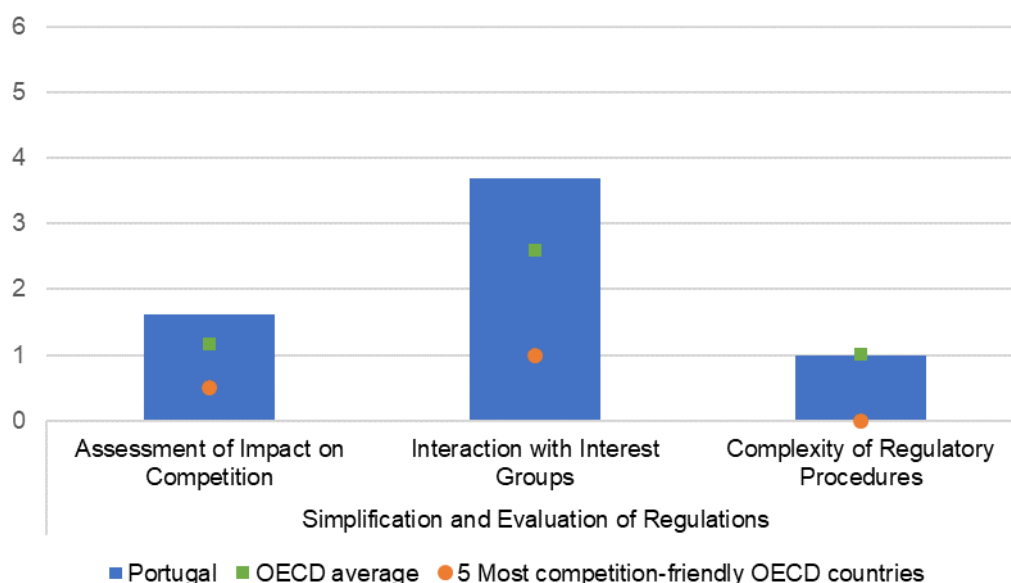
ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities; and.

iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

Portugal scores in line with the OECD average in the latter low-level indicator, but above the OECD average in the two other indicators.

Figure 18. Low-level PMR indicators included in Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

In the area of Assessment of Impact on Competition, Portugal scores above the OECD average because, when new primary laws are developed, there is no obligation to assess the costs and benefits of alternative regulatory options, including the 'do nothing' option, but only those of the preferred regulatory alternative. No assessment of the impact of new laws on competition is required either.

Moreover, in case a market study performed by the competition authority reveals restrictions on competition due to existing laws or regulations or other government policies, the government is not required to publicly respond to explain whether they will comply with them and, if not, for what reasons. This can weaken the ability of this policy instrument to effectively address regulatory obstacles to competition imposed by the country's regulatory framework.

Addressing these weaknesses would significantly improve Portugal's score in the Assessment of Impact on Competition PMR low-level indicator (from 1.63 to 0.38²²⁹).

²²⁹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

Portugal's high score in the Interaction with Interest Groups PMR low-level indicator is largely driven by the lack of systematic rules regulating the interaction between policymakers and all interest groups. The country should consider introducing such regulation. To increase transparency of lobbying activities, the country could require interest groups involved in regulatory processes to register in a public registry and imposing fines for non compliance. In addition, public officials involved in regulatory processes could be required to make their agenda publicly available, to publish the names of interest groups that were consulted in each regulatory process, and to disclose the identity of the members of permanent advisory bodies.

Moreover, although engaging with stakeholders is required when developing new regulations, no written guidance is available on how to conduct stakeholder engagement and the regulators are not required to consider comments received from them.

If Portugal addressed the above mentioned weaknesses, undue influences in the regulatory process through lobbying could be reduced, which can distort the regulatory outcome. In addition, stakeholder consultation would become more effective and inclusive. As a result, Portugal would substantially improve its score in the Interaction with Interest Groups low-level indicator (from 3.68 to 0.00).

3.2. Retail Distribution and Retail Sales Medicines

Figure 2 shows Austria's scores in two sector indicators related to retail trade: Retail Distribution and Retail Sales of Medicines. Portugal's score is well above the OECD average in both of them, suggesting regulatory weaknesses in both areas²³⁰.

Figure 19. PMR sector indicators for Retail Distribution and Retail Sales Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

²³⁰ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

When it comes to Retail Distribution, Portugal's bad performance is driven by the burdensome licensing regime in place for retail outlets. In particular, additional licences – besides the ones related to health, safety and environmental protection regulation – are necessary to establish retail outlets. Moreover, opening a new retail outlet requires registration to a specific registry – beyond registration in a commercial or trade registry – if the shop exceeds specific surface thresholds. Existing economic literature suggests that removing requirements for outlet registration and authorisations can favour entry, innovation, and efficiency.²³¹

In addition, retailers have to notify the relevant public authorities if they wish to undertake an end-of-business sale, and they face restrictions to sell below costs outside of seasonal sales. Last but not least, the retail prices for gasoline, liquefied petroleum gas and all non-prescription medicines are regulated.

If Portugal removed these restrictions, it could further foster entry and competition in the retail sector and it would reduce its score in the Retail Distribution sector indicator from 2.55 to 0.47

Several restrictions hinder competition in the Retail Sales of Medicines in Portugal (Figure 2). These restrictions are related to: the minimum physical distance between pharmacies; the number of pharmacies that can be located in the same geographic area; and the choice of the opening and closing hours. Moreover, non-prescription medicines can be sold in pharmacies, parapharmacies and drugstores, but not in other retail outlets. Furthermore, the retail prices of a subset of non-prescription medicines are regulated, and advertising the prices of non-prescription medicines and offering price discounts is prohibited.

Portugal could foster a more competitive market for the retail sale of drugs by removing geographic or demographic barriers to the opening of new pharmacies²³² and letting pharmacies decide their opening hours. In addition, allowing non-prescription medicines to be sold in any retail establishment and removing price regulation and restrictions on advertising of non-prescription medicines would allow price competition to work effectively. These regulatory changes would enhance Portugal's score in the Retail Sale of Medicines sector indicator from 3.88 to 0.50.

3.3. Professional Services

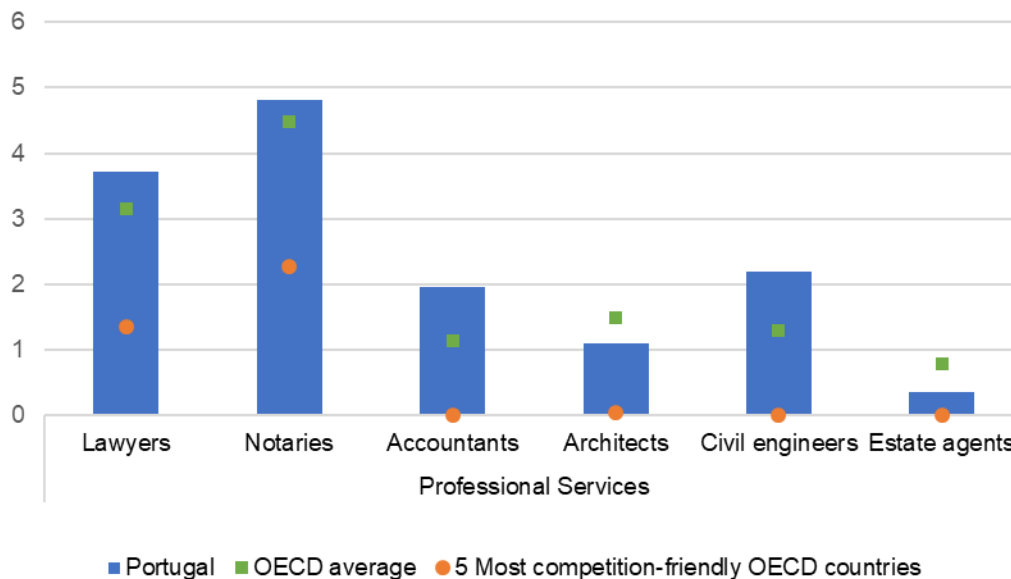
Figure 3 below shows Portugal's 2018 scores in the six professional services covered by the PMR indicators: Lawyers, Notaries, Accountants, Architects, Civil Engineers and Real Estate Agents.

²³¹ For example see Nicoletti, Giuseppe & Boylaud, Olivier (2001), "[Regulatory reform in retail distribution](#)", OECD Economic Studies.

²³² A number of papers show that removing demographic and geographic rules for opening a new pharmacy can have a positive impact on competition. See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021) : [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen.; Office of Fair Trading – prepared by DotEcon (2010): [Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market](#), See also the papers discussed at the 2014 [OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

Figure 20. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The results show that, while the regulatory stance for real estate agents and architects is not far from international best practices, that for lawyers, notaries, accountants, and civil engineers shows margin for improvements.

In 2018, the OECD, in cooperation with the Portuguese Competition Authority, carried out an assessment for a limited number of self-regulated professions – including among others lawyers, notaries, accountants and engineers. From the evaluation carried out, a list of recommendations was drawn up²³³. Some of these are reflected in the law proposal that is currently under discussion in the Portuguese Parliament²³⁴. This Project of Law No. 974/XIV/3 foresees the following measures, which would affect the PMR indicators' scores for the four professions:

- i) Open up reserved activities to competition when these are not adequate, necessary, and proportional;
- ii) Assess the proportionality of traineeships required to join a professional association in terms of their duration, purpose, evaluation model and charges, and revise them where appropriate;

²³³ See: OECD (2018), [OECD Competition Assessment Reviews: Portugal: Volume II - Self-Regulated Professions](#), OECD Publishing, Paris.

²³⁴ See: [Project of Law No. 974/XIV/3](#) – Amendment to Law No. 2/2013, of January 10th and Law 53/2015, of June 11th, to strengthen the public interest, autonomy and independence of regulation and promoting access to professional activities,

- iii) Eliminate restrictions related to ownership, and management of professional firms and enable professional partnerships;
- iv) Reduce restrictions to offer multidisciplinary activities by professional firms;
- v) Remove price regulation and permit advertising;
- vi) Eliminate geographical and other quota restrictions on access to the profession for notaries.

All these measures, if implemented, would contribute to ease access to these professions and foster competition. While the details for measures i) and ii) are insufficient to calculate their exact impact on the PMR indicators, Table 3 below shows the likely impact of the remaining four measures on the PMR sector indicators for the relevant Professional Services. The assumption is that these measures will lead to the complete elimination of all the relevant restrictions.

Table 36. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW PMR value following change ²³⁵
Lawyers	3.71	1.96
Notaries	4.80	1.63
Accountants	1.96	1.40
Civil Engineers	2.20	1.20

Source: OECD calculations based on the 2018 PMR database

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Portugal is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity:** (Investment TC-C14-i02-RAM: Renewable electricity potentiation in the Madeira Archipelago; Investment TC-C14-i03-RAA: Energy transition in the Azores).
- **Rail transport:** (Investment RE-C07-i03: Cross-border links).
- **Road transport:** (Investment RE-C07-i02: Missing links and increasing the capacity of the Network; Investment RE-C07-i03: Cross-border links; Investment RE-C07-i04: Business Reception Areas - Road accessibility; Investment RE-C07-i05-RAA: Logistic Circuits - Regional Network of the Azores).
- **Water transport:** (Investment TC-C10-i01: Blue Hub, Network of Infrastructure for the Blue Economy).
- **Water:** (Investment RE-C09-i01: Algarve Water Efficiency Regional Plan; Investment RE-C09-i02: Hydraulic multi-purpose enterprise of Crato; Investment RE-C09-i03-RAM: Plan for water efficiency and strengthening of supply and irrigation systems of Madeira).

According to a recent study by the OECD (Demmou and Franco, 2020),²³⁶ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector

²³⁵ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²³⁶ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

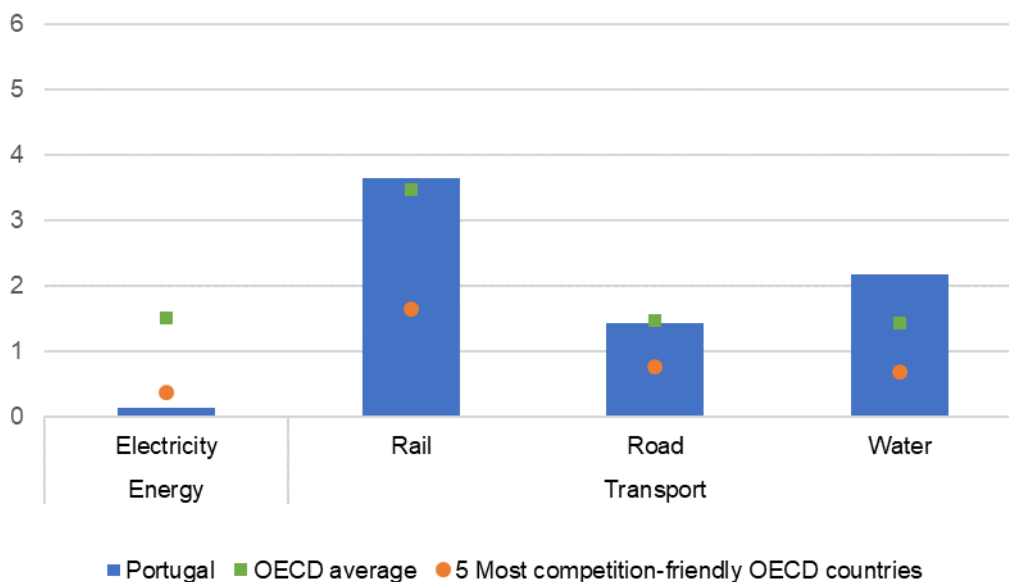
Since Portugal's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how Portugal performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 21. PMR sector indicators for Electricity and Rail, Road and Water Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity** sector, Portugal's regulatory framework is in line with international best practices. Hence, there is limited room for improvement in this sector.
- Portugal's score in the **rail transport** sector is slightly above the OECD average due to the fact that the passenger transport segment is not open to competition: there is neither competition *in* the market nor competition *for* the market, as train operators cannot compete in tenders for the provision of passenger rail services. In this regard, the country could at least introduce competitive tenders to allocate public service contracts to passenger service operators.
- Regarding **road transport**, Portugal's score is in line with the OECD average. However, the regulatory framework could be made more competition-friendly if Portugal replaced the current licensing regime for the establishment of both freight and passenger transport businesses with a

more lenient notification system. Competition could be further boosted in the passenger transport segment if firms were allowed to freely choose the routes they wish to serve.

- In the **water transport** sector, Portugal has ample room for improvement. For example, the current licensing regime for the establishment of both for freight and passenger transport businesses could be replaced by a notification system. Retail prices for certain passenger transport services could be deregulated, as the market is open to competition. This restriction could be removed. Vertical separation between port authorities and operators of terminal facilities offering commercial services could be introduced. The country could also consider allowing firms outside the EU to provide cabotage services. In addition to these regulatory constraints, the high score is also driven by the government's control over the largest firms in the passenger transport and the operation of terminal facilities segments.
- The **water** sector is also included in the PMR indicators, but there is no separate PMR sector indicators for it (hence this sector does not appear in Figure 2). To enhance competition in this sector, Portugal could allow the trade, lease or transfer of ground- and surface water abstraction entitlements. This would boost the development of a secondary market for this valuable resource.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²³⁷ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

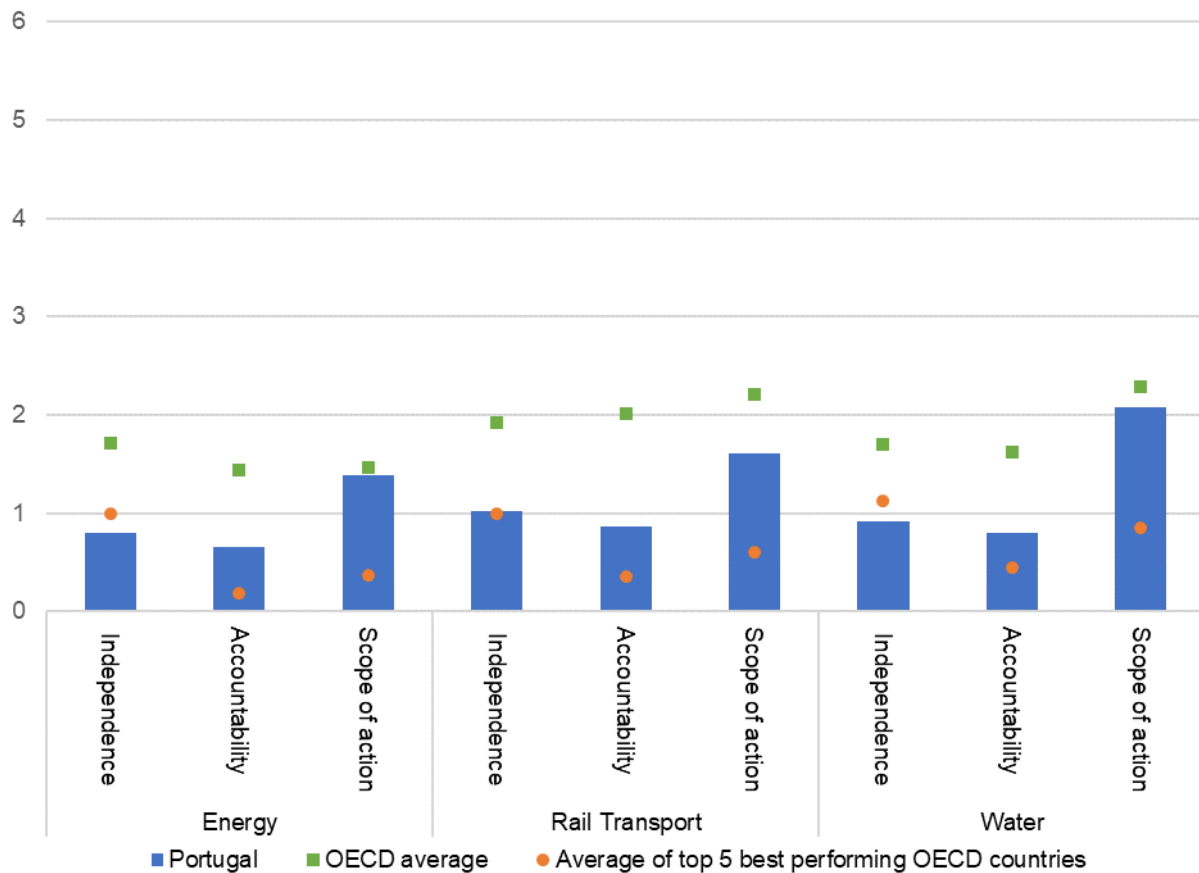
- Independence, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- Accountability, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- Scope of action, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Portugal's 2018 scores in these indicators, presented in Figure 5, show that Portugal is among the best performers in the independence component for the Energy, Rail Transport and Water sector regulators. The country also performs well in the accountability component, where Portugal scores below the OECD average for the three regulators. The scope of action of these regulators is in line with that of the average OECD regulators.

²³⁷ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 22. Indicators of Governance of Sector Regulators for Energy, Rail Transport and Water



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. In the water sector, the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxemburg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, and Türkiye. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Energy

Despite Portugal's good score in the independence component of the energy regulator, two governance arrangements could be introduced to increase the independence of the agency head and the board members: i) an independent panel could be involved in the selection of these executives; and ii) additional 'checks' could be added to prevent their arbitrary dismissal by the government.

The transparency and accountability of the regulator would also be enhanced if it published information on the quality of its regulatory processes and if it was made directly accountable to the parliament, not to the government.

Rail Transport

The same recommendations identified for the energy regulator apply to the rail regulator when it comes to enhancing its independence.

Despite a good score in the accountability component, the rail regulator could become more transparent if it was required to publish performance information, such as the number of network faults in the industry, the number of inspections carried out by the regulator, the level of competition in the sector and the degree

of compliance of regulated firms. This information is key to assess the work of the regulator and the state of the regulated sector.

Water

The same recommendations identified for the energy regulator apply when it comes to improving the independence of the water regulator.

The water regulator would also increase its accountability if it was required to publish a forward-looking action plan, which would allow stakeholders to be informed about upcoming regulatory changes.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Romania²³⁸

The aim of this note is to provide an assessment of the likely impact that the Romanian National Recovery and Resilience Plan²³⁹ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁴⁰. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Romania's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²³⁸ In January 2022, the OECD Council decided to open accession discussions with Romania. Romania has therefore been included in this publication because of its status as an EU Member State but also as an OECD accession candidate country. However, this note was not prepared in the context of OECD accession and is separate from that process.

²³⁹ The assessment was based on the

- Recovery and Resilience Plan of Romania, available in this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Romania.
- [Annex to the COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Romania. <https://data.consilium.europa.eu/doc/document/ST-10161-2021-ADD-1/en/pdf>

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁴⁰ All information, indicator values and methodology related to the PMR indicators can be found at the [PMR website](#)

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Romania could have an impact on the PMR indicators. These are outlined in Table 1.

