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Conference Proceedings – 14th OECD Conference on Measuring Regulatory Performance

Strengthening democracy through more participatory, responsive and transparent rule-making

19-20 September 2023, Helsinki, Finland

This document presents the conference proceedings from the 14th Measuring Regulatory Performance Conference, hosted in Helsinki by the Eduskunta (the Finnish Parliament), the Prime Minister's Office, the Ministry of Justice, the Ministry of Economic Affairs and Employment, and the Finnish Innovation fund SITRA. The conference theme was "Strengthening democracy through more participatory, responsive and transparent rule-making".

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Key points and conclusions

The 14th Measuring Regulatory Performance Conference on “Strengthening democracy through more participatory, responsive and transparent rule-making” was hosted by the Eduskunta (the Finnish Parliament), the Prime Minister’s Office, the Ministry of Justice, the Ministry of Economic Affairs and Employment, and the Finnish Innovation fund SITRA in Helsinki on 19-20 September 2023. The event attracted over 90 participants from nearly 25 countries.

Participants had diverse backgrounds in government, academia, the private sector or NGOs – all of which are central actors in stakeholder engagement. The conference additionally benefited from expertise and insights from parliamentary services.

A call to action

There was broad agreement on the importance and potential for enhancing citizen’s engagement in rule-making to achieve better regulatory and policy outcomes, that strengthen democracy and trust in institutions. Actively seeking input from those affected is integral in constructing a sound evidence-base for better regulation.

Participatory rule-making matters. Consultations themselves can be valuable to stakeholders. They are often the means by which stakeholders “experience” rule-making. It gives opportunities to hear from “unusual suspects” – marginalised, underrepresented, and other often unheard voices. Participatory rule-making reduces government knowledge and data gaps, and means not just listening but also acting on feedback. Better engagement promotes legitimacy and a fairer, wider view of any resultant rules. When executed effectively, these measures not only cultivate trust, but also yield better quality rules and a more predictable environment for all people. The value-added of consultations extends beyond the policy outcome – it contributes to strengthening democratic principles.

Several challenges exist

Engaging stakeholders is not without difficulties. The main issues raised involved time, resources, and knowledge barriers.

- **Citizen’s engagement takes time and resources of all involved.** For policy makers, the improvement in policy design needs to be worth the investment, and this may not always be known with certainty in advance. For stakeholders, they need to be heard, have their input taken into account, and be given feedback for their investment to be justified.
- **Policy makers face knowledge gaps in terms of selectivity, representativeness, and determining who consulted stakeholders represent.** Governments also struggle to engage with stakeholders in ways that best work for those affected, rather than what is preferred by policy makers. Stakeholders may therefore be unaware of consultations, unable to participate, or unwilling to join in a format that they are not comfortable with.

- **Timing and resources endure as challenges in producing high-quality regulatory impact assessments (RIAs).** In part this is because RIAs commence too late in policy development and are more targeted towards justifying a decision already made, rather than being used as an iterative tool to aid decision-making. However, it is also because RIAs are becoming increasingly comprehensive. Governments are rightly considering a broader range of potential impacts resulting from rule-making, but this requires additional time and resources.
- **Legislative bodies involvement typically occurs very late in the rule-making process – after a decision to regulate has been made in most instances.** Most legislative bodies have some research support services available, but in practice the level of resources is generally insufficient to undertake detailed analysis. It was also noted that legislative committees often engage with the same stakeholders and experts as policy makers, resulting in limited new input and potential consultation fatigue. The general lack of co-ordination and co-operation between the government and the legislative bodies in their respective rule-making activities can also affect outcomes.

Practical solutions and necessary changes

Conference participants identified the following practical solutions to overcome the identified challenges.

- **Both decision-makers' and policy makers' attitudes need to change to recognise that being afforded the opportunity to participate in rule-making is important for stakeholders.** The required cultural change will take time but is key to improving stakeholder engagement.
 - **Avoid consultation in instances where decisions have already been made.** Governments should not undertake “tick a box” consultation as it erodes trust. It also breeds cynicism across policy makers about the value of engagement and can disappoint and dissuade stakeholders from future consultations.
 - **Governments need to engage early and frequently with stakeholders,** when identifying the magnitude of a problem and considering potential options to resolve it. In short, governments should consult when consultations still matter, that is, when changes can still be made. Moreover, stakeholders should be given feedback about how their input has been taken into account in shaping any final rules.
 - **Governments can benefit from harnessing digital solutions, however, online consultation approaches should not be the sole engagement method.** Policy makers need to devote time and resources to understand structural barriers that might hinder participation (e.g. language, location, culture) and design consultations that are tailored to the needs of the audience. Such an approach will almost inevitably require governments to use multiple communication channels to reach all affected parties. Digital tools can help policy makers raise awareness, engage in social discourse and utilise social media platforms to engage with younger generations.
 - **Governments need to redesign RIAs to make them more effective.** RIAs should not merely record government decisions – they should also serve as tools to make complex information accessible. RIAs should include a clear explanation of facts, the potential advantages and disadvantages of alternative regulatory and non-regulatory options, and a summary of stakeholder feedback. Balance is needed between quantitative and qualitative assessments of impacts, and a holistic approach to consultations should be adopted to qualitatively identify potential effects. Presenting RIAs in a clear and accessible manner can help better inform decision-makers and make the analysis more understandable to stakeholders.
- **Engaging “unusual suspects” requires careful planning, collaboration, and dedicated resources.** Governments should begin with a consultation plan. Policy makers should identify the social group(s) most affected, and how they are impacted, specifically on the nature, effects,

magnitude, and length of time. Such an approach not only helps to identify various groups affected (e.g. young, elderly, socially disadvantaged etc), but also to identify potential differences within the identified groups.

- **Improved collaboration and knowledge-sharing is necessary between government and parliament.** Parliament should be viewed as a key stakeholder in rule-making and provided with the opportunity to provide input into consultations or be engaged in opinion or perception surveys. Benchmarking and structured co-operation between the government and the parliament were suggested as potential solutions to enable parliaments to benefit from better regulation practices.
- **Governments need to better track their stakeholder engagement practices.** Indicators can be an important accountability measure and create a feedback loop for continued improvement. Basic data includes tracking the numbers of consultations carried out as a percentage of regulatory proposals, the extent to which various groups were included to ensure representativeness, how many proposals were modified as a result of stakeholder consultation comments received and the percentage of consultations that included feedback to stakeholders on how their input was taken into account. Perception surveys of officials and stakeholders, and experiments can measure the actual impact of more consultative and participatory approaches on resulting policies. Furthermore, assessing whether consultations genuinely reach all affected parties, and whether regulatory impacts on affected stakeholders were considered in the regulatory proposal constitute key information to evaluate the quality and coverage of stakeholder engagement. Data and indicators need to be combined with qualitative evaluation methods to identify areas and concrete actions for improvement, and to track progress over time in a meaningful way.

Conference proceedings

Opening remarks

Speaker: Pekka Timonen, Permanent Secretary of the Ministry of Justice, Finland

The Permanent Secretary of the Ministry of Justice Pekka Timonen acknowledged the importance of the role of high-quality rule-making in a robust democracy grounded in the principles of the rule of law. He emphasised that recent global events have underscored the crucial need for rules to not only be effective but also responsive to citizens' needs. Improved outcomes emerge from rule-making that is precise, evidence-based, and inclusive.

Rules are public goods, so governments should seek out people when rule-making. Actively soliciting insights from those who implement, interpret, or bear the consequences of regulatory impacts is integral in constructing a robust evidence-base for rule-making. Obtaining evidence necessitates transparency in policy making, timely and genuine opportunities for participation, and strengthened collaboration with stakeholders. When executed effectively, these measures not only cultivate trust in the legislative process but also yield more efficient regulation and a more predictable legal landscape for all citizens.

Mr. Timonen highlighted the collaborative efforts among the Finnish line Ministries in crafting shared policies and guidelines, contributing to the improvement of the overall quality of law drafting in the Finnish Government. He also highlighted Finland's newly adopted government principles for monitoring and ex post evaluation, which will contribute to building a knowledge reservoir for future rule-making, promoting transparency and accountability.

Stakeholder consultations strengthen the evidence base of rule-making, but are equally important throughout rules' entire lifecycle. Mr. Timonen acknowledged the invaluable contributions of regulators, civil servants, academics, and stakeholder representatives, highlighting their pivotal role in shaping democratic decision-making, fostering societal well-being and building trust through concrete actions.

Speaker: Gillian Dorner, Deputy Director, Public Governance Directorate, OECD

OECD Deputy Director Gillian Dorner underscored the alignment of the theme of the conference with the OECD Reinforcing Democracy Initiative, highlighting that better regulation is central to the Initiative by promoting key values of democracy, including the rule of law, transparency, accountability, equality, and citizen participation. She highlighted the leadership of Finland in advancing the OECD's work on trust in public institutions and open government.

She emphasised that citizen's engagement in laws and regulation influence the functioning of democracy and the credibility of institutions, noting that trust in government matters and needs investment. She flagged that results from the 2021 OECD Trust Survey show that governments can do more to meet people's expectations on participation indicating that a third of respondents believed that the political system granted them a meaningful voice. Governments must extend their reach to stakeholders more inclusively and shift towards making inclusivity the norm rather than the exception, and engage minority groups, low-income households, and small businesses more effectively in rule-making.