Table 37. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
C6.R1.	<p><u>Electricity market reform, replacement of coal in the energy mix and support for a legislative and regulatory framework for private investment in renewable electricity production.</u></p> <p>The objective of the reform is the decarbonisation of the energy sector, with a focus on power generation. The Plan includes one measure that may impact the PMR:</p> <p>v) Implement Demand Side Response in the balancing market to reduce consumption at peak hours and increase the participation of industrial consumers in the energy market.</p> <p>The reform includes two milestones. The adoption of the Decarbonisation Law (Q2 2022) and the New Energy Law (Q2 2023)</p>	<p>The introduction of demand side response – if it allowed all consumers to sell demand response freely – would reduce Romania’s score in the <u>Electricity</u> sector low-level indicator from 2.20 to 1.78 and in the <u>Barriers in Network Sectors</u> PMR low-level indicator from 1.19 to 1.05.</p> <p>Other measures are unlikely to affect the PMR score since they focus on the phasing out of coal and the rapid adoption of renewables, which are not covered in the PMR indicators.</p>
C4. R1.6	<p><u>Shipping strategy and integration with other modes of transport.</u></p> <p>The objective of this reform is to further develop the waterborne (inland waterways and ports) transport in Romania. The measure includes the adoption of the Shipping strategy and the planning of intervention measures for the development of the sector.</p> <p>Proposals shall be made to amend the legal and institutional framework on how to manage waterborne infrastructure with the objectives of: integrating waterborne transport with other modes of transport, reducing the environmental impact of ports (maritime and inland) and shipping, drawing up plans to develop intermodal ports and increasing freight transport on the Danube.</p> <p>(Q2 2023)</p>	<p>The reform may have an impact on the <u>Transport by Water</u> sector indicator and the <u>Barriers to Network Sectors</u> low-level indicator. However, the Plan does not contain sufficient information to quantify the effect on the scores.</p>
C5.R2.	<p><u>Improving corporate governance of state owned companies in the energy sector</u></p> <p>The reform focuses on improving the corporate governance of state-owned enterprises, concentrating on the energy sector. In particular, the reform shall improve the transparency and competitiveness of the selection and appointment of members of the management and/or supervisory boards of state-owned companies in the energy sector. Those boards shall be appointed with a 4-year mandate and the system of remuneration shall be based on quantitative and qualitative objectives related to financial and service performance.</p> <p>(Q4 2022)</p> <p>The reform shall also complete the listing of at least 15% shares of Hidroelectrica.</p> <p>(Q3 2023)</p>	<p>The appointment of board members and their remuneration are not covered by the PMR. The <u>Governance of SOEs</u> low-level indicator includes information only on the selection of the CEO, which in Romania is done by the board and hence reflects international best practices. Therefore, the first measure will not affect Romania’s PMR score.</p> <p>The listing of 15% of shares of the state-owned Hidroelectrica would marginally improve the score in the <u>Electricity</u> sector indicator from 2.20 to 2.17 and the <u>Government Involvement in Network Sectors</u> low-level indicator from 3.08 to 3.01. The decrease would be a bit more noticeable if the Government divested all the shares it owns in the firm (from 2.20 to 2.00 and from 3.08 to 2.68, respectively).</p>

C4. R2.	<p><u>Performance-based quality management in transport - Improving institutional capacity and corporate governance</u></p> <p>The objective of this reform is to develop the quality of transport investments and services by improving the corporate governance and the performance of the State-Owned Enterprises operating in the transport sector, notably for those in charge of roads, railways and metro. T</p> <p>i) The selection and appointment of the members of the board of directors of the state-owned enterprises in the transport sector shall be improved with transparent and competitive procedures, and remuneration shall be in line with Key Performance Indicators (KPIs).</p> <p>ii) Based on an independent assessment of financial and operational performance in line with OECD (Organisation for Economic Cooperation and Development) standards, recommendations for improving the performance of C.N.A.I.R., C.N.I.R., C.F.R. (Compania Națională de Căi Ferate), C.F.R. Călători and Metrorex shall be implemented. In order to carry out the independent evaluation, the Ministry of Transport and Infrastructure shall contract/select through competitive public procurement an International Financing Institution or an international auditing company, recognised for the competence and expertise in stateowned enterprises performance. The recommendations from this independent assessment shall be implemented in Q2 2023</p>	<p>The reform is not going to have an impact on Romania's PMR scores. As stated above, the appointment of SOEs board members and their remuneration are not covered by the PMR, not does the operational and financial performance of SOEs.</p>
C14. R9	<p><u>Improve the procedural framework for the implementation of corporate governance principles in state owned enterprises</u></p> <p>The objective of this reform is to improve the corporate governance of all state-owned enterprises in Romania by enforcing OECD standards.</p> <p>The reform shall enforce a separation between the regulatory and ownership functions, remove any direct or indirect advantage that might derive from State ownership, be it in terms of market rules/regulations, financing, taxation, or public procurement, and ensure that any state-owned enterprise pursue obtaining profitability. (Q4 2022)</p> <p>The reform shall also set up and operationalise a task-force at the Centre of the Government to ensure the monitoring of the application of corporate governance standards, having the ultimate responsibility of ensuring a transparent and competitive selection procedure for approving the appointment of administration board members, monitors, and for evaluation and controls. (Q4 2022)</p> <p>The task force shall publish regular reporting of performance indicators and enforces sanctions for state owned enterprises non-compliant with key performance indicators. A Monitoring Dashboard with financial and non-financial targets and performance indicators for all categories of public companies (including key sectors such as transport, energy, public utilities) shall be developed, yearly published and used centrally for reporting and monitoring progress in achieving performance for all categories state-owned enterprise. (Q2 2023)</p>	<p>The reform will have an impact on the <u>Governance of SOEs</u> indicator, and will bring Romania closer to international best practices. In particular, two measures - the separation between the regulatory and the ownership functions and the removal of all advantages derived from state ownership - will reduce the score from 3.60 to 2.10.</p> <p>Other measures included in this reform, such as the introduction of a transparent and competitive procedure for the appointment of board members other than the CEO; the monitoring, evaluation and control of operations; the publishing of performance indicators; and the obligation for SOEs to attain profitability are all positive improvements. Yet, they will not affect the score since they are not covered by the PMR indicators.</p>

C14. R8	<p>Reforming the national procurement system</p> <p>The objective of this reform is to improve the efficiency of the public procurement system and to ensure the full and sustainable implementation of the National Public Procurement Strategy, as endorsed by Government Decision No 901/2015. The following actions shall be performed under this reform:</p> <p>i) Adoption and entry into force of the amendment of national legislation on remedies (Law No. 101/2016) in order to streamline the awarding process. This law is supposed to transpose EU directives 89/665/EEC, 92/13/EEC and 2007/66/EU. (Q2 2022)</p> <p>ii) Adoption and entry into force of the updated National Public Procurement Strategy including horizontal measures to support the implementation of the national recovery and resilience plan. (Q2 2023)</p> <p>iii) Operationalisation of centralised procurement bodies (CPBs) for local authorities. (Q4 2025)</p> <p>iv) Specialised training in the field of public procurement provided to at least 350 persons (both civil servants and contractual staff)</p> <p>v) Interconnection and interoperability with other databases of the Public Procurement Electronic System (SEAP) (Q4 2023)</p> <p>vi) Operationalisation of e-procurement system including e-forms, automated qualification assessment, e-catalogues, e-invoicing, e-payment. (Q2 2025).</p>	<p>The reform is unlikely to affect the <u>Public procurement</u> low-level indicator, in which Romania already scores well, since it affects mostly areas that are not captured by the PMR indicator. The operationalisation of e-procurement systems is the only relevant element, but it will not have an impact on Romania's score since the country already requires that all tender documentation must be available online²⁴¹.</p> <p>The only measure that could improve the country's score would be the introduction of a mandatory requirement to collect information on the goods, services, and public works the government wants to procure before deciding on the procurement strategy and the tendering process. This would reduce Romania's score in the low-level indicator from 0.75 to 0.00. However, there is not enough information in the Plan to determine whether the reform includes this element.</p>
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²⁴¹ This was mandated in [Law No. 98 of 19 May 2016 Public Procurement](#). The PMR indicators capture the *de jure* regulatory stand of the surveyed countries, not the *de facto* enforcement of regulation.

C9.R1	<p><u>Legislative transparency, de-bureaucratisation and procedural simplification for business</u></p> <p>The objective of this reform is to reduce the administrative burden for businesses environment by simplifying and increasing the transparency of regulatory procedures for firms.</p> <p>Some aspects of the reform are relevant to the PMR:</p> <p>i) the entry into force of legislative amendments to streamline, simplify and fully digitise business related regulatory requirements, in particular to set up a company. (Q4 2022)</p> <p>ii) the entry into force of the law implementing the single industrial licensing regime that shall effectively enforce, inter alia, the tacit approval (silence is consent) for specific types of licences following their registration on the electronic platform. (Q4 2022)</p> <p>iii) the adoption of the “once-only” principle, enabling firms to be required to supply the same information or documents to public institutions only once, and the adoption of the necessary legislative amendments for the full implementation of an Electronic Point of Single Contact, including a definition of its main features. (Q4 2022)</p> <p>The reform aims at reducing by 50% the time for:</p> <ol style="list-style-type: none"> 1. Setting up firms and leaving the market, 2. Authorization of foreign representations in Romania in the manufacturing sector 3. Obtaining industry-related licences and permits <p>(Q4 2025)</p>	<p>The entry into force of the silence is consent rule and the setting up of a public digital platform in which businesses can obtain all necessary licences would decrease Romania’s score in the <u>Licences and Permits</u> low-level indicator from 2.40 to 0.00.</p> <p>The reform may also have an impact on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator if it led to a reduction in the number of procedures that need to be carried out and the institutions that need to be contacted in order to establish a new firm. However, it is not possible to quantify the impact on this low-level indicator with the information available in the Plan. The reduction in the time required to set up a business is not covered by the indicator.</p>
C9.I1	<p><u>Digital platforms on legislative transparency, de-bureaucratisation and procedural simplification for business.</u></p> <p>The objective of this investment is to provide full digital access and the possibility to perform operations related to specific regulatory requirements for business.</p> <p>The investment shall consist in setting-up and make operational a public digital platform providing public services for businesses. This includes some services covered by the PMR:</p> <p>i) simplification of the procedures for setting up / leaving the market of the companies, setting up and operating working locations</p> <p>ii) introduction of a One Stop Shop for licences / authorizations / certifications. (Q4 2023).</p>	

C14.R1	<p><u>Enhancing the predictability and efficiency of decision making processes by strengthening the capacity for policy coordination and impact analysis at the level of the government and coordinating ministries, as well as by strengthening the tools to increase the quality of public consultations at all levels of the administration</u></p> <p>The objective of the reform is to improve the planning of government policies in the short and medium term (by developing institutional strategic planning mechanisms and linking them to budget programming), to strengthen the system of preliminary regulatory impact analysis (through procedural and institutional adjustments), to improve capacities of public policy planning and formulation (through new mechanisms for managing government strategies, training or exchange of experience, and by introducing the concept of innovative governance), and to strengthen coordination at the Government Centre of policies of a strong horizontal nature and involving a large number of stakeholders (such as the Green Compact).</p> <p>Below we mention the measures included in the reform that may be related to the PMR:</p> <ul style="list-style-type: none"> - Adoption and entry into force of a legislative act operationalising a structure to ensure the implementation of an effective regulatory quality control mechanism (Q1 2022). - Adoption and entry into force of the methodologies and procedures to improve public policy rationale and planning and administrative simplification (Q2 2022)²⁴². Among these, some are related to the PMR: <ul style="list-style-type: none"> • Government Decision laying down procedures for the development, implementation, monitoring, evaluation and updating of government strategies • Government Decision on approving the “One in, one out” Methodology aimed at reducing administrative burden. • Government Decision on the procedural and methodological framework for ex-post assessment of regulations. - Enhancing the quality of public consultations and developing civil society involvement in the decision-making process by strengthening the legislative and procedural framework for the coordination and effective implementation of open government initiatives (Open Government Initiative). This shall be attained through: <ol style="list-style-type: none"> (i) Updates of the legal framework, extension of IT platform, capacity building for civil servants, Open Government Strategy adoption. (ii) Trainings organised for civil society organisations to increase their capacity and skills to participate effectively in public consultation processes. - Adoption and entry into force of the guidelines for appropriate use and enforcement of the Single Register of Interest Transparency (RUTI). These shall properly implement the public register created by the Government in 2016 that lists meetings of decision-makers with interest representatives, and also serves as a voluntary register for interest groups. 	<p>The reform is likely to have an impact on the low-level indicator on the <u>Assessment of Impact on Competition</u>. Specifically, the creation of an institution that reviews the Regulatory Impact Assessments (RIA) – outside the ministries sponsoring the regulation – would better guarantee the quality of these assessments and decrease the score in the low-level indicator from 1.50 to 0.75. In addition, new legislation defining the procedural and methodological framework for ex-post assessment of regulations is welcomed. However, the information in the Plan is not sufficient to evaluate its impact on the PMR scores.</p> <p>The initiative may also affect Romania’s score in the low-level indicator on the <u>Interaction with Interest Group</u>. If the guidelines for appropriate use and enforcement of the Single Register of Interest Transparency (RUTI) made it compulsory – not voluntary – for interest groups to register, and if the government could impose fines for non-compliance, the score in this low-level indicator would decrease from 2.45 to 2.05. In addition, enhancing the legislative and procedural framework for Open Government Initiatives is likely to improve Romania’s score, since currently the interaction between public officials and interest groups is not regulated. Yet, the Plan does not contain sufficient information to quantify the potential impact of these measures.</p> <p>Finally, the reform could improve Romania’s score in the <u>Complexity of Regulatory Procedures</u> low-level indicator, which measures the government’s efforts in reducing and simplifying the administrative burden of interacting with government. Again, there is not enough information in the Plan to evaluate whether the reform would have an impact.</p> <p>Section 3.3 discusses in detail how Romania could further improve its regulation in these three areas.</p>
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(Q3 2022).

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁴³ made the following general observations on Romania's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 38. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p><u>Administrative Burden:</u> Cumbersome administrative procedures particularly affect small and medium-sized businesses. For example, burdensome administrative procedures for setting up businesses [...] impede further market development.</p>	<p>There are several measures in the Plan to reduce the administrative burden on businesses in Romania.</p> <p>Those that may affect <i>may affect Romania's PMR indicators</i> are:</p> <p>C9.R1. Legislative transparency, de-bureaucratization and procedural simplification for business.</p> <p>C9.I1 Investment 1. Digital platforms on legislative transparency, de-bureaucratization and procedural simplification for business.</p> <p>These reforms have already been discussed in Table 1.</p>
<p><u>Barriers in professions:</u> Regulatory requirements imposed on services providers, including regulated professions, further impede market development.</p>	<p><i>No measure related to regulated professions has been identified in the Plan.</i></p>
<p><u>Rail transport:</u> The reform of the railway sector is lagging behind.</p>	<p>Several measures included in the Plan affect the railway sector, but none of them concern regulatory weaknesses captured by the PMR indicators.</p>
<p><u>Governance of SOEs:</u> State-owned enterprises have a key role in critical infrastructure sectors such as energy and rail transport. [...] However, transparency and disclosure of financial and operational results have not improved and corporate governance rules continue to be only sparsely applied. [...] Specific examples include the repeated appointment of interim boards, departing from the spirit of the law, and the non-use of enforcement tools available under the legislation for non-compliant companies. Risks that the legislation on state-owned enterprises could be substantially weakened have not abated. The transfer of the ownership of several of the larger state-owned enterprises to the new Sovereign Development and Investment Fund will require a thorough implementation of strong corporate governance rules both for the Fund and the companies in its portfolio. [...] Strengthen the corporate governance of state-owned enterprises. The recommendation was stated in both 2019 and 2020.</p>	<p>The following reforms of the Plan related to the governance of SOEs <i>could improve the PMR score</i>:</p> <p>C5.R2. Improving corporate governance of state owned companies in the energy sector.</p> <p>C14.R9 Improve the procedural framework for the implementation of corporate governance principles in state owned enterprises.</p> <p>C4.R2 Reform 2. Performance based quality management in transport. Improving institutional capacity and corporate governance.</p> <p>These reforms have already been discussed in Table 1.</p>

²⁴³ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Romania and delivering a Council opinion on the 2019 Stability Programme of Romania, COM(2019) 523 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Romania and delivering a Council opinion on the 2020 Stability Programme of Romania, COM(2020) 523 final.

<p>Public procurement:</p> <p>Romania has made limited progress in addressing the country-specific recommendation to improve the transparency of public procurement. The efficiency of public procurement continues to be an issue, while the irreversibility of certain measures, notably the streamlining of the ex-ante control, is at stake. The national public procurement strategy stresses the importance of a unitary ex-ante control performed by the National Agency for Public Procurement. Recurrent legislative initiatives risk undermining the achievement of the objectives in the strategy. The predictability and stability of the public procurement legislation remain important challenges and the national public procurement strategy is not fully implemented.</p> <p>[...]</p> <p>Improve the efficiency of public procurement and ensure full and sustainable implementation of the national public procurement strategy.</p>	<p>There is only one reform in the Plan related to public procurement that <i>may improve the PMR score</i>:</p> <p style="text-align: center;">C14. R8. Reforming the national procurement system.</p> <p>This reform has already been discussed in Table 1.</p>
<p>Simplification and evaluation of regulations</p> <p>The conduct of public policy making has become increasingly unpredictable, weighing on the business environment [...] Regulatory impact assessments remain a formality, while their quality and actual use vary substantially across sectors. There is only limited quality control of regulatory impact assessments and policy design. The involvement of stakeholders in designing and implementing reforms is weak, and genuine dialogue rarely exists, although the institutional structures for it are available.</p> <p>[...]</p> <p>Ensure that legislative initiatives do not undermine legal certainty by improving the quality and predictability of decision-making, including by appropriate stakeholder consultations, effective impact assessments and streamlined administrative procedures.</p>	<p>There are several measures related to improve the quality of new regulations included in the Plan. Yet, <i>only one is likely to affect Romania's PMR indicators</i>:</p> <p style="text-align: center;">C14.R1. Enhancing the predictability and efficiency of decision making processes by strengthening the capacity for policy coordination and impact analysis at the level of the government and coordinating ministries, as well as by strengthening the tools to increase the quality of public consultations at all levels of the administration.</p> <p>This reform has already been discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly²⁴⁴. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Romania.²⁴⁵

In the rest of this section, the following indicators are assessed:

- i) Governance of SOEs;
- ii) Professional services;
- iii) Simplification and Evaluation of Regulations.

²⁴⁴ The latest PMR values available for Romania refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

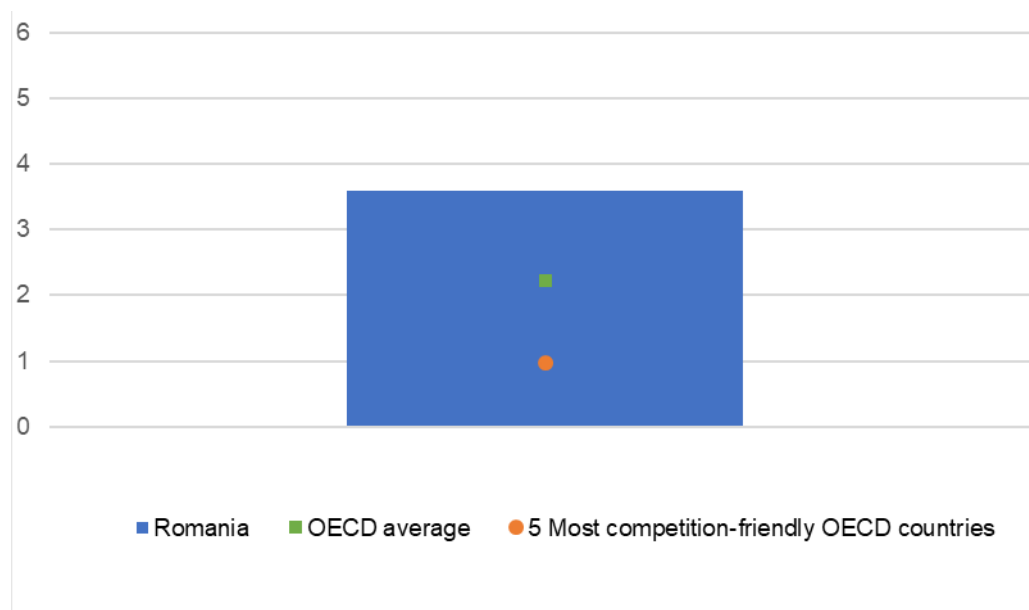
²⁴⁵ All country fiches are available on the [PMR webpage](#).

3.1. Governance of SOEs

Figure 1 shows that Romania's Governance of SOEs²⁴⁶ is very far from international best practices and from the OECD average.

Figure 23. PMR economy-wide indicator for Governance of SOEs

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia, Romania and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The Romanian Plan includes measures aimed at improving the country's governance of SOEs further levelling the playing field on which SOEs and private firms compete. Specifically, it foresees: i) the separation of the bodies who exercise ownership rights and the bodies who regulate the sectors in which the SOEs operate; ii) the removal of any advantage that SOEs may be granted over their private competitors, including those related to more advantageous access to financing. These two measures already improve Romania's score in this indicator **from 3.6 to 2.10**. Romania would further improve the score **to 1.50**²⁴⁷ if an independent institution exercised the ownership rights held by the state in SOEs.

²⁴⁶ The poor regulatory set-up in this area, as well as the little progress made by the country, were already highlighted in Romania's [European Semester 2019](#): Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011, COM(2019) 150 final.