Panel 1: Reflections on participatory, responsive and transparent rule-making in Finland

Speakers:

- Tiina Astola (former Director-General at DG JUST, European Commission)
- Jennifer Brown (Director of Policy and Stakeholder Relations, Regulatory Affairs Sector, Treasury Board Secretariat, Canada and Chair of OECD Measuring Regulatory Performance Steering Group)
- Rolf Höijer (Senior Advisor, Ministry of Climate and Enterprise, Swedish Government Offices)
- Kati Rantala (Research Director, University of Helsinki)
- Timo Tuovinen (Deputy Secretary General, Eduskunta, Finland)

Moderator: Anna Pietikäinen (Head of OECD Regulatory Policy Division)

The panel discussions centred around insights into the challenges and opportunities in rule-making. The session explored the strengths and challenges of participatory, responsive, and transparent rule-making, while highlighting Finland's and international practices in this area.

The panellists acknowledged the importance of listening and considering the perspectives of all stakeholders involved in the rule-making process. While recognising the value of participatory approaches, it was noted that many countries have struggled to implement regulatory reforms effectively. Only a few countries systematically consult stakeholders at the early stages of rule-making when options are still being considered, compared with engagement occurring more frequently at later stages once a regulatory draft exists. Similarly, involving stakeholders in *ex post* evaluations remains limited across OECD countries. It was emphasised that democracy may only endure as long as it effectively addresses societal challenges and diverse perspectives.

The panellists noted several positive aspects of participatory rule-making, including:

- Valuable data obtained from consulting stakeholders;
- The opportunity to hear voices that might otherwise be unheard;
- Interest groups' active involvement; and
- Broader public discourse.

Tiina Astola highlighted that in contrast to the past, where closed groups and consultations dominated, today's rule-making processes aim for broader discussions and increased transparency. Several advancements, such as the introduction of guidebooks and improved transparency via expert assessments and internal government co-ordination meetings, have contributed to enhancing the quality of rule-making.

Despite the improvements in consultations and stakeholder engagement practices, countries still encounter challenges during the policy making process. Timo Tuovinen pointed out that parliamentary committees often engage with the same stakeholders and experts as ministries, resulting in limited new input and possible stakeholder fatigue. While the quality of law drafting has improved, criticism is often aimed at law drafting and impact assessments, although the root issue often lies in resource and time constraints. Furthermore, the lack of resources poses an ongoing challenge to achieving diversity among stakeholders engaged in consultations, who are often unaware that they have an opportunity to input in rule-making.

Panellists emphasised that marginalised and underrepresented groups need to have, and also benefit from having their experience-based knowledge and views incorporated in rule-making. Kati Rantala emphasised the challenges that policy makers face when determining who to consult included issues of selectivity, representativeness, and determining who the consulted stakeholders genuinely represent. Panellists stressed the following strategies to address these challenges including:

- Considering more experience-based perspectives;
- Ensuring the representativeness of consulted groups;
- Encouraging regulators as implementers of rules to assess their effectiveness.

Public institutions need to be willing to co-operate and engage in consultations for them to work well.

Panellists highlighted that engaging hard-to-reach groups requires careful planning, collaboration, and dedicated resources. For instance, Kati Rantala highlighted Finland's successful consultations with prisoners and asylum seekers were the result of meticulous planning and co-operation. In addition, Jennifer Brown shared an example of a successful consultation undertaken by Health Canada. She emphasised that the success of the consultation process and the gained trust stemmed from educating and explaining the functioning of the rule-making process to the stakeholders consulted.

Even with limited resources, significant strides can be made by asking the right questions, focusing stakeholder engagement to issues such as those related to risks. The panellists agreed that research was instrumental in identifying impacts that might otherwise remain undisclosed. It allows policy makers to gain deeper insights into potential consequences, facilitating better-informed decision-making. However, research can be time-intensive, particularly for targeted consultations, and may also require considerable resources.

Rolf Höijer emphasised the need to assess distributional impacts thoroughly. Suggestions included conducting open consultations, examining micro-distribution of impacts and the beneficiaries of rules, and addressing biases in representativeness. Approaches advocated were using citizens' panels with randomised selections, and focusing on marginalised voices. Consultations should be carefully structured, involve open ended questions and targeted in order to gain richer insights.

Panel 2: Strengthening accountability through more participatory, responsive and transparent rule-making

Speakers:

- Veera Heinonen (Director, Democracy and participation, SITRA)
- Katju Holkeri (Chair of the OECD's Working Party on Open Government, Head of Unit for Governance Policy Unit in the Finnish Ministry of Finance)
- Niko Pankka (Head of Public Affairs, Central Organisation of Finnish Trade Unions (SAK))
- Aidan Sweeney (Senior Executive, Government, Enterprise and Regulatory, Ibec; Business at OECD (BIAC) Governance and Regulatory Policy Committee Vice Chair)
- Franklin de Vrieze (Westminster Foundation for Democracy's Head of Practice for Accountability)

Moderator: Christiane Arndt-Bascle (Head of OECD Measuring Regulatory Performance Programme)

The panel discussion opened with broad agreement that there is improved design and enhanced compliance when affected people understand the potential impacts of rules. Niko Pankka added that more participatory and transparent processes create better environments for both *ex ante* impact assessment and *ex post* evaluations.