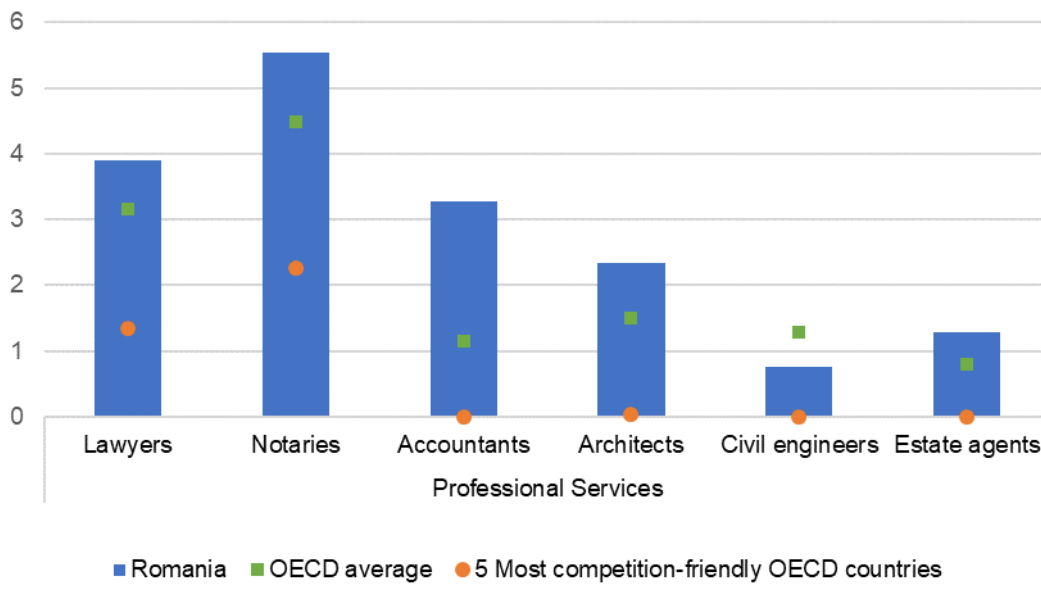
²⁴⁷ Revised values are still above 0 because the OECD's analysis has focused on the most important regulatory weaknesses.

3.2. Professional Services

As figure 3 illustrates, Romania's regulatory framework imposes a number of regulatory constraints on Lawyers, Notaries, Accountants, Architects, and Estate Agents.

Figure 2. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia, Romania and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

When it comes to Lawyers, firms that provide legal services cannot be incorporated and only can be organised as partnerships with limited liability, and only lawyers can hold ownership and voting rights in these firms. Moreover, there are some restrictions to the marketing and advertising of legal activities and inter-professional business co-operation between lawyers and any other professionals is forbidden. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of management skills for these firms. When it comes to entry, barriers are lower as various pathways give access to the profession, and few activities are reserved only to lawyers, while most are shared with other professions.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce regulatory

constraints in Romania. In particular, notaries are subject to quantitative constraints and territorial restrictions to their ability practices, and their fees are regulated.

Accountants face higher regulatory restrictions compared to other EU countries, which are mostly related to their business conducts. Accountancy firms cannot be incorporated, and only accountants can hold the majority of ownership or voting rights. These restrictions may limit the development of potential innovative business models and the availability of funding sources. In addition, accountants face restrictions on their ability to marketing and advertise their activities, and if they want to set up a business with other professions.

Despite showing a lower score, Architects still face some regulatory restrictions, mainly relative to entry. The most relevant is that there is only one pathway to access the profession, which also requires candidates to pass a professional examination. It also necessary to join a professional organization to be allowed to practice. In terms of business conduct, the only restriction captured in the PMR indicator is the partial restriction on marketing and advertising activities.

The score for Estate Agents is also above the OECD average. The main reason for this result is that there a number of activities over which these professionals have exclusive or shared exclusive rights: obtaining information about properties to be sold or leased, facilitating contacts and negotiations between prospective buyers or tenants and owners, showing these properties, and drawing up leasing agreements. These activities are usually not exclusive in many OECD countries. In addition, even if the qualifications required to enter the profession are not very high (only a high school diploma and a vocational course), it is necessary to pass an exam run by the professional association to be allowed to practice.

Empirical research has shown that reducing regulatory barriers in professional services can foster entry and bring about greater competition on quality and prices.²⁴⁸

Table 3 below shows the impact that these reforms would have on the PMR sector indicators for the relevant Professional Services.

²⁴⁸ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "[Economic Impact of Regulation in the Field of Liberal Professions in Different Member States](#)", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, *European Economy - Economic Papers 2008 – 2015*).

A study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)").

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Table 39. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW PMR value following change ²⁴⁹
Lawyers	3.90	1.65
Notaries	5.54	4.30
Accountants	3.28	1.90
Architects	2.34	1.25
Estate Agents	1.29	1.07

3 Simplification and Evaluation of Regulations

Figure 3 shows the mid-level indicator of Simplification and Evaluation of Regulations²⁵⁰, which includes three low-level indicators:

- i) Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed;
- ii) Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities; and.
- iii) Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

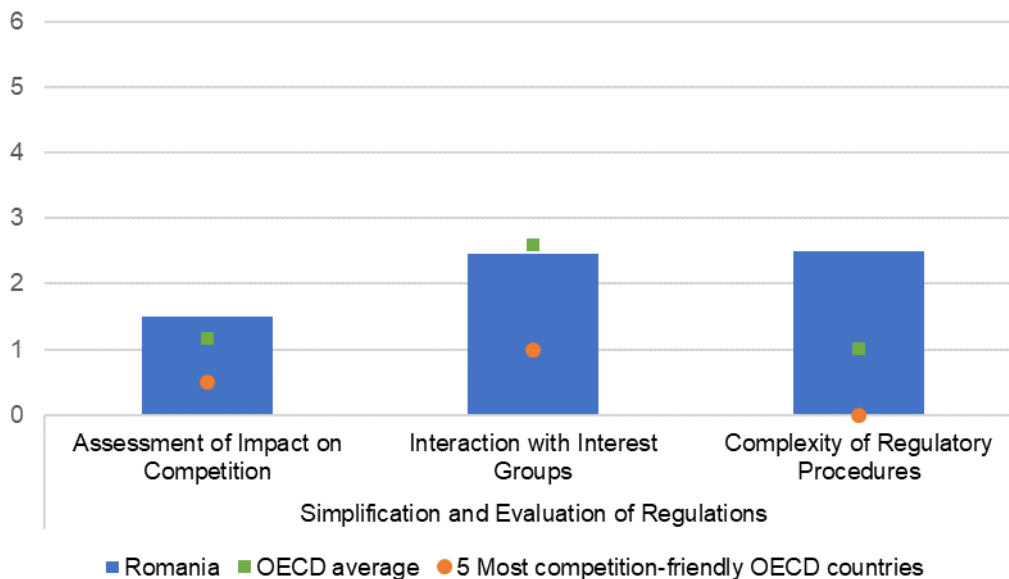
Romania's scores are in line with the OECD average in the latter indicator, but above the OECD average in the other two.

²⁴⁹ Revised values are still above 0 because the OECD's analysis has focused on the most important regulatory weaknesses.

²⁵⁰ The poor regulatory set-up in this area, as well as the little progress made by the country, were already highlighted in Romania's [European Semester 2019](#): Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011, COM(2019) 150 final.

Figure 3. Low-level PMR indicators included in the Simplification and Evaluation of Regulations

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia, Romania and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

As discussed in Table 1, Romania plans reforms in the area of Assessment of Impact on Competition. In particular, the Plan includes a reform to create an institution to review the Regulatory Impact Assessments (RIA) independent from the ministries sponsoring the regulation (C14.R1). This measure would improve Romania's score in the low-level indicator from 1.5 to 0.75. To further improve its regulatory set-up, the government could be required to publicly respond to the recommendations resulting from market studies, which would strengthen the ability of this policy instrument to address regulatory constraints to competition. This would further reduce the score to 0.38²⁵¹, in line with the average of the 5 most competition-friendly countries.

Although Romania's score in the Interaction with Interest Groups low-level indicator is in line with the OECD average, there is still room for improvement²⁵². Romania could further improve its regulatory set-up in this area by enacting regulations to govern the interaction of public officials with interest groups (NGOs, consultants, trade associations etc.). This may be included under reform C14.R1, but the Plan is not detailed enough to allow the OECD to determine this with certainty. To increase the transparency of these

²⁵¹ Revised values are still above 0 because the OECD's analysis has focused on the most important regulatory weaknesses.

²⁵² Beyond the weaknesses discussed in this paragraph, which relate to aspects covered by the PMR, it is worth highlighting two further issues that limit effective consultations in Romania:

- i) Although there is an online platform where all draft legislations should be published for consultations ('E-consultare'), in practice ministries often upload the draft laws on their own websites. This lack of centralisation represents a barrier to access the draft legislation to be consulted.
- ii) Civil society lacks the right skills to embark into a consultation process. The plan envisages some measures to train members of the civil society to better weigh in the consultation process (see C14.R1 and C14.I3).

interactions, the country could impose a requirement to publicly disclose the identity of all the interests groups consulted in regulatory processes, as well as the names of the members of advisory boards. It could also make compulsory the registration for all interest groups and introduce sanctions in case of non compliance. Romania could also extend the requirement for a cooling-off period, currently in place for civil servants, to members of cabinet, members of legislative bodies, and appointed public officials. Addressing these weaknesses would bring Romania's score in this low-level indicator **from 2.45 to 0.00**.

Lastly, Romania's results in the area of Complexity of Regulatory Procedures could be improved if the government published an online database with all subordinate regulations, in force as well as a list of subordinate regulations it plans to prepare, modify, reform or repeal in at least the next six months. Currently this is the case only for primary laws²⁵³. In addition, Romania could perform a systematic inventory of business licensing and launch a program to reduce the compliance costs and administrative burdens imposed on businesses.²⁵⁴ Tackling these regulatory shortcomings would reduce Romania's score in the low-level indicator **from 2.50 to 0.00**.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Romania is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity:** (e.g. C6.I1. 'New capacities for electricity generation from renewable sources', with 950 MW capacity of renewables (wind and solar) commissioned and connected to the grid, or the maximum volume compatible with the tender being held in competitive conditions; C6.I3. 'Electricity market reform, replacement of coal in the energy mix and support for a legislative and regulatory framework for private investment in renewable electricity production', with 3000 MW of additional renewables capacity (wind and solar) compared to the existing installed capacity commissioned and connected to the grid).
- **Transport by rail:** (e.g. C4.I1. 'Modernisation and renewal of railways infrastructure', aiming at the replacement, upgrading, construction and electrification of rail lines and rail stations' infrastructure; C4.I2. 'Railways rolling stock', aiming at increasing zero-emissions trains).
- **Transport by road:** (e.g. C3.I3. 'Development of sustainable road infrastructure on TEN T network, road charging, traffic management and road safety', including new motorways for a total of 429km).

²⁵³ It should be acknowledged that, in the [2021 Rule of Law Report – Chapter for Romania](#), the European Commission has identified several problems related to the unpredictability of legislation and the lack of transparency. Legislation is changed too often, and the objective of the amendments is often unclear. In various policy fields, numerous legislative amendments of the same laws, including contradictory changes, have been adopted by Parliament. Moreover, the consolidated version of amended laws is not always published. This represents a challenge for companies trying to comply with regulations.

The Plan (C14.R1, milestone 412) establishes the obligation to publish the full text of the law after amendments have been made to it. This is a first step to addressing the lack of clarity associated with legislative amendments, but more should be done to ensure that legislation is amended only when needed, with a clear objective, and in a clear and transparent manner.

²⁵⁴ Romania has started developing a comprehensive inventory of business licences, building on assistance from the EC and the OECD. So far, this review has revealed that Romania has over 100 licencing procedures for commerce, service and manufacturing/industrial activities. A key recommendation is to maintain and develop such an inventory and regularly monitor the licensing burden on business. See OECD (2022 forthcoming), *Enhancing the business environment in Romania through industrial and manufacturing licencing simplification*, OECD Publishing, Paris.

- **E-communications:** (C7.I11. 'Implementation of a scheme to support the use of communication services through different types of instruments for beneficiaries, with a focus on white areas', to provide coverage of very high-speed internet access to areas where the market cannot deliver these services on its own).
- **Water:** (e.g. C1.I1. 'Expansion of water and sewerage systems in agglomerations of more than 2 000 population equivalent, prioritised by the Accelerated Plan for Compliance with European Directives'; C1.I3. 'Supporting the connection of the low income population to existing water and sewerage networks', with at least 12 900 in total individual or other appropriate systems and at least 400km in total of sewage network made operational).

According to a recent study by the OECD (Demmou and Franco, 2020),²⁵⁵ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

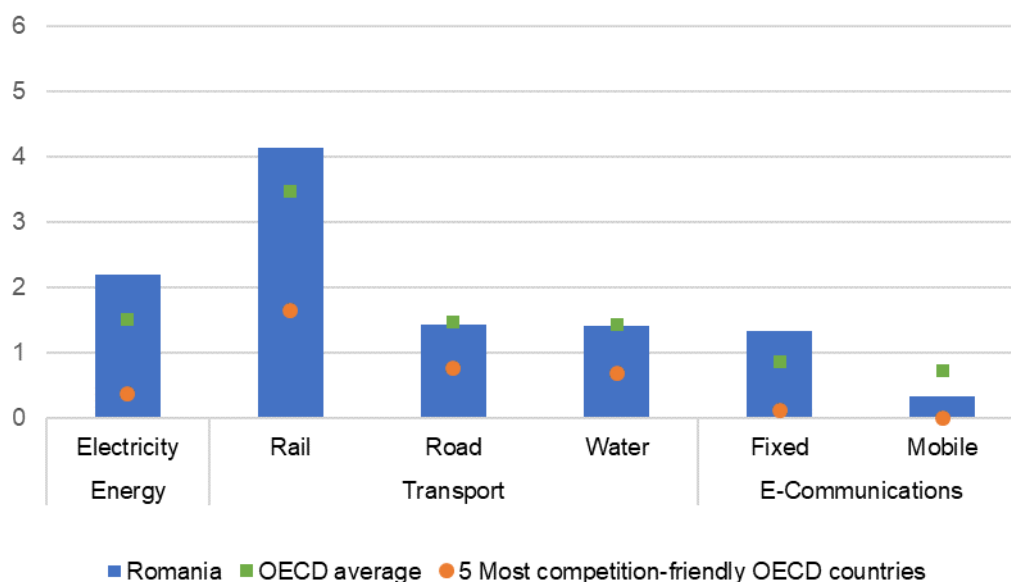
Since Romania's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how Romania performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 4. PMR sector indicators for Electricity, Rail and Road Transport, and E-communications.

Index scale 0 to 6 from most to least competition-friendly regulatory framework



²⁵⁵ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia, Romania and the United States, for which the information refers to 1 January 2019.
Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- In the **electricity sector**, in 2018 Romania scored above the OECD average, but since then the country carried out reforms. In 2021, the government stopped regulating prices for domestic and small commercial consumers. This reform reduces Romania's score in the indicator **from 2.20 to 1.63**. Moreover, the Plan envisages the introduction of demand side response in the course of 2023 (C6.R1, see Table 1). If all consumers were allowed to sell demand response to third parties, Romania's score would further decrease from **1.63 to 1.20**, which would bring it below the OECD average²⁵⁶.
- In the **rail transport sector**, the Romanian regulatory set-up lags behind the OECD average. Romania could improve it by awarding public service contracts for rail services through competitive tenders. The score is also driven by the fact that the government controls the passenger transport operator *CFR Călători* and the freight transport operator *CFR Marfă*.
- Romania's score is in line with the OECD average in the **road transport sector**. The regulatory set-up of the country could further improve if Romania introduced a notification regime for the establishment of freight and passenger transport businesses instead of the current more burdensome licensing regime.
- In the **E-communications sector**, Romania score is close to international best practices in both the mobile sector and the fixed telephony sectors. The higher score in the latter is due to the fact that the government wholly owns the fixed operator *National Radio Communications Company*.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²⁵⁷ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

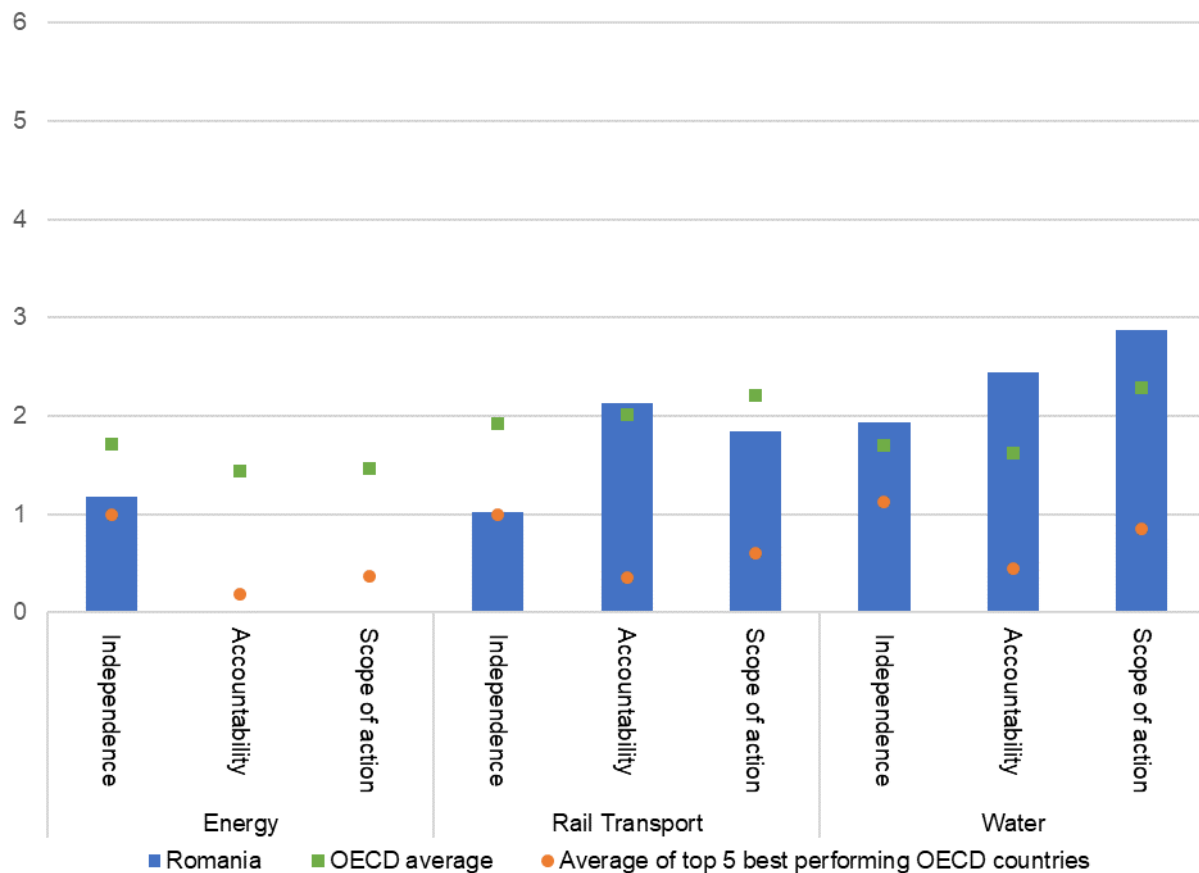
Figure 5 shows the scores in the 3 components for the regulators of the sectors in which the Plan foresees investments, together with the OECD average and the average of the top 5 best performing OECD countries. The figure shows that the Energy regulator is in line with international best practices in all

²⁵⁶ In 2018, the OECD average for the PMR indicator for the electricity sector was 1.52.

²⁵⁷ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

components, whereas the country scores above the OECD average in the accountability component for the Rail Transport regulator, as well as in all components for the Water regulator. The relevant governance arrangements of the two latter regulators are discussed more in detail below.

Figure 5. Indicators of Governance of Sector Regulators for Energy, Rail Transport and Water



Note: The database does not always include all OECD countries. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. The water sector does not have a regulator in many OECD countries, so the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxembourg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland and Türkiye. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia, Romania and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators.

Rail Transport

The rail transport regulator has a similar range of functions that other rail regulators across the OECD and is among those whose arrangements most closely reflect good practice. However, this regulator could be made more accountable by introducing a legislative requirement to answer requests from or attend hearings organized by parliamentary committees, and to regularly publish a forward-looking action plan. In addition, it should collect and make available on its website information regarding its compliance with legal obligations, its financial performance and the quality of its regulatory process.

Water

The water regulator is a ministerial agency, which is common among OECD countries. As a result, its governance arrangements partially differ from those of an independent agency. Still, Romania has margin to increase the independence of this regulator. First, restrictions on the skills and on the employment history required to become the regulator's head or a board member could be imposed and an independent selection panel could help select better qualified executives. In addition, the government has the power to dismiss these executives: introducing additional 'checks' could limit the possibility of arbitrary dismissal.

To improve its accountability, the regulator could be required to set out the rationale behind its regulatory decisions (e.g. with evidence and data), and could publish online the information it collects on the economic performance of the sector and the quality of the regulator's regulatory processes. The regulator could also publish online a forward-looking action plan and all its public consultations.

The regulator scores respectively high in the scope of action component because it does not perform some functions that are common among OECD water regulators, such as issuing consumer standards, guidelines, or codes of conduct, as well as mediating in disputes between market actors and regulated entities.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Slovak Republic

The aim of this note is to provide an assessment of the likely impact that the Slovak National Recovery and Resilience Plan²⁵⁸ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁵⁹. Given that limited reform measures in the Plan may have an impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing the Slovak Republic's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁵⁸ The assessment – besides the Recovery and Resilience Plan of the Slovak Republic – was based on

- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Slovakia.
- [Annex to the COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Slovakia.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁵⁹ All information, indicator values and methodology related to the PMR indicators can be found in the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by the Slovak Republic could have an impact on the PMR indicators. These are outlined in Table 1.

Table 40. Measures in the Plan that may impact the value of the PMR indicators

Index scale 0 to 6 from most to least competition-friendly regulatory framework

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
Component 2. A.1. Reform 2	<p><u>Reform on public passenger transport.</u></p> <p>The reform aims at improving the provision of passenger transport. A new transport service plan, followed by the optimisation of rail passenger transport, shall form a major part of the comprehensive reform of public transport.</p> <p>The following element may have an impact on the PMR: The legislation shall coordinate the creation of a national integrated transport system to coordinate the preparation and implementation of public procurement procedures for public passenger rail services. (Q3 2026)</p>	<p>The reform is likely to have a positive impact on the <u>Transport by Rail</u> sector indicator, but only if the implementation of public procurement procedures planned in the reform implied that contracts for the provision of rail passenger services would be allocated to operators through competitive tenders. In this case, the score would improve (from 3.86 to 3.00).</p>
Component 10. A.1. Reform 2:	<p><u>Simplification of the regime for the recognition of qualifications and professional qualifications for the exercise of regulated professions</u></p> <p>This reform shall simplify the recognition of educational qualifications by foreign workers, in order to facilitate their establishment in the Slovak Republic.</p> <p>For countries with a bilateral agreement in recognition of qualifications, applicants shall be exempt from providing an attestation of the university's accreditation to provide the relevant education. In addition, the capacity of the Centre for Recognition of Educational Recognition shall be strengthened to speed up the qualifications recognition process for all countries. (Q2 2022)</p>	<p>This reform may enhance the country's score in the <u>Lawyers, Architects and Civil Engineers</u> PMR indicators, but only if it established a clear and transparent process for the recognition of educational titles earned abroad by candidates and removed nationality requirements to access these professions. As this is an area where the Slovak Republic could improve its regulatory framework, section 3.3 provides a detailed discussion on what further reforms could be undertaken to make its regulation of professional services more competition-friendly.</p>
Component 14. A.1. Reform 1	<p><u>Reducing regulatory burden for businesses</u></p> <p>This reform shall reduce the administrative burden to businesses by introducing the following tools: the ex ante evaluation of planned transposition legislation to prevent unjustified gold plating; the ex post evaluation of the effectiveness and justification of already introduced regulation; the 1-in-2-out rule that ensures new legislation does not increase administrative cost for businesses²⁶⁰; and packages of individual measures based on stakeholder consultations that are suited to simplify administrative requirements to businesses. (Q4 2024)</p>	<p>This reform would not affect the <u>Complexity of Regulations</u> low-level indicator, as the 2018 PMR score already captures the existence of programmes to reduce the administrative burdens imposed on businesses.</p> <p>However, the reform may have an impact on the <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> low-level indicator if it reduced the number of administrative procedures to carry out and/or the number of public bodies to be contacted in order to set up a new business. The Plan does not provide enough details to determine if this would happen.</p>
Component 14. Reform 3	<p><u>Public procurement procedures</u></p> <p>The reform of public procurement shall simplify and accelerate procedures while ensuring proper safeguards. Among the many aspects of the reform, the following is covered by the PMR:</p> <p>Public procurement procedures shall be simplified and shortened, control procedures improved, and</p>	<p>This reform could affect the <u>Public Procurement</u> low-level indicator if the single electronic platform allowed bidders to submit their bids online in all procurement procedures. This would improve the country's score (from 0.94 to 0.75). Further gains could be obtained if contracting authorities were prevented from providing reference prices in the tender documentation, as this information can reduce price competition and even increase collusion among bidders, but this does</p>

²⁶⁰ The 1-in-2-out rule has been approved by the government in 2021.

transparency increased by setting up a single, public electronic platform for the entire procurement process, including for below-threshold and low-value contracts. (Q2 2022)	not appear to be envisaged in this reform.
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2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁶¹ made the following general observations on the Slovak Republic's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 41. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p><u>Administrative and regulatory burdens:</u> A heavy administrative and regulatory burden may negatively affect investment and innovation, especially for small and medium-sized enterprises. Despite government efforts, administrative burden is not being reduced enough and the Slovak business environment is losing ground in international comparisons.</p>	<p>There is one reform in the Plan aiming at reducing the administrative and regulatory burdens that <i>may have an impact on the PMR score</i>:</p> <p>Component 14. A.1. Reform 1. – Reducing regulatory burden for businesses</p> <p>This reform has already been discussed in Table 1.</p>
<p><u>Barriers in Professions</u> The Slovak professional services sector remains highly regulated.</p>	<p>There is only one reform in the Plan related to regulated professions that <i>may have an impact on the PMR score</i>:</p> <p>Component 10. A.1. Reform 2. – Simplification of the regime for the recognition of qualifications and professional qualifications for the exercise of regulated professions</p> <p>This reform has already been discussed in Table 1.</p>
<p><u>Public procurement</u> The government is substantially reforming public procurement practices by overhauling the legal framework to simplify procedures and reduce transaction costs. A new focus on professionalization is welcome; however, general benefits are only emerging slowly.</p>	<p>The following reform related to public procurement in the Plan <i>may have an impact on the PMR score</i>:</p> <p>Component 14. Reform 3. – Public procurement procedures</p> <p>This reform has already been discussed in Table 1.</p>
<p><u>Interactions with interest groups</u> A number of prevention-related reforms or their implementation are still pending, including rules on lobbying, gifts, incompatibilities and contacts with third parties in decision-making, and whistle-blower protection.</p>	<p><i>No reform concerning the regulation of the interaction between interest groups and policy makers has been identified in the Plan.</i></p> <p>Since the Slovak Republic had a relatively high score in this area in 2018, section 3.1. discusses how the country could enhance its regulatory framework.</p>

²⁶¹ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Slovakia and delivering a Council opinion on the 2019 Stability Programme of Slovakia, COM(2019) 525 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Slovakia and delivering a Council opinion on the 2020 Stability Programme of Slovakia, COM(2020) 525 final.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage²⁶² can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for the Slovak Republic.²⁶³

In the rest of this section, the following indicators are assessed:

- i) Interaction with Interest Groups;
- ii) Licences and Permits;
- iii) Professional Services; and
- iv) Retail Distribution.

3.1. Interaction with Interest Groups

Figure 1 shows the low-level indicator on Interaction with Interest Groups, which measures the existence of rules for engaging stakeholders in the design of new regulation to reduce unnecessary restrictions to competition and for ensuring transparency in lobbying activities. It also shows the other two indicators included in the area of Simplification and Evaluation of Regulations: Assessment of Impact on Competition, which measures how comprehensively the impact of new and existing regulations on competition is assessed, and Complexity of Regulatory Procedures, which measures the government's efforts in reducing and simplifying the administrative burden of interacting with government.

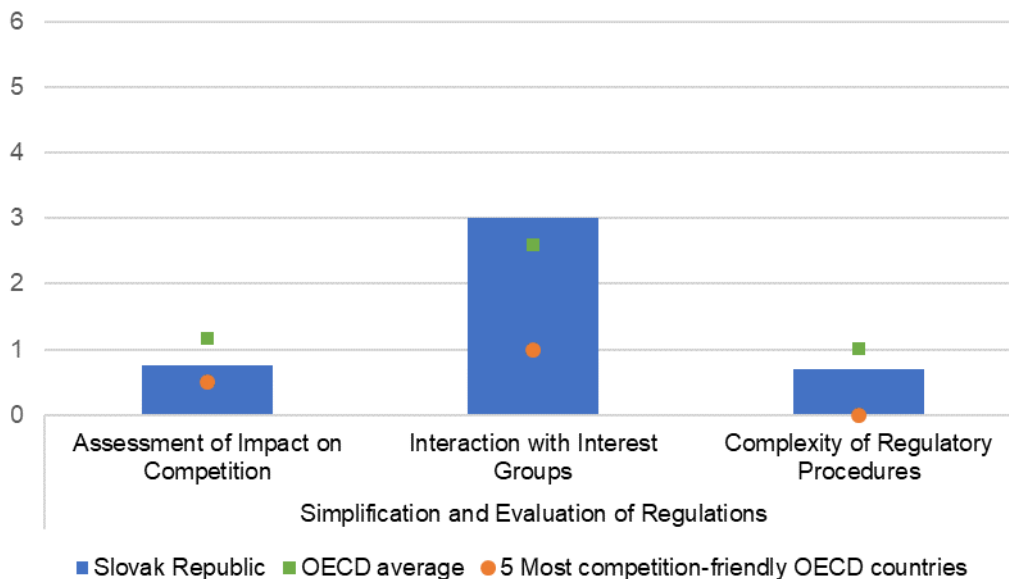
The Slovak Republic scores above the OECD average in the Interaction with Interest Groups low-level indicator, but scores better than most OECD countries in the other two indicators.

²⁶² The latest PMR values available for the Slovak Republic refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²⁶³ All country fiches are available on the [PMR webpage](#).

Figure 24. PMR economy-wide indicator of Simplification and Evaluation of Regulation

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

To improve its regulatory framework when it comes to lobbying activities, the Slovak Republic could benefit from the adoption of a national regulation that lays down rules to govern the interactions between public officials and various stakeholders involved in the regulatory process. As part of this regulation, it could require interest groups to register in a public registry and impose fines for non-compliance. The regulation could also impose the mandatory disclosure of the identity of the interest groups consulted in each regulatory process, public officials involved in the regulatory process could be required to make their agenda publicly available, and permanent advisory bodies could be required to disclose the names of their members. Furthermore, the scope of the regulation establishing a cooling-off period after leaving office for members of legislative bodies and the cabinet could be extended to cover all public officials.

These regulatory interventions would greatly improve the transparency and the accountability of the regulatory process and avoid that lobbying activities could distort the regulatory process.

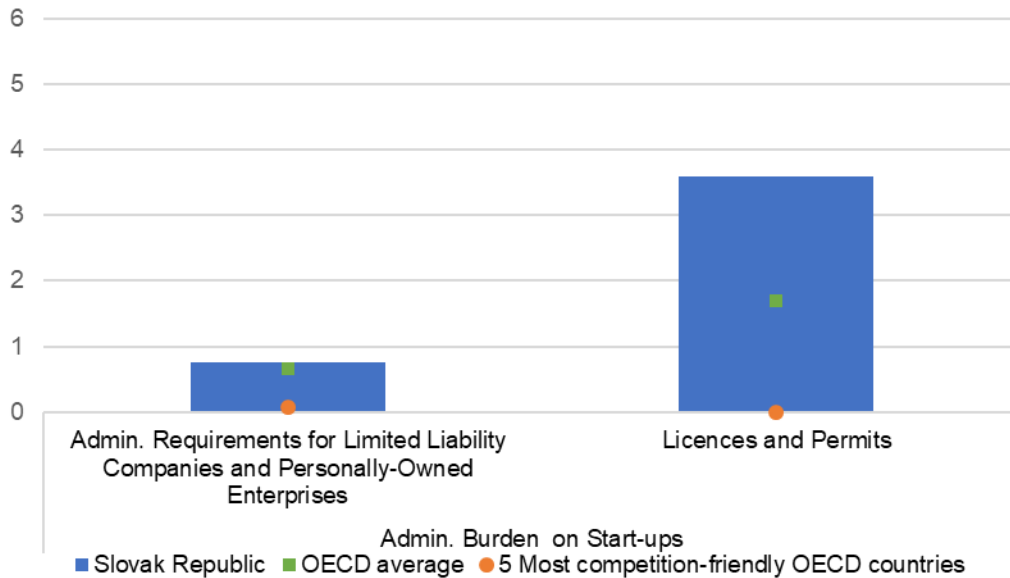
If the Slovak Republic introduced such changes as part of its reform programme, its score in the Interaction with Interest Groups low-level indicator would be reduced from 3.00 to 0.00.

3.2. Licences and Permits

Figure 2 shows the low-level indicator on Licences and Permits, which measures the existence of initiatives to simplify licensing procedures and of programmes to review and reduce the number of licences. It also includes the other indicators that measures the Administrative Burden on Start-ups: Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises. The country score is in line with the OECD average in this last indicator, but not in the first one.

Figure 25. Low-level PMR indicators included in Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The Slovak Republic already has a one-stop-shop where firms can obtain all licences and permits that are required to open up a business. However, the country could further reduce the administrative burden on businesses if it adopted a “silence is consent” rule for new licences, which would reduce waiting times and introduce greater certainty in the licensing process. In addition, the Slovak Republic has not implemented any systematic programme to review and reduce the number of permits and licences required by the national government or by subnational ones.

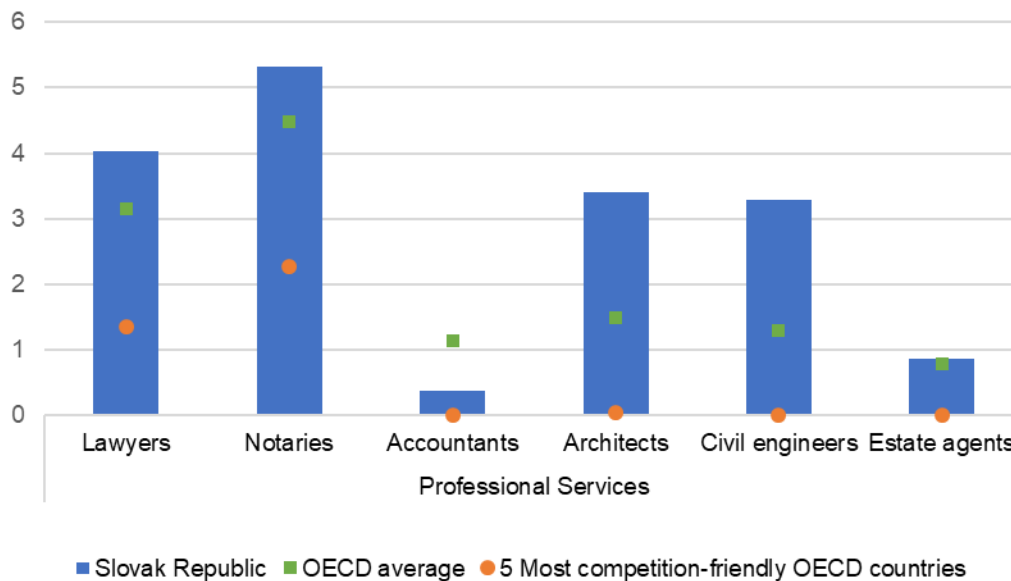
If these measures were implemented, the Slovak Republic score in the Licences and Permits low-level indicator would drop (from 3.60 to 0.00).

3.3. Professional Services

The country's PMR scores in the sector indicators for Professional Services are shown in Figure 3.

Figure 26. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

As mentioned in Table 1, the Slovak Republic plans to reform the recognition of qualifications earned abroad for foreign professionals. The Plan is quite vague about the details of this reform, hence it is difficult to quantify its effects on the PMR indicators. Yet, if the reform allowed professionals from countries other than the European Union, the European Economic Area and Switzerland to practice in the Slovak Republic and established a clear and transparent process for the recognition of educational titles earned abroad the scores in the Lawyers, Architects and Civil Engineers indicators would decrease. Table 3 below shows would be the impact of addressing these constraints. Below, the OECD outlines further measures the Slovak Republic could consider implementing to improve its regulatory framework for professions.

The profession of Lawyers is tightly regulated in the Slovak Republic. Regarding barriers to entry, the country progressively reduced the years of compulsory practice between 2019 and 2021, from 5 to 3 years. This reduces the relevant PMR score but only marginally (from 4.03 to 3.98). Other barriers have not been addressed yet. In particular, there is only one pathway to acquire the qualifications required to access the profession. Moreover, lawyers need to become members of the professional organisation to legally practice. In addition, several restrictions constraint the conduct of Lawyers. For example, only lawyers can have ownership and voting rights in firms that provide legal services and they face some restrictions when advertising their activities. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of management skills for these firms. Moreover, the fees for some activities are still regulated.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence,

notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce regulatory constraints in the Slovak Republic. In particular, notaries are subject to quantitative constraints and their fees are regulated. Yet, it should be noted that notaries are not subject to territorial restrictions on their ability practices, which are present in most other OECD countries

Architects face higher regulatory restrictions than in many other OECD countries. These are related both to their business conduct and to the rules regulating entry into the profession. Architects cannot compete on the fees they charge for their services, as these are regulated. There are some restrictions on who can have ownership and voting rights in firms providing architectural services. Moreover, architects are allowed to set up inter-professional firms only with civil engineers, but not with other professionals. These restrictions may limit the development of potential innovative business models and the availability of funding sources. When it comes to entering the profession, there is only one pathway, which also requires passing a professional examination. Opening up additional pathways, especially to practitioners with experience in the field, would foster job mobility also for more mature workers. In addition, architects cannot practice if they are not members of a professional organisation.

Civil engineers face similar restrictions as architects. When it comes to the regulation of their business conduct, their fees are regulated, inter-professional business cooperation is allowed only with architects and there are some restrictions on who can have ownership and voting rights in civil engineering firms. In terms of entry regulation, there is a single pathway, which also requires passing a professional examination, and civil engineers have to become members of a professional organisation to be allowed to practice.

The regulatory set-up of Real Estate Agents is in line with the OECD average. However, it should be noted that in 2020, the Slovak Republic shortened the period of compulsory practice, from 5 to 2 years. This improves the score **from 0.86 to 0.57**. To reach international best practices, the country could remove the exclusive rights enjoyed by real estate agent over a number of activities²⁶⁴. These exclusive rights are not common in OECD countries

Empirical research has shown that reducing regulatory barriers in professional services can promote entry and may foster competition on quality and prices, as well as productivity increases in the regulated sectors.²⁶⁵

²⁶⁴ i) facilitate contacts between buyers or tenants and sellers, ii) obtain information about the properties to be sold or leased and iii) show properties and explain the terms of sale or the conditions of rent.

²⁶⁵ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "[Economic Impact of Regulation in the Field of Liberal Professions in Different Member States](#)", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, *European Economy - Economic Papers 2008 – 2015*).

A study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)")

Table 3 below shows the estimated impact of the proposed reform in the Plan and the impact that eliminating the restrictions discussed above concerning the entry and conduct of these professionals would have on the PMR sector indicators for the relevant Professional Services sector indicator.

Table 42. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	Estimated PMR value after the reform proposed in the Plan	NEW PMR value if additional reforms implemented ²⁶⁶
Lawyers	4.03 (3.98 after 2021 reform)	3.83	0.79
Notaries	5.33	-	4.55
Architects	3.41	3.21	0.61
Civil Engineers	3.29	3.09	0.61
Real Estate Agents	0.86 (0.57 after 2020 reform)	-	0

3.4. Retail Distribution

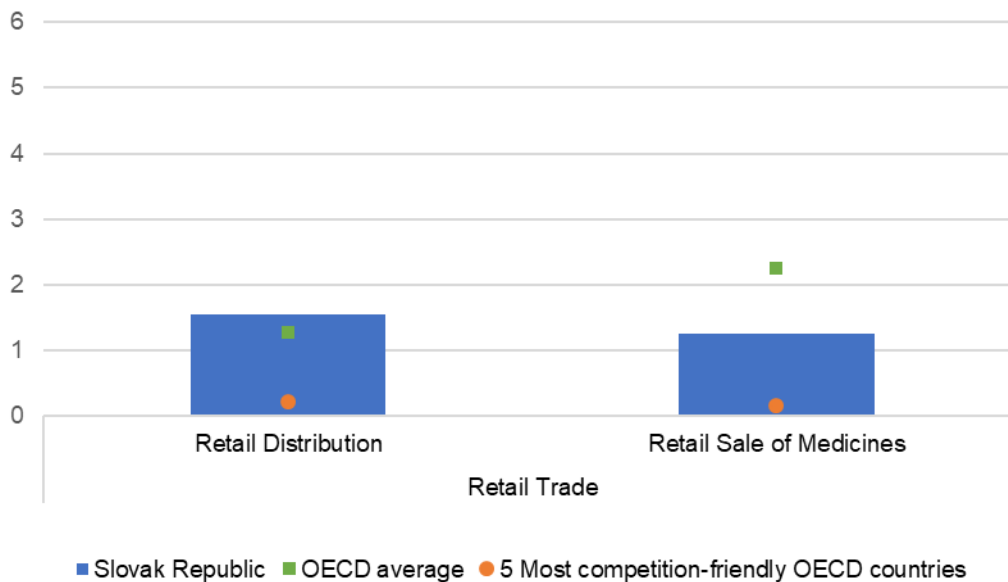
Figure 4 shows the country's PMR scores in area of Retail Trade, which include two sector indicators: Retail Distribution and Retail Sale of Medicines. Regulatory barriers to competition in retail distribution could be reduced, while the country has a good score when it comes to the regulation of retail sale of medicines.

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

²⁶⁶ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

Figure 27. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The country's relatively high score in the sector indicator on Retail Distribution is driven by the burdensome licensing regime for retail outlets. Establishing a retail outlet requires numerous licences and authorisations beyond those required by the health, safety and environmental regulations. In addition, specific authorisations are required to sell liquefied petroleum gas.²⁶⁷

If the Slovak Republic removed all restrictions related to retail outlet licensing and authorisation, it would foster entry and competition in the retail sector and it would improve its score in the Retail Distribution sector indicator (from 1.54 to 0.25²⁶⁸).

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, the Slovak Republic is proposing to invest in the following sectors that are included in the PMR indicators:

²⁶⁷ Empirical research conducted in Greece shows that removing price restrictions can lead to price reductions. See Kontolaimou, Alexandra & Prodromidis, Pródromos-Ioánnis & Konstantakopoulou, Ioanna (2020) "[The issue of fixed book pricing: Evidence based on the Greek experience](#)", Centre for Planning and Economic Research (KEPE), Cyprus Economic policy Review vol. 13, (2020).

²⁶⁸ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

- **Electricity** (Component 1. A.1. Investment 1. 'Construction of the new renewable electricity sources', delivering at least 120WV of new capacity; Component 1. A.1. Investment 2. 'Modernising the existing renewable electricity sources (repowering)', delivering at least 100 MW of modernised renewable capacity; Component 1. A.1. Investment 3. 'Increasing the flexibility of electricity systems for greater integration of renewables').
- **Transport by rail** (Component 3. A.1. Investment 1. 'Investment 1 on the development of low-carbon transport infrastructure', aiming at the electrification and upgrading of railway lines; Component 3. Investment 2 'Promoting clean passenger transport', increasing rolling stock and the supply of railway connections between major cities; Component 3. A.1. Investment 3. 'On the development of intermodal freight transport', aiming at boosting greener alternatives to road freight transport through the increase of railway and waterborne intermodal routes).
- **Transport by water** (Component 3. A.1. Investment 3. 'On the development of intermodal freight transport', aiming at boosting greener alternatives to road freight transport through the increase of railway and waterborne intermodal routes).

According to a recent study by the OECD (Demmou and Franco, 2020),²⁶⁹ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since the Slovak Republic's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

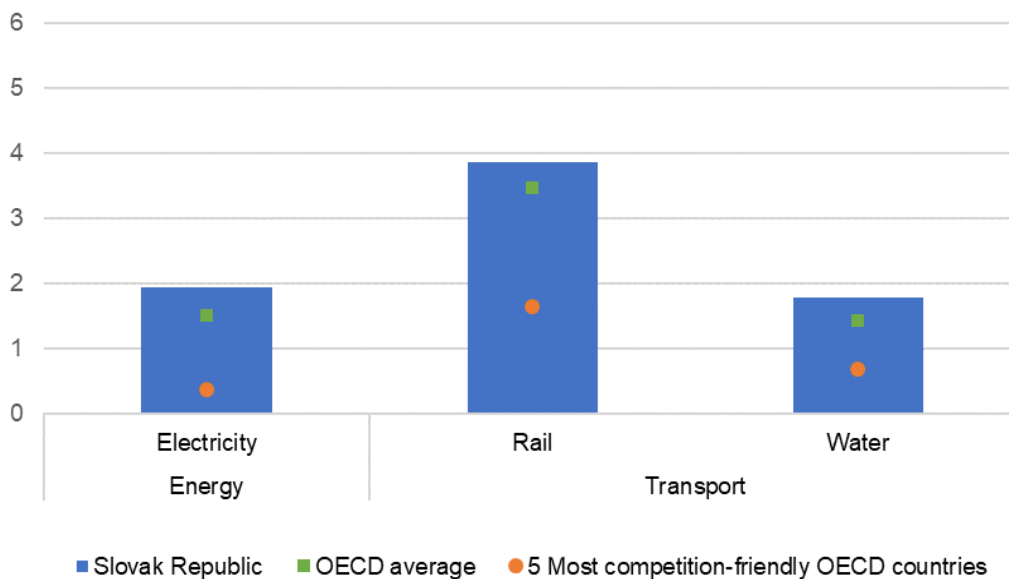
4.1. Insights from PMR sector indicators for network industries

Figure 5 shows how the Slovak Republic performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

²⁶⁹ Lilas Demmou, Guido Franco (2020) OECD Economics Department Working Papers No. 1609: [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data.

Figure 28. PMR sector indicators for Electricity, Rail and Water Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- The Slovak Republic's score in the **electricity** sector is above the OECD average. One reason for this result is that retail electricity prices are still regulated for domestic and small non-domestic customers, despite the fact that all consumers are free to choose their supplier. Moreover, these prices are not based on the costs or the tariffs of the most efficient supplier. Other factors that contribute to the high score are the fact that the government controls the largest operator in both the generation and retail supply segments²⁷⁰, and that domestic and small and medium non-domestic consumers are not allowed to sell demand response.
- In the **rail transport** sector, the regulatory framework would be more competition-friendly if public service contracts were awarded through competitive tenders. The Plan seems to include a measure that would address this issue (see Table 1, Component 2. A.1. Reform 2). A High level of government ownership also drive the score, as the government wholly owns the group (*Železničná spoločnosť Slovensko, a. s. (ZSSK)*), whose subsidiaries are the largest passenger and cargo transport operators.
- The country could also improve the regulatory framework in the **water transport** sector by replacing the burdensome authorisation regime for new firms that want to enter the sector with a leaner notification system, and by requiring vertical separation between port authorities and operators of terminal facilities offering commercial services.

²⁷⁰ The Slovak government recently reached an agreement with the *utility Slovenské elektrárne (SE)* to guarantee stable electricity prices for households until 2024, although there has not been any legal or regulatory changes to implement this yet.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²⁷¹ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

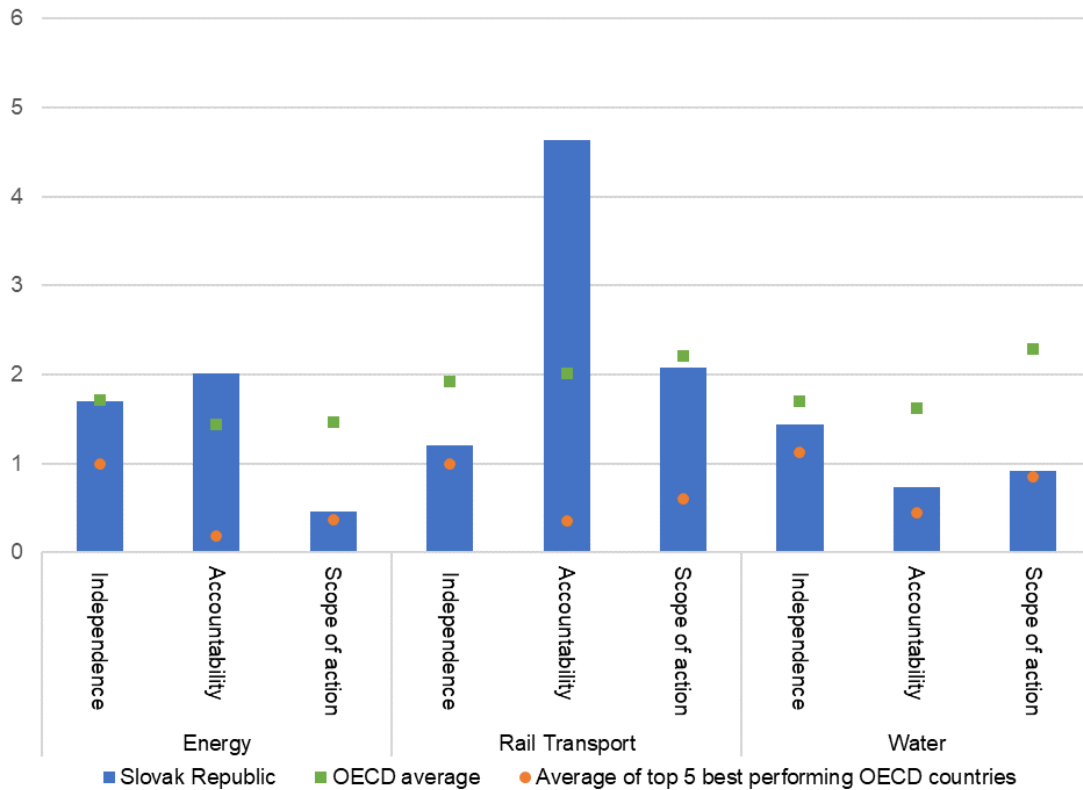
A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 shows the scores in the 3 components for the regulators of the sectors in which the Plan foresees investments, together with the OECD average and the average of the top 5 best performing OECD countries.

The results indicates that the Slovak Republic is very far from international best practices when it comes to the accountability of the Energy and Rail Transport regulators. In addition, the country has room to improve the arrangements affecting the independence of the Energy regulator.

²⁷¹ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 29. Indicators of Governance of Sector Regulators for Energy, Rail Transport and Water



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. In the water sector, the averages include all OECD countries except Austria, Canada, Finland, France, Germany, Greece, Iceland, Japan, Luxembourg, Mexico, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, and Türkiye. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators.

Energy

The governance arrangements that are in place to safeguard the independence of the energy regulator are on par with those of the average OECD energy regulator. However, there is still room for improvement. In particular, the Slovak Republic could introduce restrictions regarding the employment history of the agency head and the board members, and could involve an independent panel participate in the selection process of these executives. These measures could limit the risk of regulatory decisions being affected by conflicts of interest and undue influence.

The accountability of the regulator could also be improved by requiring it to publish its draft decisions, collect feedback from stakeholders and respond to their comments. To provide greater transparency over its activities, the regulator could also be required to publish information on the quality of the regulatory process and on level of compliance with its legal obligations.

Rail Transport

The Slovak Republic rail regulator reflects significantly fewer good practice governance arrangements than the OECD average. Several governance arrangements could be introduced to change this. For example, there may be room for the regulator to strengthen its accountability to parliament by being required to answer requests from or attend hearings organized by parliamentary committees.

Other governance arrangements can help improve the accountability of the regulatory process, such as requirements to publish online all its draft decisions, collect comments from stakeholders, and respond to them. As in the case of the energy regulator, the rail regulator could also be required to publish information on the quality of the regulatory process and its compliance with legal obligations

Lastly, performance information is a critical input to the regulatory process. However, the rail regulator does not publish any information on the economic performance of the sector (e.g. the level of competition), and the performance of the firms it regulates (e.g. the number of network faults).

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Slovenia

The aim of this note is to provide an assessment of the likely impact that the Slovenian National Recovery and Resilience Plan²⁷² (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁷³. Given that limited reform measures in the Plan may have an impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Slovenia's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁷² The assessment was based on the

- Recovery and Resilience Plan of Slovenia, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Slovenia.
- [ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Slovenia.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁷³ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

v)

1. Measures included in the Plan that may affect the PMR scores

Only a few measures in the Plan submitted by Slovenia could have an impact on the PMR indicators. These are outlined in Table 1.

Table 43. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
A. Component 1. Renewable Energy and Energy Efficiency A.3. Reform B.	<p>Reform of electricity supply to promote renewable energy sources</p> <p>The reform consists in the entry into force of the Electricity Supply Act, which shall provide for measures to ensure a secure operation of the grids, including the deployment of smart network services, as well as measures to connect new capacity, including demand response and energy storage facilities and the network integration of renewable energy installations.</p> <p>(2025 Q4)</p>	<p>The reform aims to improve the regulatory environment in the electricity sector. However, most of the measures mentioned are unlikely to affect Slovenia's score in the PMR <u>Electricity</u> sector indicator, as they concern aspects of the sector that are not captured by the indicator. The only measure that may have an impact is the one related to demand response. In case the new regulation enabled all domestic and non-domestic consumers to freely sell demand response, the country's score in the PMR <u>Electricity</u> sector indicator would improve from 1.41 to 1.27.</p>
M. Component 13. Effective Public Institutions M.1. Reform A.	<p>Removing administrative barriers</p> <p>The objective of the reform is to lower the administrative burden for businesses and citizens, reduce the cost of administrative procedures and simplify related legislation in Slovenia.</p> <p>The reform consists of the entry into force of the 'Debureaucratisation Act', a package of legislative changes aiming at regulatory simplification.</p> <p>(2022 Q2)</p>	<p>This reform would have a positive impact on the PMR low-level indicator on <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u>, if it reduced the number of procedures required and/or the number of bodies that need to be contacted to set up a new business. However, the limited information included in the Plan are not sufficient to determine if this would be the case. It should be noted that Slovenia's score is already below the OECD average in this low-level indicator, but that, there is still some room to bring it closer to international best practices.</p>
M. Component 13. Effective Public Institutions M.1. Reform C.	<p>Creating systemic conditions for investment growth</p> <p>Part of the reform consist of measures to improve the public procurement system in Slovenia. The Public Procurement Act shall be amended with the aim of simplifying procedures to enable supplementation and clarification of bids when selecting tenderers, and eliminating abnormally low tenders. It shall also aim at the digital transformation of public procurement and at increasing competition in public procurement procedures and reduction of the number of single bids. The proportion of non-transparent negotiated procedures shall be reduced. The use of the negotiated procedure without prior publication shall be added to the Public Procurement Act as an offence if the conditions for using such procedure are not met. The comparability and dissemination of public procurement data via the Single Market Scoreboard shall be ensured.</p> <p>(2024 Q4)</p>	<p>This reform will clearly improve the public procurement system, however most measures affect areas that are not reflected in the PMR indicators. Only the digital transformation could have an impact on the <u>Public Procurement</u> low-level indicator (from 1.50 to 0.75) if it will ensure that all bids can be submitted online.</p>

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁷⁴ made the following general observations on Slovenia's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 44. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Administrative Burden and Licences and permits</p> <p>Slovenia should improve the business environment by reducing regulatory restrictions and administrative burden. This burden is considered a key problem for doing business in Slovenia.</p> <p>Introducing user-friendly e-government services and digital public services would help further reduce the administrative burden for businesses. While a range of online public services are already available, their up-take by individuals and businesses will require efforts to increase people's trust in and security of online transactions.</p> <p>Cutting red tape related for example to permits, reporting obligations and tax procedures is an effective way to provide immediate, noticeable relief to firms, without burdening the national budget and indirectly the taxpayer.</p>	<p>The following measure in the Plan aims to address administrative simplification</p> <p style="text-align: center;">M. Component 13: Effective Public Institutions - M.1. Reform A.: Removing administrative barriers</p> <p>This reform measure is discussed in Table 1 as it <i>may have an impact on the PMR indicators</i>.</p> <p>No measure related to easing the burden linked to licences and permits has been identified in the Plan.</p>
<p>Barriers in Professions</p> <p>Slovenia has carried out some reforms to liberalise restrictive professional requirements, however, some parts of the country-specific recommendations from 2017 remain unaddressed, in particular as regards lawyers and real estate agents.</p>	<p>No measure related to the regulation of professions has been identified in the Plan. Given that this is an area where Slovenia did not perform well in the 2018 PMR compared to most OECD countries, it will be assessed in more details in part 3.1.</p>
<p>Public Procurement</p> <p>Slovenia shall improve competition, professionalisation and independent oversight in public procurement. There are weaknesses regarding competition and transparency in public procurement in Slovenia, as indicated notably by the high ratio of contracts arranged through negotiated procedures (without a call). The safeguards against corruption and collusion among bidders, notably in procurement by local administrations and by state-owned enterprises, remain weak. Independent oversight of public procurement lacks sufficient legal safeguards against external pressure or interference, particularly regarding the disciplinary procedures and the proposal for appointing members of the National Review Commission.</p>	<p>The following reform aims to address the highlighted weaknesses in the public procurement regulatory framework</p> <p style="text-align: center;">M. Component 13. Effective Public Institutions - M.1. Reform C: Creating systemic conditions for investment growth</p> <p>This reform measure is assessed in Table 1 as it <i>may have an impact on the PMR indicators</i>.</p>
<p>Scope of SOEs</p> <p>Slovenia shall carry out privatisations in line with the existing plans. Despite the partial privatisation of 65% of the shares of Slovenia's largest bank, Nova Ljubljanska Banka, state involvement in the economy is still high, including in the financial sector. The previously published plans for privatisation have been implemented slowly.</p>	<p>The Plan contains no measures related to the privatisation of SOEs.</p>

²⁷⁴ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Slovenia and delivering a Council opinion on the 2019 Stability Programme of Slovenia, COM/2019/524 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Slovenia and delivering a Council opinion on the 2020 Stability Programme of Slovenia, COM/2020/524 final.

Proceeding with privatisations would increase the viability of companies in the long run and lower the risks for public finances as well as the risk of distorting competition and resource allocation. Further sales of shares in listed companies would also help develop Slovenia's capital market.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly²⁷⁵. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Slovenia.²⁷⁶

In the rest of this section, the following indicators are assessed:

- i) Professional Services,
- ii) Retail Distribution, and
- iii) Retail Sales of Medicines.

3.1. Professional Services

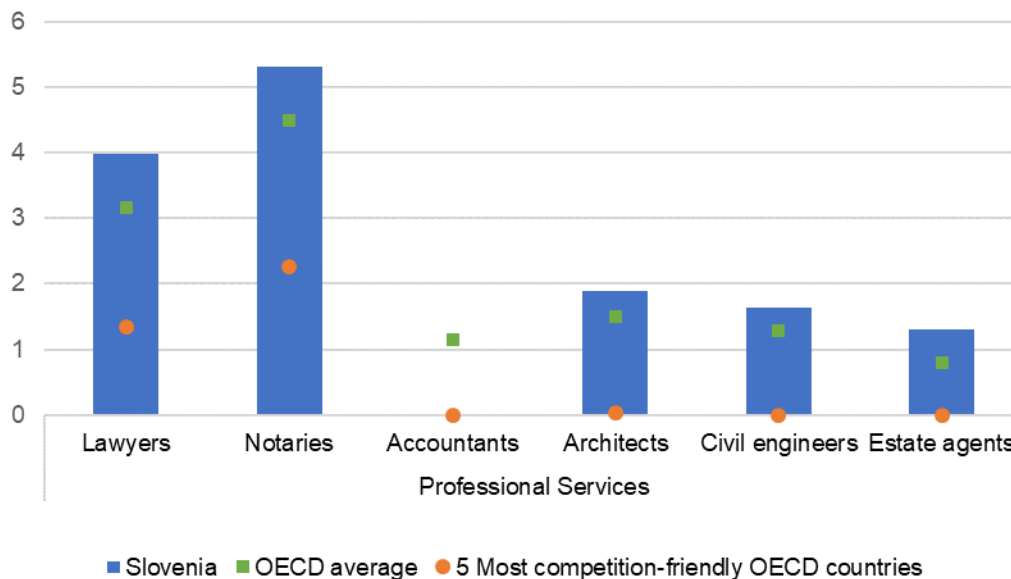
As shown in Figure 1, Slovenia's scores in the PMR sector indicators for Lawyers, Notaries, Architects, Civil Engineers and Real Estate Agents are all above the OECD average and show room for improvements in the regulatory framework.

²⁷⁵ The latest PMR values available for Slovenia refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²⁷⁶ All country fiches are available on the [PMR webpage](#).

Figure 30. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

* In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database

In Slovenia only Lawyers can have ownership and voting rights in firms that provide legal services, business incorporation is not allowed and inter-professional business cooperation is restrained. Lifting these restrictions could allow innovative business models to arise, and could open up new sources of funding and of management skills for these firms. In addition their prices are regulated and cannot be freely set. With respect to entry in the profession, there is just one pathway, which requires passing a professional exam, and is necessary to become member of the professional organisation. Moreover, lawyers that qualified abroad must pass a local exam to practice in the country.

The analysis of the regulation of Notaries deserves some additional qualifications. In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce regulatory constraints in Slovenia. In particular, notaries are subject to quantitative constraints and territorial restrictions in their ability to practice, and all their fees are regulated.

While conduct regulation for Architects is rather competition-friendly in Slovenia, these professionals face higher regulatory restrictions when it comes to entering the profession. Only one pathway is available, which requires passing a professional exam. Moreover, membership in the professional organisation is compulsory to legally practice.

Also in the case of Civil engineers, conduct regulation is not particularly restrictive, while access is more stringently regulated. Even though there are multiple pathways to access the profession, engineers still

need to pass a mandatory professional exam and are required to join a professional organisation to be allowed to practice.

Estate agents have to pass an exam administered by the state in order to practice and their title is protected by the law. In addition, these professionals face some restrictions when marketing and advertising their activities and their fees for some activities are regulated. These restrictions are not present in many other OECD countries.

Empirical research has shown that reducing regulatory barriers in professional services can promote entry and may foster competition on quality and prices.²⁷⁷

Table 3 below shows the impact that eliminating the restrictions discussed above would have on the PMR sector indicators for the Professional Services examined.

Table 45. Impact of removing major restrictions on PMR sector indicators for professional services

Sector indicator	2018 original value	NEW PMR value following change
Lawyers	3.99	0.55
Notaries	5.30	4.20
Architects	1.89	0.99
Civil Engineers	1.64	1.04
Real Estate Agents	1.30	0.79

3.2. Retail Distribution and Retail Sales Medicines

Figure 2 shows Slovenia's scores in the Retail Distribution and Retail Sale of Medicines sector indicators. Although Slovenia's score is closer to the OECD average in the former indicator, the regulatory set-up in both sectors is very far from international best practices.

²⁷⁷ For example, the study conducted by Paterson et al. (2007) demonstrates a negative correlation between the degree of regulation and productivity in legal, accounting, engineering and architectural services (see: Paterson, I., et al (2007), "Economic Impact of Regulation in the Field of Liberal Professions in Different Member States", WP Institute for Advanced Studies, Vienna, and ENEPRI WP).

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 2015).

A study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)"

A forthcoming paper by F. Verboven, and B. Yontcheva presented at a recent OECD workshop suggests that considerable welfare gains can be attained when liberalising tariffs and eliminating quantity restrictions (see presentation : "[Private Monopoly and Restricted Entry – Evidence from the Notary Profession](#)").

Figure 31. PMR sector indicator for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

Regarding the retail distribution sector, retailers are free to decide shop-opening hours, and administrative barriers to set up retail outlets are low. However, specific authorisations are required to sell self-care medical devices and electronic cigarettes, and the retail price of gasoline is regulated. Moreover, certain products, such as prescription medicines, electronic cigarettes, and liquefied petroleum gas, cannot be sold online. If Slovenia removed these restrictions, it could foster competition in the retail sector and it would improve its score further in the Retail Distribution sector indicator from 1.15 to 0.47²⁷⁸.

The Retail Sale of Medicines is subject to numerous regulatory constraints. These include restrictions on the number of pharmacies that can be located in a geographic area, on the minimum distance between pharmacies; and on who can own a pharmacy (at least 50% of the ownership rights must be held by a pharmacist). There is evidence that removing demographic and geographic constraints on the number of pharmacies could have a positive impact on competition.²⁷⁹ Further, non-prescription medicines can be sold in parapharmacies and drugstores, but not in supermarkets, and a pharmacist must supervise their sale.

²⁷⁸ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²⁷⁹ See for example, Livio Garattini, Katelijne van de Vooren and Alessandro Curto (2012) "[Will the reform of community pharmacies in Italy be of benefit to patients or the Italian National Health Service?](#)" Center for Health Economics, 'Mario Negri' Institute for Pharmacological Research; Davud Rostam-Afschar, Maximiliane Unsorg (2021). [Entry regulation and competition evidence from retail and labor markets of pharmacists](#), University of Tübingen Working Papers in Business and Economics, No. 146, University of Tübingen, Faculty of Economics and Social Sciences, Tübingen.; [Office of Fair Trading – prepared by DotEcon \(2010\)](#): Evaluating the impact of the 2003 OFT study on the Control of Entry regulations in the retail pharmacies market; See also the papers discussed at the [2014 OECD Global Forum on Competition](#) related to competition issues in the distribution of pharmaceuticals.

Lifting these restrictions could further enhance competition and increase the access to non-prescription medicines. The score of Slovenia's in the Retail Sale of Medicines sector indicator would decrease from 3.38 to 1.00²⁸⁰.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Slovenia is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity** (A. Component 1. Renewable Energy and Energy Efficiency: A.1. Investment F: Strengthening the electricity distribution network (transformer stations), A.1 Investment G: Investments to increase energy efficiency in the economy, A.3. Investment E: Production of electricity from renewable energy sources, A.3 Investment F: Strengthening the electricity distribution network (low-voltage network);
- **Rail transport** (D. Component 4. Sustainable Transport: D.1. Investment C. Increasing rail infrastructure capacity, D.1. Investment D. Digitalisation of rail and road infrastructure, D.3 Investment A: Further increasing railway infrastructure capacity);
- **Road transport** (D. Component 4. Sustainable Transport: D.1. Investment D. Digitalisation of rail and road infrastructure);
- **E-communications** (G. Component 7. Digital Transformation of the Public Sector and Public Administration: G.1. Reform F. Transition to a Gigabit Society, G.1. Investment H. Gigabit infrastructure);
- **Water** (C. COMPONENT 3. CLEAN AND SAFE ENVIRONMENT C.1 Investment H. Urban waste water discharge and treatment projects, C.1. Investment I. Drinking water supply and savings projects, C.3. Investment H. Further projects for the discharge, treatment and re-use of urban waste water, C.3. Investment I. Further drinking water supply and savings projects).

According to a recent study by the OECD (Demmou and Franco, 2020),²⁸¹ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Slovenia's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

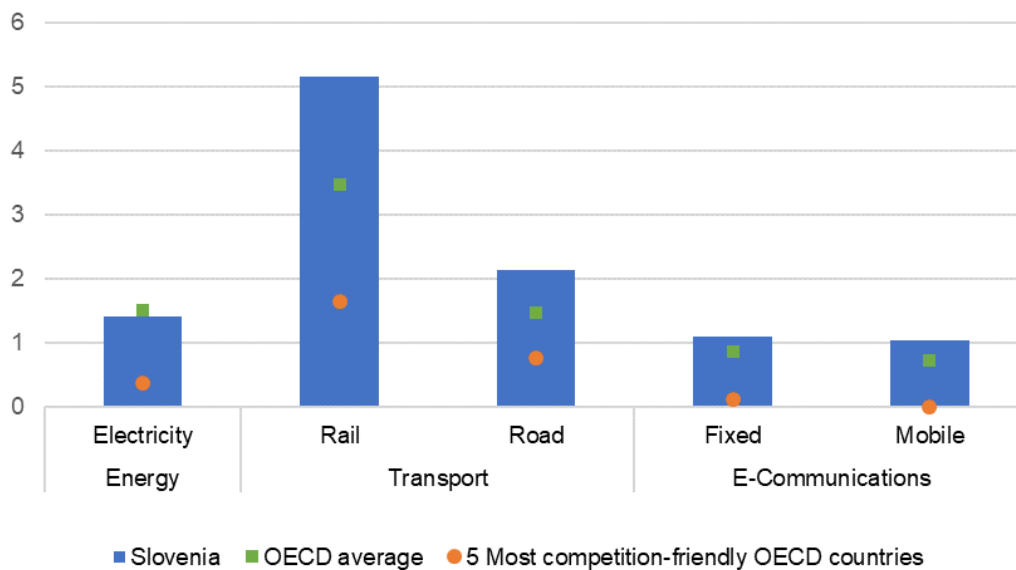
Figure 3 shows how Slovenia performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

²⁸⁰ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²⁸¹ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

Figure 32. PMR sector indicators for Electricity, Rail and Road Transport, and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- Slovenia's score in the **electricity** sector is close to the OECD average. The result is mostly due to the fact that government owns the largest company active in all segments of the industry and that there are considerable constraints to the sale of these shares²⁸². In addition only large and medium industrial and commercial consumers are allowed to sell demand response subject to consent from their retail supplier
- Slovenia's score in the **rail transport** sector is well above the OECD average. This is partly due to the fact that in the passenger transport segment there is neither competition in the market nor competition for the market, as the provision of passenger rail services is not allocated through competitive tenders. If the country introduced competitive tenders, it would improve its score in the rail sector indicator from **5.14** to **3.43**. The other main reason for the country's high score is that the government controls the largest operators in the provision of passenger and freight services, as well as the infrastructure provider.
- The score in the **road transport** sector is above the OECD average for a number of reasons. In order to start a business in the road-freight transport sector, it is necessary to obtain a licence, and this has a limited duration. Furthermore, industry representatives are involved in issuing these licences, which may distort competition by preventing the entry of new businesses. The adoption of a lean notification system would address these problems. The long distance coach transport sector is organised under a concession regime. The concessionaires are chosen through competitive tenders and enjoy the exclusive right to provide the service in the routes included in

²⁸² State investments in the energy sector are considered as strategic and hence more than 50% of ownership must be retained in public hands. Only Parliament could change this requirement.

their contract. Slovenia could consider to this market to competition, as in many other OECD countries.

- The regulatory framework of the **E-communications** sector is mostly in line with international best practices. The main reason behind Slovenia's still positive score is that the government controls the largest operator (*Telekom Slovenije d.d.*) in both the fixed and mobile segments.
- There is no PMR sector indicator for the **water** sector, but information on the relevant regulatory framework are included in the economy-wide indicator. Based on this information, the water regulator could be required to publish on its webpage the data it collects on the efficiency and performance level of water suppliers to foster yardstick competition. Moreover, competitive tenders could be used to regularly reallocate water abstraction rights.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²⁸³ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

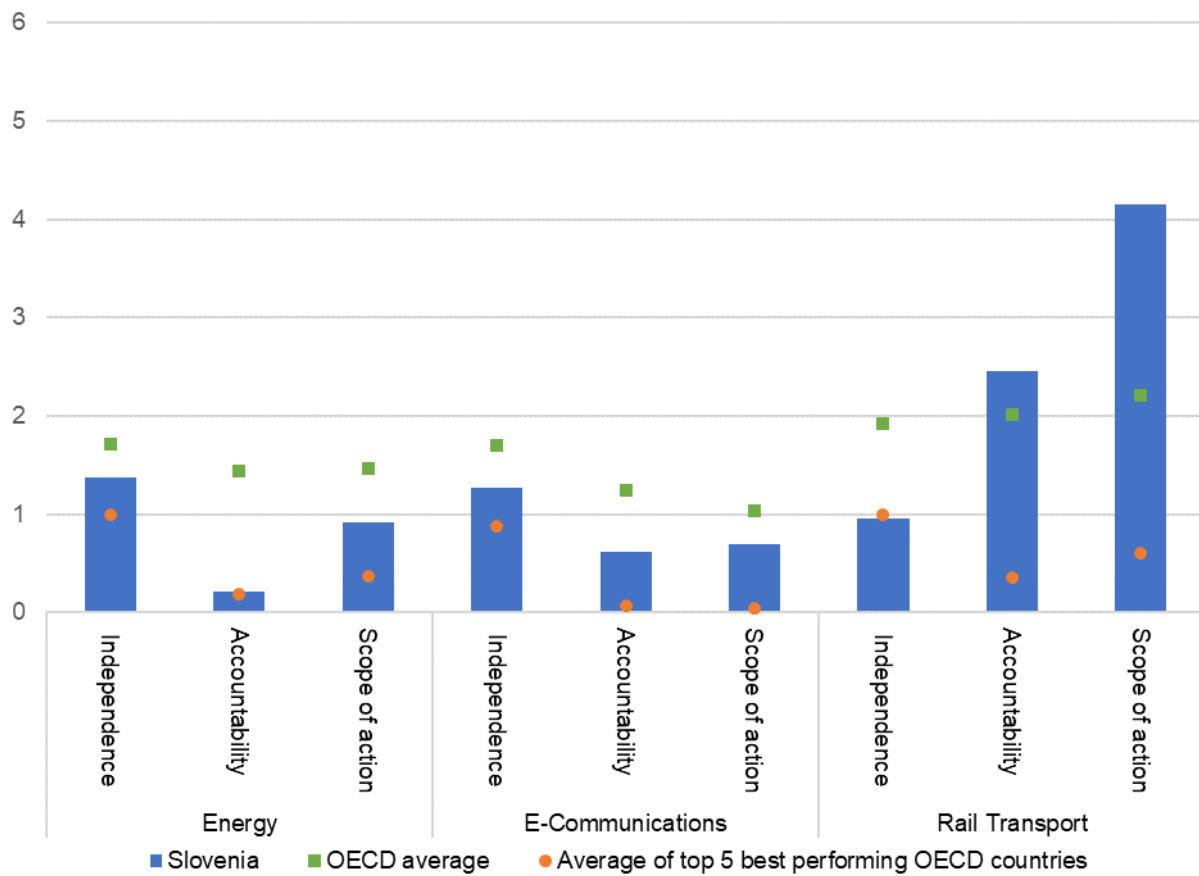
- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below illustrates Slovenia's scores in the three components for the Energy, E-communications and Rail regulators.

²⁸³ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 33. Indicators of Governance of Sector Regulators for Energy, E-communications and Rail Transport



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 Database on the Governance of Sector Regulators

Energy and E-communications

Despite the fact that these regulators score better than the OECD average in all components, Slovenia could further strengthen their independence. For example, national legislation could impose restrictions on the employment history of agency head and board members and require the participation of an independent panel in their selection.

Rail Transport

As shown in Figure 4, Slovenia could introduce governance arrangements to enhance the accountability of the rail transport regulator. There may be room for the regulator to strengthen its accountability to parliament by being required to answer requests from or attend hearings organised by parliamentary committees. In addition, Slovenia could introduce a mandatory requirement for the regulator to publish all of its draft decisions, collect comments from stakeholders, and respond to them.

The regulator carries out fewer functions than most OECD regulators in this sector as it does not issue consumer standards, guidelines, and codes of conduct. It also does not enforce compliance with these standards through inspections and fines. In addition, it does not regulate prices on monopolistic activities, and does not mediate disputes between market actors and regulated entities.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Spain

The aim of this note is to provide an assessment of the likely impact that the Spanish National Recovery and Resilience Plan²⁸⁴ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁸⁵. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Spain's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁸⁴ The assessment was based on the

- Recovery and Resilience Plan of Spain, available on this [website](#).
- [COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Spain.
- [REVISED ANNEX to the Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Spain.

Please note that the assessment of the actual implementation of the reforms are outside the scope of this exercise.

²⁸⁵ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

Six measures included in the Plan submitted by Spain could have an impact on the PMR indicators. These are outlined in Table 1.

Table 46. Measures in the Plan that may impact the value of the PMR indicators

Number of Measure	PMR related measure (Indicated timeline for completion of the measure)	Assessment of impact on PMR indicator (Index scale 0 to 6 from most to least competition-friendly)
C5.R1	<p><u>Water plans and strategies and regulatory changes</u> The reform shall address the review and update of the Water Law, its regulations and other secondary legislation, to ensure a legal framework favourable to foster investments. (Q3 2023)</p>	<p>The reform might have an impact on the <u>Barriers in Network Sectors</u> low-level indicators, but only if the review of the Water Law created a secondary market in which the entitlements to abstract groundwater and surface water could be traded, leased or transferred. In this case, the score would decrease from 1.06 to 0.93.</p>
C8.R3	<p><u>Development of the regulatory framework for aggregation, demand management and flexibility services</u> This measure has the objective to develop the regulatory framework necessary for developing a smart and dynamic energy system, including: (i) the regulation of demand-side management and flexibility services in the national regulatory framework, (ii) the development of the regulatory framework to capture the different flexibility services and (iii) the development of a framework to ensure consumers' access to their energy consumption data. (Q4 2023)</p>	<p>If the new regulation of demand-side management allowed all consumers to sell demand response to a third party, and not just large domestic consumers as it is currently the case, Spain's score in the <u>Barriers in Network Sectors</u> low-level indicator would decrease from 1.06 to 0.97 and its score in the <u>Electricity</u> PMR Sector indicator from 1 to 0.71.</p>
C11.R4	<p><u>National public procurement strategy</u> This reform shall finalise the implementation of the public procurement reform provided for in Law 9/2017 on public sector contracts (as the main act of transposition of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Text with EEA relevance). This shall establish a governance structure to achieve a consistent public procurement framework ensuring transparency, effective control mechanisms, interconnection of public procurement databases among all levels of Government, and coordination across government levels, in order to: i) make the National Evaluation Office fully operational and ii) adopt the National Public Procurement Strategy. This reform shall also address the limited provision of public procurement information and databases, as well as weaknesses in the structure of public procurement contracting, including reinforcing the legal framework of digital procurement. (Q4 2022)</p>	<p>The reform will improve the score in <u>Public Procurement</u> PMR low-level indicator. from 1.65 to 1.15, as the implementation of Law 9/2017 will introduce the obligation to publish online all tender documents, and will give all bidders the option to submit their bids online.</p>
C13.R2	<p><u>Strategy Spain Entrepreneurial Nation</u> The objective of the measure is to promote the Spanish Entrepreneurship Strategy. The reform shall consist of adopting a Law on start-ups, to create a favourable framework for the creation and growth of highly innovative start-ups. The reform includes several milestones related to tax incentives for start-ups, measures to attract business angels and other forms of private financing, visa schemes to attract foreign talent and special schemes to attract "nomad workers". (Q4 2022)</p>	<p>Reform C13.R1 is likely to have an impact on the <u>Administrative Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> PMR low-level indicator.</p> <p>The Law on Business Creation and Growth²⁸⁶, which would implement this reform, is now pending approval from Parliament. This law includes provisions to reduce the minimum paid-up capital to set up a LLC to 1 euro and introduces an online one-stop shop on which all procedures required to set up these firms can be carried out. If this law was approved in its current form, the score of this low-level indicator</p>

²⁸⁶ More information on this law can be found on the Ministry of Economic Affairs and Digital Transition [website](#).

C13.R1	<p>Improving business regulation and climate</p> <p>This includes the Adoption of the Law on Business Creation and Growth. The aim of this legislation is to:</p> <p>i. Simplify the procedures for setting up a business. This shall be achieved through the reduction of minimum capital requirement to set up a firm, and the strengthening of the crowdfunding platforms and other public funding instruments.</p>	<p>would decrease from 0.38 to 0.13.</p> <p>Reform C13.R2, instead, is unlikely to have an impact on this low-level indicator. Indeed the Law on Start-ups²⁸⁷, which is awaiting approval from Parliament, foresees the elimination of the fees for many registration procedures required to establish a LLC, but limits this simplification to innovative ones. Since the PMR low-level indicator on <u>Admin. Requirements for Limited Liability Companies and Personally-Owned Enterprises</u> reflects requirements applicable to <i>all</i> new businesses, such a reform would not affect it.</p> <p>Other measures such as tax incentives, visa schemes and the creation of new investment vehicles are not considered in the PMR indicators.</p>
Reform C13.1	<p>Improving business regulation and climate</p> <p>The Adoption of the Law on Business Creation and Growth will also aim at:</p> <p>iii) Amend certain provisions of the Law on Market Unity to provide further clarity in areas where ambiguities have led to implementation problems. The aim of the Law on Market Unity is to remove unnecessary, disproportionate or discriminatory barriers to access to and pursuit of economic activities and to freedom of establishment throughout the territory. The objective of this reform shall also be to enhance the efficiency and transparency of the mechanisms provided for in the Law on Market Unity to protect operators whose activity is affected by barriers imposed by the public administration. In addition, the reform shall strengthen cooperation in order to promote better regulation throughout the country.</p> <p>The reform also includes the following measure related to Professional Services. In particular, the entry into force of the Law amending Law 34/2006 on access to the professions of <i>lawyers</i> and <i>procuradores</i> shall:</p> <ul style="list-style-type: none"> — Reform of the current system of minimum fees into a system of maximum fees and new obligation to submit a cost estimate to the customer in advance. — Allow multidisciplinary activities of the professions of lawyer and procuradores within the same legal entity — Single access to the professions of lawyer and procuradores. 	<p>The amendment of certain provisions of the Law on Market Unity may remove some of the existing barriers in the services sectors. Yet, the Plan is not sufficiently detailed to evaluate whether this could have an impact on the PMR indicators.</p> <p>The amendments to Law 34/2006 could have an impact on the <u>Lawyers</u> sector indicator if it increased the number of pathways to access this profession and reduced the number of years required to obtain the qualifications needed to legally practice.</p> <p>The move from to a system of minimum fees to one of maximum fees applies only to the profession of <i>procuradores</i>, which is not covered by the PMR indicators on Professional Services.</p> <p>The creation of multidisciplinary business activities would not affect the PMR indicator, as lawyers can already cooperate with most other regulated professionals. Hence, the PMR sector indicator does not capture the removal of any additional constraint.</p>
C15.R1	<p>Reform of the telecommunications regulatory framework: General Law, Regulatory Instruments and Implementation Instruments</p> <p>The objectives of the measure are to transpose Directive 2018/1972 of the European Electronic Communications Code, to develop best practices for the deployment of high capacity and 5G fixed and mobile networks, and to develop the necessary actions to implement in the national framework the toolbox resulting from the European Commission Recommendation on Connectivity C (2020) 6270. (Q3 2022)</p>	<p>This reform may affect the <u>E-communications</u> PMR Sector indicator, but the information in the Plan is not sufficient to assess this.</p>

²⁸⁷More information on this law can be found on the Ministry of Economic Affairs and Digital Transition [website](#).

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The Council of the European Union in its 2019 and 2020 recommendations²⁸⁸ made the following general observations on Spain's regulatory set-up, which are linked to regulatory weaknesses also identified in the PMR indicators.

Table 47. Country specific recommendations by the EU Council and their inclusion in the Plan

PMR-related observations in the recommendation	Implementation in the Plan
<p>Public procurement: In the area of public procurement, to improve the efficiency of public spending as well as help prevent irregularities, the ambitious implementation of the Law on public sector contracts adopted in 2017 will be instrumental.</p>	<p>The following measure in the Plan may address regulatory weaknesses in public procurement as captured by the PMR.</p> <p style="text-align: center;">Reform C11.R4 National public procurement strategy.</p> <p>This measure has already been discussed in Table 1.</p>
<p>Admin. Burdens: Improving Spain's innovation performance requires significant investments to foster entrepreneurship and start-ups and help them grow and to promote the competitiveness of all firms and their adaptation</p>	<p>There are several measures in the Plan to reduce the administrative burden on businesses in Spain.</p> <p>The one that <i>may affect Spain's PMR indicators</i> is:</p> <p style="text-align: center;">Reform C13.R2. Improving business regulation and climate.</p> <p>This measure has already been discussed in Table 1.</p>
<p>Barriers in professions: Implementing the Law on Market Unity more decisively and removing identified restrictions on services, in particular for certain professional services such as civil engineers, architects, legal and computer services, would improve growth opportunities and competition.</p>	<p>There is only one reform related to professional services in the Plan</p> <p style="text-align: center;">Reform C13.1. Improving business regulation and climate</p> <p>This measure has already been discussed in Table 1.</p>

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan ²⁸⁹

Spain's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of Spain's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Spain.²⁹⁰

In the rest of this section, we assess the following indicators:

²⁸⁸ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Spain and delivering a Council opinion on the 2019 Stability Programme of Spain, COM/2019/501 final.

and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Spain and delivering a Council opinion on the 2020 Stability Programme of Spain, COM/2020/501 final.

²⁸⁹ The latest PMR values available for Spain refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

²⁹⁰ All country fiches are available on the [PMR webpage](#).

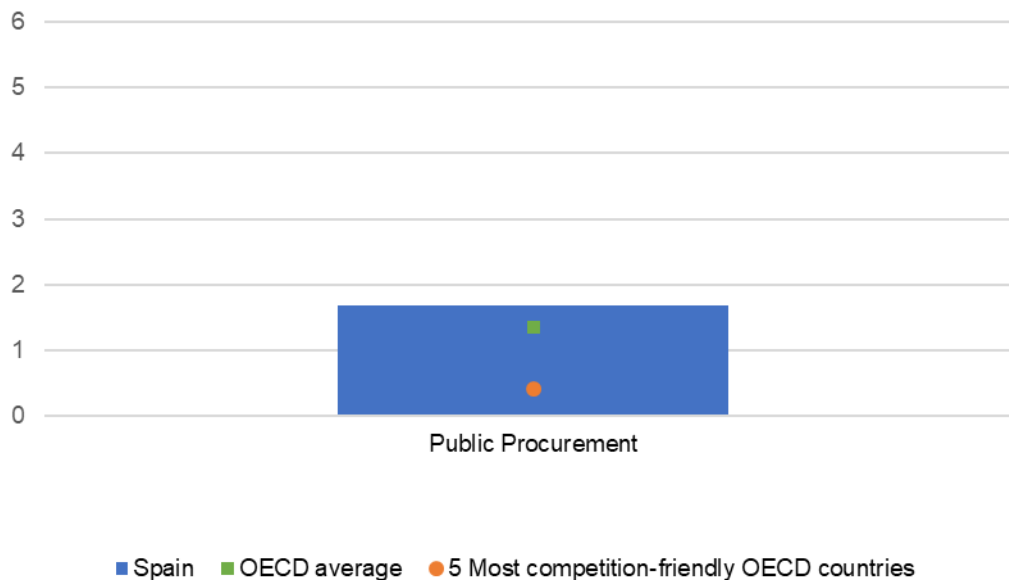
- i) Public Procurement
- ii) Professional Services
- iii) Retail Distribution and Retail Sales of Medicines

3.1. Public Procurement

Figure 1 shows the Public Procurement low-level indicator. In this indicator, which measures the extent to which the public procurement legislative framework ensures that all firms are on an equal footing when competing for public contracts for the provision of goods, services and of public works, Spain scores above the OECD average.

Figure 34. Low-level PMR indicator for Public Procurement

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

Spain's Plan includes two measures (see Reform C11.R4 in Table1) that will improve the legislation disciplining the public procurement of goods, services and public works. First, contracting authorities will be required to publish online all tender documents to facilitate access to interested parties. Second, the reinforcement of digital procurement will provide all bidders with the option to submit bids online in all tenders. These measures will improve Spain's score in the low-level indicator **from 1.65 to 1.15**.

Spain could further reduce its score in this low-level indicator if contracting authorities were required to collect information on the goods, services and public works that they to procure before deciding their procurement strategy and designing tenders. Gathering such information would allow the contracting authority to tailor the design to the features of the relevant market. In addition, the provision of reference prices, i.e. any indication of a price that would be acceptable for each individual component of the tender in the documentation could be forbidden. Currently, contracting authorities include reference prices in the tender documentation for the acquisition of some goods and services, and in the tender documentation to

procure all public works. References prices can provide an indication of the expected prices for individual elements of tenders reducing price competition and potentially fostering collusion.

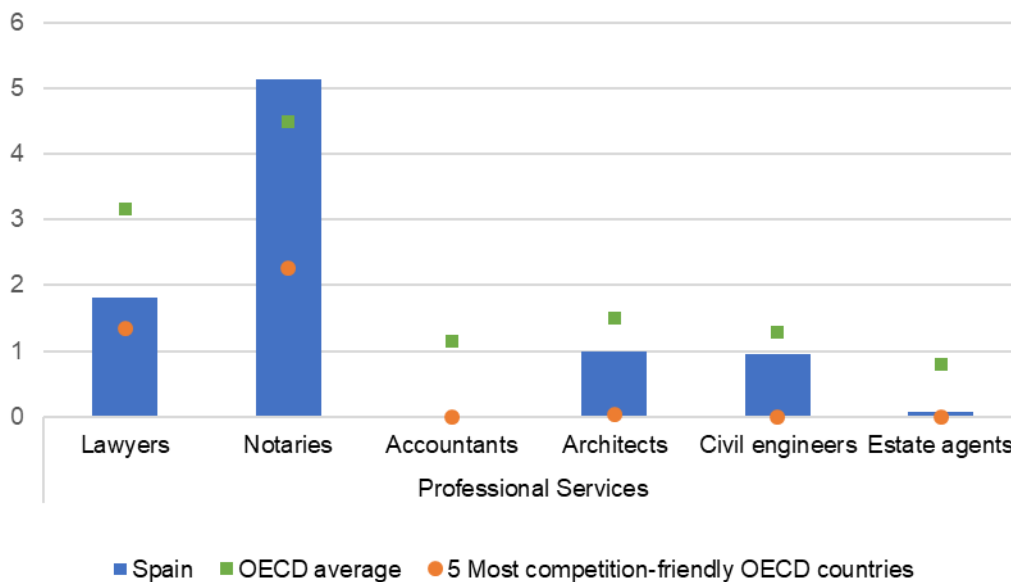
If Spain required contracting authorities to collect relevant information before designing tenders and discouraged them from including references prices in tender documentation, the score in the low-level indicator would further improve from 1.15 to 0.

3.2. Professional Services

As Figure 2 below illustrates, Spain’s regulatory set-up imposes less restrictions to competition than most OECD countries for 5 of the professions assessed in the PMR indicators: the only exception is Notaries, which are more stringently regulated than in many other OECD countries. Hence, the analysis focuses only on this profession.

Figure 35. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

*In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD’s PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database.

In civil law countries, Notaries exercise administrative and judicial tasks by virtue of power delegated by the state. Hence, notaries play a special role in the legal services market in these countries that justifies some regulatory constraints. However, even when one considers their special status, there is scope to reduce regulatory constraints in Spain. In particular, notaries are subject to quantitative constraints on their total number and territorial restrictions to their ability to practice. Moreover, the government fixes the fees for all notary services. Other important restrictions include a ban on inter-professional business

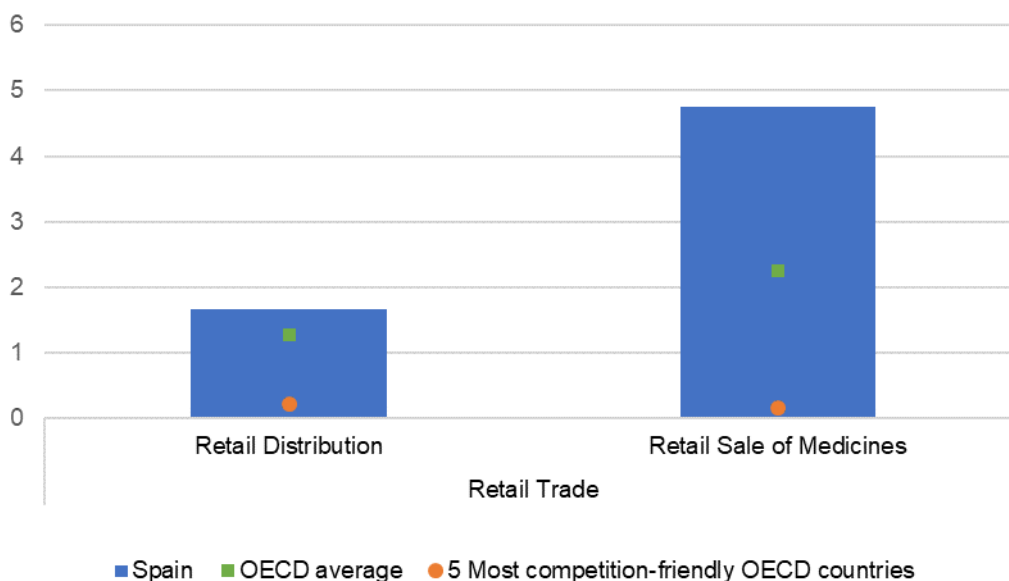
cooperation, and a ban on the advertising and marketing of their services. If Spain addressed these regulatory constraints, the score in the Notaries indicator would improve from 5.14 to 3.16²⁹¹.

3.3. Retail Distribution and Retail Sales of Medicines

As Figure 3 indicates, Spain has scope for improvements the two sector indicators included in the area of retail trade: the Retail Distribution and the Retail Sale of Medicines sector indicators, as Spain's scores are above the OECD average.

Figure 36. PMR sector indicators for Retail Distribution and Retail Sales of Medicines

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.
Source: OECD 2018 PMR database.

With respect to Retail Distribution, retail outlets in Spain cannot sell goods below costs outside of seasonal sales. Retailers also face restrictions on the ability to set prices. For example, the price of books²⁹² and liquefied petroleum gas (LPG) are regulated. Empirical evidence suggests that removing price restrictions can reduce prices²⁹³. In addition, retailers need a special authorisation to sell electronic cigarettes and LPG, and online retailers cannot sell these two products. If Spain removed these barriers, it would improve its score in this sector indicator from 1.44 to 0.71²⁹⁴.

²⁹¹ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

²⁹² In Spain, publishers fix the price of books and retailers can only charge consumers a price between 95% and 100% of this fixed price. See [Ley 10/2007, de 22 de junio, de la lectura, del libro y de las bibliotecas](#).

²⁹³ Empirical research conducted in Greece shows that removing price restrictions on books could lead to price reductions. See Kontolaimou, Alexandra & Prodromidis, Pródromos-Ioánnis & Konstantakopoulou, Ioanna (2020), "[The issue of fixed book pricing: Evidence based on the Greek experience](#)", Centre for Planning and Economic Research (KEPE), Cyprus Economic policy Review vol. 13.

²⁹⁴ Revised values are still above 0 because the OECD has just focused on the most important regulatory weaknesses.

Competition in the Retail Sale of Medicines is hampered by numerous regulatory restrictions. There are constraints both on the number of pharmacies that can be located in a given area and on the minimum distance between pharmacies. Moreover, only pharmacists can own pharmacies and a pharmacist can only own one pharmacy, which limits the possibility to exploit economies of scale. Further, all medicines, including non-prescription ones, can only be sold in pharmacies, and prescriptions medicines cannot be sold online. Lastly, while non-prescription medicines are not subject to price controls, retailers cannot advertise their prices. Eliminating these restrictions would reduce Spain's score in this sector-indicator from 4.75 to 0.

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Spain is proposing to invest in the following sectors that are included in the PMR indicators:

- **Electricity:** (e.g. 'Investment 2 (C7.I2) – Sustainable energy in islands', investing at least 200 MW of innovative renewable generation; 'Investment 2 (C8.I2) - Digitalisation of networks').
- **Water:** (e.g. 'Investment 1 (C5.I1) – Implementation of treatment, sanitation, efficiency, savings, re-use and infrastructure safety (DESEAR) actions'; 'Investment 3 (C5.I3) – Digital transition in the water sector (Digital Environmental Enforcement)').
- **Transport by rail:** (e.g. 'Investment 1 (C6.I1) – National transmission network: European Corridors' aiming at building new railway infrastructure in the core European TEN-T; 'Investment 2 (C6.I2) – Trans-European Network for Transport Program, other works', including the upgrading 900 km. of rail network; 'Investment 3 (C6.I3) – Intermodality and logistics', improving rail and road access to Spanish ports; 'Investment 4 (C6.I4) – Support programme for sustainable and digital transport', including the on-boarding of the European Rail Traffic Management Systems (ERTMS) and the modernisation of rail freight equipment).
- **Transport by road:** (e.g. 'Investment 2 (C6.I2) – Trans-European Network for Transport Program, other works', including safety-related investments in roads; 'Investment 3 (C6.I3) – Intermodality and logistics', improving rail and road access to Spanish ports; 'Investment 4 (C6.I4) – Support programme for sustainable and digital transport', including the construction and upgrading of parking areas).
- **Transport by water:** (e.g. 'Investment 3 (C6.I3) – Intermodality and logistics', improving accessibility (19 projects) and sustainability in ports (projects in 25 port authorities); 'Investment 4 (C6.I4) – Support programme for sustainable and digital transport', including the support of alternative energies technologies in the maritime sector).
- **Transport by air:** (e.g. 'Investment 2 (C6.I2) – Trans-European Network for Transport Program, other works', including boosting the development of the Single European Sky).
- **E-communications:** (e.g. 'Investment 1 (C15.I1) - Promoting territorial cohesion through the deployment of networks: Ultra-fast broadband extension', deepening the coverage of ultra-fast broadband access networks in areas lacking it; 'Investment 2 (C15.I2) Strengthening connectivity in centres of reference, socio-economic drivers and sectoral digitalisation projects', aiming at providing ultra-connectivity in areas of high demand for capacity; 'Investment 4 (C15.I4) - Infrastructure renewal and sustainability'; 'Investment 5 (C15.I5) - Deployment of cross-border digital infrastructure'; 'Investment 6 (C15.I6) - 5G Deployment: networks, technological change and innovation', with the aim to achieve 75% population coverage by 2025).

According to a recent study by the OECD (Demmou and Franco, 2020),²⁹⁵ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

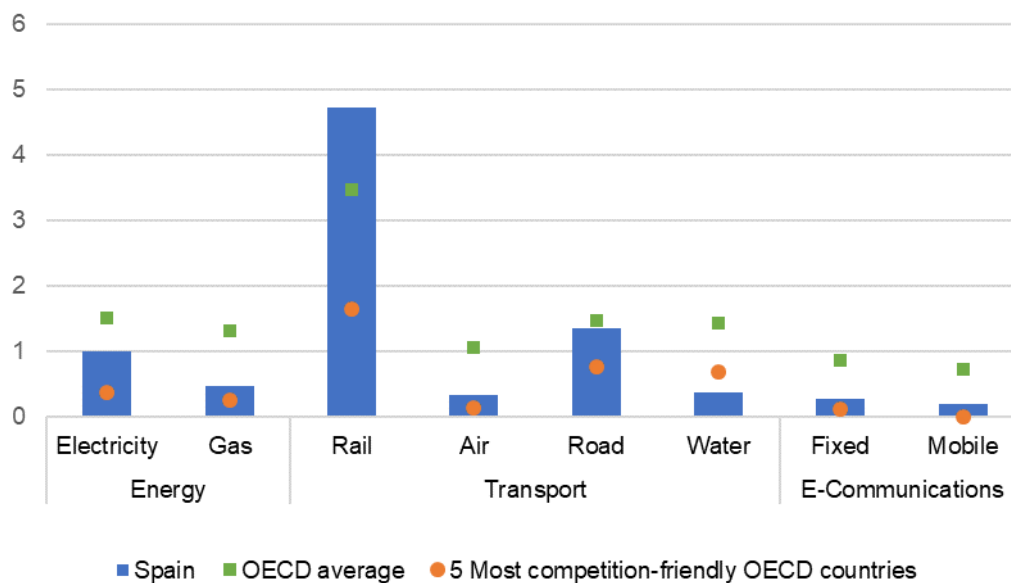
Since Spain's Plan includes infrastructure investments in various network sectors, assessing how effective is their regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how Spain performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

Figure 4. PMR sector indicators for Electricity, Transport and E-communications

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database.

The following conclusions can be derived from the figure and the analysis of the relevant PMR indicators:

- In the **electricity** sector, Spain could further improve its score by allowing all consumers to sell demand response to third parties, while currently this is only possible for large non-domestic consumers. Reform C8.R3 in the Plan may introduce this option (see Table 1).

²⁹⁵ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth?](#) New insights from firm level data. OECD Economics Department Working Papers No. 1609.

- In the **rail transport** sector, Spain scores substantially above the OECD average. However, the country has undertaken reforms since 2018 that improve the country's performance in this area. In particular, the Royal Decree-Law 23/2018^[1] opened passenger transport routes to competition, and several high-speed routes are now served by more than one operator and more routes are expected to have effective competition in the coming years. If 75% of routes were opened to competition at the end of this process, the score would drop from **4.71** to **3.86**. Moreover, the law stipulates that from 2023 all public service contracts will be allocated through competitive tenders. This would further reduce the score to **3**. The high score is also due to the fact that the government controls two firms in the passenger and freight transport sectors, *Renfe Viajeros*, *S.M.E* and *Renfe Mercancías*, *SME*.
- The regulatory set-up in the **air transport** sector is in line with international best practices.
- The regulatory set-up in the **road transport** is in line with the OECD average. However, Spain could open up the market for the provision of long-distance passenger transport services by coach to competition and require a simple notification to establish new passenger transport businesses.
- In the **water transport** sector, Spain is the OECD country with the lowest PMR score.
- Spain's score in the **e-communications** sector is in line with international best practices.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

The assessment of the OECD Indicators on the Governance of Sector Regulators²⁹⁶ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to provide a snapshot of the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional components:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors in the sector(s) it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

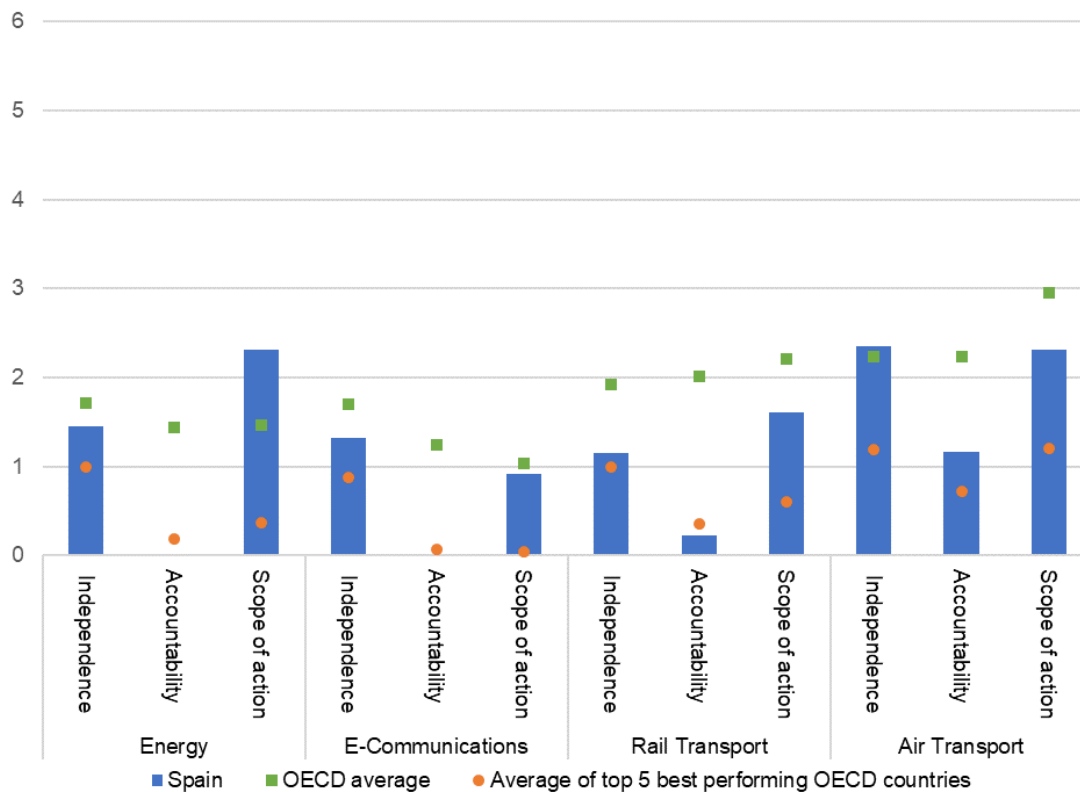
A higher score indicates that the regulator is further from good practice in the independence and accountability components, and has a narrower range of functions in the scope of action component.

Figure 4 below shows how the regulators for Energy, E-communications, Air Transport and Rail Transport perform in the three components. The results suggest that Spain has more good governance arrangements to promote independence and accountability than the average OECD economy across most sectors. However, Spain has room to improve the independence of most regulators, particularly the Air Transport regulator, and the Energy regulator has a narrower scope of action than that of most OECD peers.

[1] Real Decreto-ley 23/2018, de 21 de diciembre, de transposición de directivas en materia de marcas, transporte ferroviario y viajes combinados y servicios de viaje vinculados. It can be accessed online [here](#).

²⁹⁶ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found on the following [webpage](#).

Figure 5. Indicators of Governance of Sector Regulators for Energy, E-communications, and Rail and Air Transport



Note: The database does not include all OECD countries in some sectors. In the energy sector, the averages include all OECD countries. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, all the averages include all OECD countries except Iceland and Korea. In the air transport sector, the averages include all OECD countries except Finland, Germany, Iceland, Korea, Slovak Republic, and Slovenia. Information refers to governance arrangements in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database.

Energy and E-communications

In Spain, a single regulator is responsible for these two sectors (the Spanish National Markets and Competition Commission), in addition to its responsibilities in transport, audio-visual and postal regulation. The regulator is independent, but further arrangements could be introduced to ensure that it is protected from undue influence. First, an independent panel could participate in the selection of the head and the board members, and the parliament could be involved in their final appointment. Further, the government has the power to dismiss these executives: introducing additional ‘checks’ would limit the possibility of arbitrary dismissal.

The regulator has a high score relative to OECD average in the scope of action component because it lacks some functions common among OECD energy regulators, such as issuing consumer standards, revoking licences and regulating prices on monopolistic activities.

Air Transport

The air transport regulator is a ministerial agency, which is common in this sector among OECD countries. As a result, its governance arrangements partially differ from those of an independent agency. Still, Spain has margin to increase the independence of this agency. First, requirements for the necessary skills and

restrictions on the employment history to become the regulator's head or a board member could be imposed. In addition, an independent panel could participate in the selection of these executives, instead of just the government. Finally, the government has the power to dismiss these executives: introducing additional 'checks' would limit the possibility of arbitrary dismissal.

Analysis of the links between National Recovery and Resilience Plan and OECD Product Market Regulation Indicators: Sweden

The aim of this note is to provide an assessment of the likely impact that the Swedish National Recovery and Resilience Plan²⁹⁷ (the Plan) could have on regulatory barriers to competition as measured by the scores the country obtained in the 2018 vintage of the OECD Product Market Regulation (PMR) Indicators²⁹⁸. Given that the measures included in the Plan may have a limited impact on the PMR indicators, the analysis was expanded to cover some of the regulatory weaknesses that could be identified by analysing Sweden's results in the 2018 PMR indicators, and that have not been addressed in the Plan. This note also includes a brief assessment of the regulatory set-up of those network sectors where the Plan envisages infrastructure investments to identify any weakness that may reduce the efficiency of firms operating in the sector, as well as their downstream productivity effect.

Hence, the note focuses its analysis on the following four areas:

- i) Measures included in the Plan that may affect the PMR scores;
- ii) Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan;
- iii) Key regulatory weaknesses identified by the PMR indicators not addressed in the Plan;
- iv) Assessment of the regulatory set-up in network sectors, among those covered by the PMR indicators, where the Plan envisages infrastructure investments.

²⁹⁷ The assessment was based on the

- Recovery and Resilience Plan of Sweden, available in this [website](#).
- [Proposal for a COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Sweden.
- [ANNEX to the proposal for a Council Implementing Decision](#) on the approval of the assessment of the recovery and resilience plan for Sweden.

Please note that the assessment of the actual implementation of the reforms is outside the scope of this exercise.

²⁹⁸ All information, indicator values and methodology related to the PMR indicators can be found on the [PMR website](#).

1. Measures included in the Plan that may affect the PMR scores

None of the policy measures presented in the Plan submitted by Sweden appears to have an impact on the country's scores in the PMR indicators.

2. Country specific recommendations made by the EU Council related to the areas assessed in the PMR indicators and their inclusion in the Plan

The 2019 and 2020 recommendations made by the Council of the European Union²⁹⁹ on Sweden's regulatory set-up contain no observations linked to regulatory weaknesses identified in the PMR indicators.

3. Some key regulatory weaknesses identified by the PMR indicators not addressed in the Plan ³⁰⁰

The country's scores in the 2018 PMR vintage can provide guidance in identifying areas where the regulatory framework could be made more competition-friendly. Based on these results, the OECD selected some indicators to provide detailed examples of areas where the regulatory set-up could be better aligned with international best practices. It should be underlined that this is not an exhaustive assessment of the country's PMR results, as this is not the purpose of this note. An assessment of the country's results across all PMR indicators can be found in the OECD PMR country fiche for Sweden.³⁰¹

Therefore, in the remainder of this section, the following indicators are assessed more in depth:

- i) Licences and Permits;
- ii) Professional Services.

3.1. Licences and Permits

Figure 2 shows Sweden's values in the low-level indicator on Licences and Permits, which measures the existence of initiatives to simplify licensing procedures and of programs to review and reduce the number of licences. The figure also shows the other low-level indicator that contributes to measuring the Administrative Burden on Start-ups: Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises.

²⁹⁹ See: Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2019 National Reform Programme of Sweden and delivering a Council opinion on the 2019 Stability Programme of Sweden, COM(2019) 527 final.

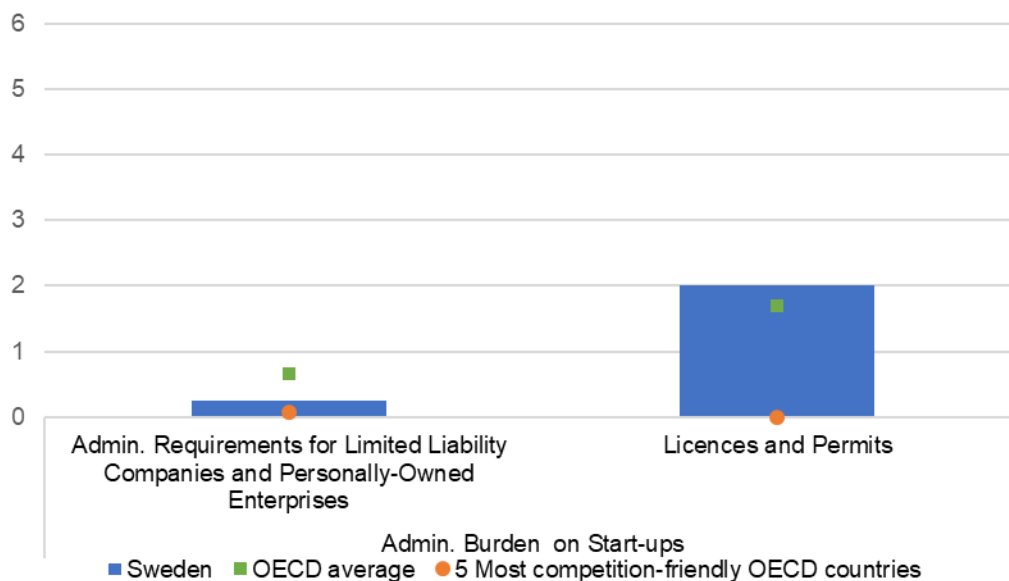
and Recommendation for a [COUNCIL RECOMMENDATION](#) on the 2020 National Reform Programme of Belgium and delivering a Council opinion on the 2020 Stability Programme of Belgium, COM(2020) 527 final.

³⁰⁰ The latest PMR values available for Sweden refer to laws and regulation in force in the country in 2018. The analysis herein proposed is based on those values, but where regulatory weaknesses identified in 2018 have since been addressed, they are not mentioned here. The purpose of this analysis is to suggest areas where improvements are still possible.

³⁰¹ All country fiches are available on the [PMR webpage](#).

Figure 37. The two low-level PMR indicators that measure the Administrative Burden on Start-ups

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

While Sweden's score in Administrative Requirements for Limited Liability Companies and Personally Owned Enterprises is very low, as the country is close to international best practices, the country could improve its licensing system. In particular, it could introduce a 'silent is consent' rule for all requests related to licences and permits. This rule would reduce waiting times and introduce greater certainty in the process. In addition, the national government could keep track of the total number of permits and licences that are required for different business activities. A clear understanding of the status quo would be helpful to identify and reduce licensing burdens.

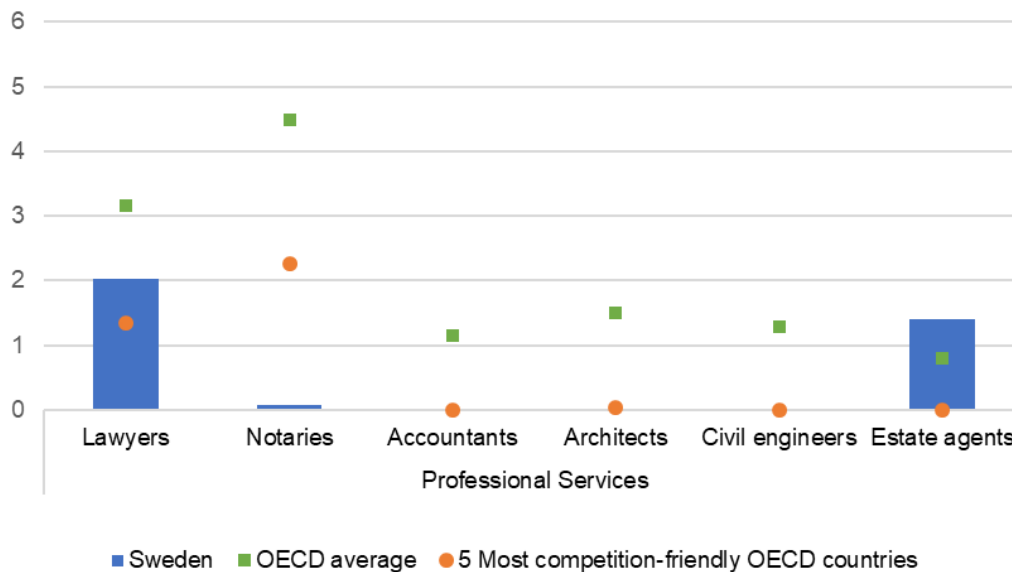
If these measures were implemented, the score in this low-level indicator would decrease **from 2 to 0**.

3.2. Professional Services

Figure 3 below shows the scores of the six PMR indicators on professional services. The scores indicate that Sweden is one of the OECD countries whose regulatory framework imposes the least barriers to competition for Notaries, Accountants, Architects and Civil Engineers, and when it comes to Lawyers the country has a regulatory framework that is less restrictive than the OECD average. However, Real Estate Agents face greater regulatory constraints than in the average OECD country.

Figure 38. PMR sector indicators for Professional Services*

Index scale 0 to 6 from most to least competition-friendly regulatory framework



* When comparing the indicators across countries, it should be kept in mind that the activities undertaken by specific professions may vary between countries.

*In civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 PMR database.

The regulatory setup for Lawyers is less restrictive than that in the average OECD country, as entry into the profession is subject only to certification and there are no exclusive rights reserved to lawyers. However, in terms of business conduct, lawyers face some constraints. Non-lawyers cannot have ownership interest nor hold voting rights in a law firm, and the only firms that can have ownership interest or voting rights in law firm over 49% are other legal firms. These restrictions limit the sources of funding on which these firms can rely, reduce the type of managerial skills that law firms can access, and may inhibit the emergence of innovative business models. In addition, lawyers are subject to an explicit ban on inter-professional cooperation. If Sweden removed all these barriers, the country's score in the Lawyers indicator would improve **from 2.03 to 0.05**.

The fact that the score for Real Estate Agents is higher than in many other OECD countries is due to the fact that these professionals perform the conveyancing process and face the related responsibility and financial risks. This justifies the need for greater regulation relative to those OECD countries in which specialised lawyers or notaries carry out this process. Despite the higher score, it should be acknowledged that real estate agents in Sweden compete on prices, are not subject to any territorial or quantitative restrictions, and the process to enter the profession is relatively simple. Sweden could remove the requirement to be a member in the professional organization to legally practice. This would improve its score in this indicator **from 1.41 to 0.98**³⁰².

³⁰² Revised values are still above 0 because as mentioned the special conveyancing regime justifies some regulatory.

Empirical research has shown that reducing regulatory barriers in professional services can foster entry and bring about greater competition on quality and prices.³⁰³

4. Assessment of the regulatory set-up in network sectors where the Plan envisages infrastructure investments

In the Plan, Sweden is proposing to invest in the following sectors that are included in the PMR indicators:

- **Transport by rail** (e.g. Component 1. Investment 4. 'Investment: Strengthened railway support', aiming at upgrading several railways and incorporating road safety installations in the railway infrastructure).
- **E-communications** (e.g. Component 4. Investment 2. 'Broadband expansion', which shall fund support for the expansion of broadband connectivity where market operators cannot expand on a commercial basis).

According to a recent study by the OECD (Demmou and Franco, 2020),³⁰⁴ sound governance of infrastructure investment and procompetitive regulation in network industries are associated with stronger productivity growth in firms operating in downstream markets. In addition, sound governance of the sector regulators magnifies the downstream productivity effect of infrastructure investment and improves the efficiency of firms operating in network industries.

Since Sweden's Plan includes infrastructure investments in various network sectors, assessing the regulatory framework and the governance of the relevant sector regulators can shed light on whether improvements could still be made to the regulatory environment that would ensure that these investments are more productive.

4.1. Insights from PMR sector indicators for network industries

Figure 4 shows how Sweden performed in the 2018 PMR sector indicators for those networks industries where it plans investments, together with the relevant OECD average and the average of the five best performing OECD countries.

An empirical analysis of services regulation by Monteagudo et al. (2012) shows that the implementation of the EU Service Directive has generated gains to GDP, ranging from 0,26% to 1,78% depending on Member State (see: Monteagudo, Josefa; Rutkowski, Aleksander and Lorenzani, Dimitri (2012), "[The economic impact of the Services Directive: A first assessment following implementation](#)", No 456, European Economy - Economic Papers 2008 – 2015.

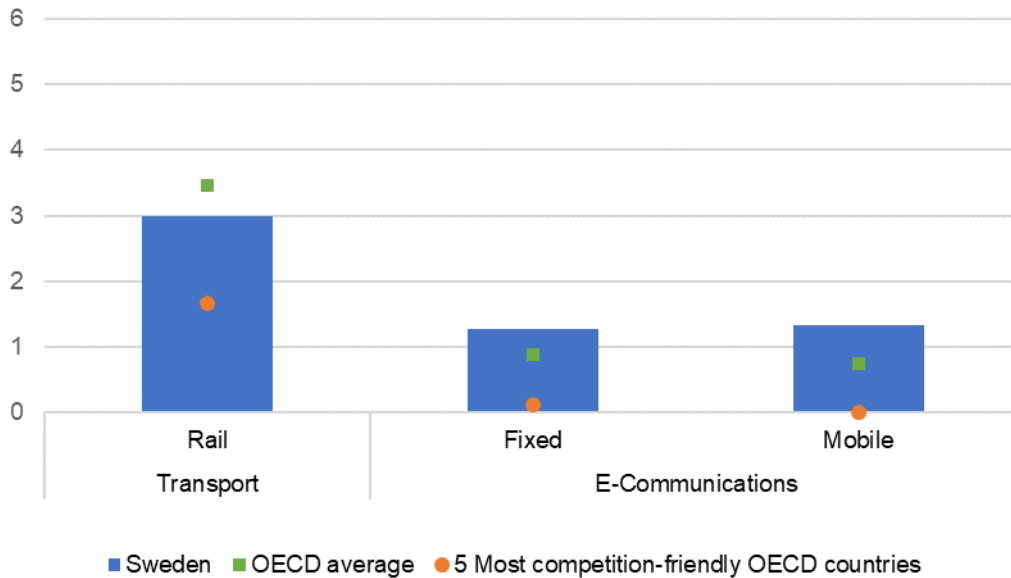
A study conducted by the European Commission shows that removing regulatory barriers can lead to a 3% to 9% increase in entry of professionals into a specific market (European Commission, 2017) "[Proposal for a Directive of the European Parliament and of the Council on a proportionality test before adoption of new regulation of professions](#)".

A study by Morris M. Kleiner, Evan J. Soltas using United States' data shows the positive impact of removing licensing requirements on prices paid by consumers and employment. (see: M. M. Kleiner, E. J. Soltas (2019) "[A Welfare Analysis of Occupational Licensing in U.S. States](#)")

³⁰⁴ Lilas Demmou, Guido Franco (2020). [Do sound infrastructure governance and regulation affect productivity growth? New insights from firm level data.](#) OECD Economics Department Working Papers No. 1609.

Figure 4. PMR sector indicators for E-communications and Rail Transport

Index scale 0 to 6 from most to least competition-friendly regulatory framework



Note: All the averages include only OECD countries. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019.

Source: OECD 2018 PMR database

The following conclusions can be derived from this figure and the analysis of the relevant indicators:

- Sweden's regulatory set-up in the **rail transport** sector is more competition-friendly than the OECD average. Both the passenger and freight transport markets are open to competition and there are a number of passenger and cargo operators active in the market besides state-owned firms. In the passenger transport market, competition is a mix of open competition on some rail routes and competitive tendering for others. The score is driven by the fact that the largest providers of passenger transport services (*SJ AB*) and freight transport services (*Green Cargo AB*) are state-owned.
- Regarding the **e-communications** sector, Sweden scores above the OECD average in both fixed and mobile telephony markets despite having competition-friendly regulatory framework. The score is mostly driven by the fact that the government controls *Telia*, the largest firm in the mobile and fixed markets. In addition, in the mobile telephony sector Sweden does not require operators to publish and update a reference offer detailing all the terms and conditions relative to the provision of wholesale mobile call termination services³⁰⁵.

³⁰⁵ In the fixed e-communications market the Swedish model, where municipality-owned companies are responsible for installing the fibre necessary to deploy high speed and high quality connectivity (such as Stokab in Stockholm, Gothnet in Gothenburg) has ensured that private operators that wish to buy or rent capacity can do in a simple and effective manner. This is an interesting and successful feature of this market, but it is not captured directly by the PMR indicator.

4.2. Insights from OECD indicators on the Governance of Sector Regulators

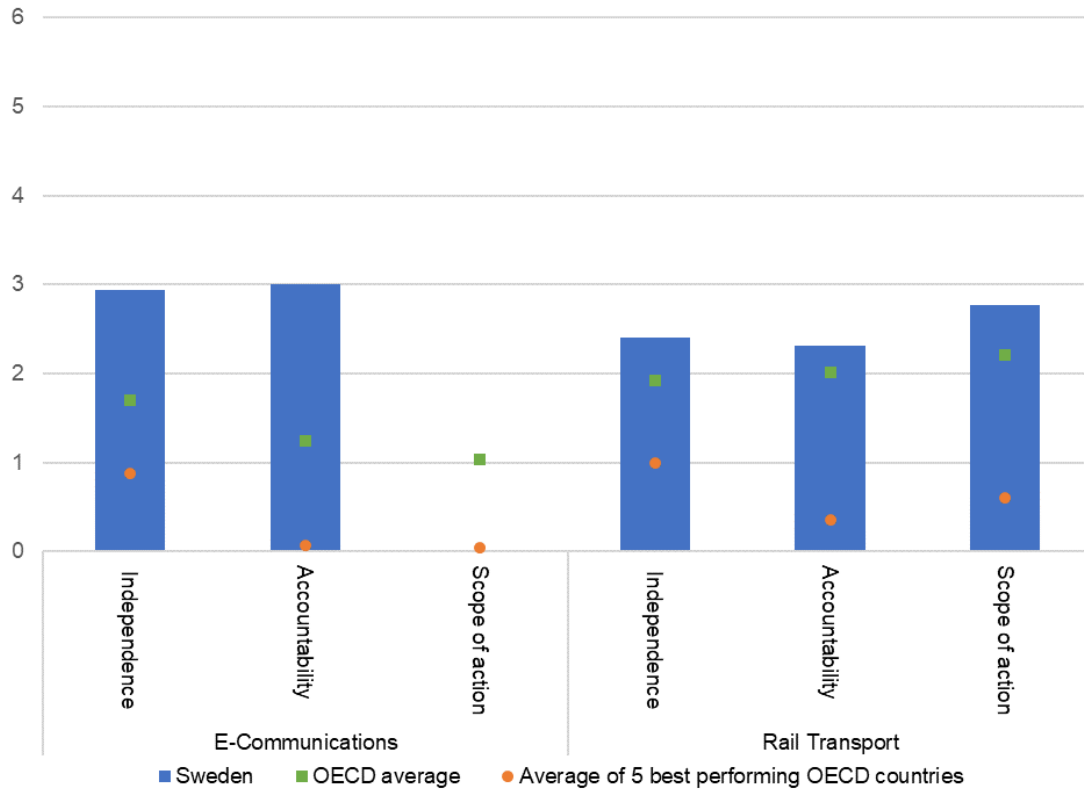
The assessment of the OECD indicators on the Governance of Sector Regulators³⁰⁶ complements the overview of the regulatory environment in the network sectors provided by the PMR indicators. The objective of these indicators is to evaluate the governance arrangement of sector regulators. In particular, these indicators focus on three key institutional characteristics:

- *Independence*, which captures the degree to which a regulator operates with no undue influence from the political power and the actors of the sector it regulates;
- *Accountability*, which is meant to reflect the accountability of the regulator vis-à-vis relevant stakeholders, including the government, parliament, the regulated industry and the general public;
- *Scope of action*, which captures the range of activities that the regulator carries out, including tariff-setting, issuing standards, enforcement activities and sanctioning powers.

The values of the 2018 Indicators on the Governance of Sector Regulators for the two sectors where the Plan envisages investments are shown in Figure 4.

³⁰⁶ The database and all working papers related to the Indicators on the Governance of Sector Regulators can be found at this [webpage](#).

Figure 39. Indicators of Governance of Sector Regulators for E-communications and Rail Transport



Note: The database does not include all OECD countries in some sectors. In the e-communications sector, the averages include all OECD countries except Estonia. In the rail transport sector, the averages include all OECD countries except Iceland and Korea. Information refers to laws and regulation in force on 1 January 2018, except for Costa Rica, Estonia and the United States, for which the information refers to 1 January 2019. If the blue bar for one or more indicators does not appear on the chart, it means that its value is 0.

Source: OECD 2018 Database on the Governance of Sector Regulators

E-communications

The results for the e-communications regulator show room for improvement in terms of governance arrangements for independence and accountability.

To better safeguard its independence, the skills required by the head of the regulator and the board members, as well as restrictions regarding their employment history, could be set in legislation. Currently, the regulatory framework lacks clear criteria for dismissing these executives. This is important to reduce the chance of arbitrary dismissal. In addition, the selection of executives does not involve an independent panel, which could help ensure that the best candidates reach the final stages of nomination and appointment. On another note, no mandatory approval from the government should be necessary for the regulator to propose new regulation.

The e-communications regulator could also be made more accountable. There may be room for the regulator to strengthen its accountability to parliament by being required to answer requests from or attend hearings organized by parliamentary committees, as well as to present a report on its activities to the legislative chambers. Lastly, the regulator could be required to motivate with evidence and data all of its regulatory decisions.

Rail Transport

As Figure 4 shows, the rail regulator does not perform well in the independence and accountability components of the indicators. Indeed, it lacks several governance arrangements to promote independence, such as introducing restrictions regarding the skills and the employment history required to become the agency head or a board member. In addition, the government alone has the power to dismiss these executives: introducing additional 'checks' can limit the possibility of arbitrary dismissal. Lastly, the agency board members and the head are not subject to a mandatory cooling-off period after their term in office. This arrangement would reduce the undue influence emerging from 'revolving doors'.

The accountability of this regulator could be improved by requiring it to answer requests from or attend hearings organized by parliamentary committees. Furthermore, the rail regulator could be required to publish a yearly activity report and a forward-looking action plan.

Lastly, the rail regulator does not perform some functions that are common among its OECD peers. For instance, it does not regulate prices on monopoly services and activities and does not issue industry standards, consumer standards, guidelines, or codes of conduct.