The panellists agreed that stakeholder engagement is important in and of itself. It is important to also consider the aspect of how stakeholders often “experience” regulation. Veera Heinonen noted that in a UK consultation on climate studies for instance, that just being involved in the participation changed peoples’ behaviours, and also led to dissemination of knowledge with friends, colleagues and so on. In the Finnish context, Katju Holkeri highlighted the example of migration dialogues. Participation took place in small groups organised by NGOs. It was noted that the participation “moment” was important and a win-win for both participants and the organisers. Moreover, the outcomes from the consultations were able to help the government form its position as they had taken place sufficiently early in the rule-making process.

Recognising that the opportunity to participate in rule-making is important for stakeholders will require a shift in policy makers’ attitudes. The panellists provided tangible advice to ministries, starting with the need for a consultation plan. As part of that, Franklin de Vrieze added ministries should identify the social group(s) most affected, and how they are impacted, specifically on the nature, effects, magnitude, and length of time. He noted that it is important to have precise questions and sufficient time for ministries to act on the information received.

Panellists were at pains to point out that engagement should be avoided in instances where decisions had already been taken. They urged governments not to undertake “tick a box” consultation as it erodes trust. They reemphasised that governments need to engage early and often with stakeholders, when identifying the magnitude of a problem and considering potential options to resolve it. In short, the panellists called on governments to consult when consultations still matter, that is, when changes can still be made.

Panellists discussed the means of communication with stakeholders. The COVID-19 pandemic forced – and in many instances accelerated – governments’ use of online communication methods. However, Veera Heinonen considered that governments are not yet harnessing digital solutions to their full potential. She pointed out that the Finnish innovation fund Sitra had launched an online survey “What do you want Finland?”, which attracted over 18,000 participants, who cast over 950,000 responses. This ranged from debating the price of petrol to how Finland should organise the government budget. She also emphasised that governments need to make better use of social media platforms – particularly to engage with younger generations – while acknowledging that it is not the best means to facilitate consensus building. Its role is rather in awareness raising and engaging in social discourse, which is a missing aspect of engagement in many countries. Katju Holkeri noted that an online portal for young people (digiraati.fi) has just been renewed in Finland and is currently in its pilot phase. In the migration dialogue with citizens, the participants

involved people from eight to 89 years of age. The stakeholders found the dialogues useful, with more than 90 per cent noting interest to be involved in future ones as well.

Panellists agreed that online consultation approaches should not be the sole means employed by governments. Governments need to tailor their approaches to suit the means most likely to be used by stakeholders – and that almost inevitably will require governments to use multiple communication channels to reach all affected parties. More direct deliberative approaches were raised as a real possibility for governments. Indeed, in Ireland such an approach was used to decide to approve abortion which had been a very divisive issue. Katju Holkeri noted that it is necessary to consider how citizen panels can be linked to core policy issues and processes. Deciding which issues to bring to the citizens panel will be important, not least because of the resources involved in undertaking them. As Veera Heinonen noted however, it is paradoxical that the Finnish Government often claims that it has a highly educated society on the one hand, but on the other it notes that issues are too complex for citizens to understand.

Panellists discussed the linkages between participation and trust. Niko Pankka mentioned that better engagement promotes legitimacy and a fairer, wider view of any resultant rules. Stakeholders consider that transparent systems help to promote compliance and trust as people understand the basis for decisions. Aidan Sweeney noted that trust had suffered recently, for example due to government decisions around the COVID-19 pandemic. He observed that a lot of rules avoided stakeholder engagement processes. One rationale given was that businesses were closed. He further noted that a lot of rules were announced on a Friday evening in Ireland and thereby often avoiding scrutiny.

Discussions also focused on the consequences of rule-making not being made through participatory, responsive and transparent means. Franklin de Vrieze noted three risks, the first being around perceptions of corruption. To combat this, the Westminster Foundation for Democracy has undertaken early identification exercises via “corruption proofing”. The second risk related to a lack of oversight and scrutiny in emergency situations. There has been a tendency by governments to use emergencies to “sneak in” other issues that can undermine trust. The third risk was leaving people behind. An example of avoiding this was in the post-implementation review of regulations relating to the Care Quality Commission in the UK.¹ The review exacted evidence in sign language and various disabilities, including physical, visual, and learning were all involved. He noted that it was important that stakeholders saw that more efforts were made to reach out to affected parties to boost trust in any rule changes.

Aidan Sweeney noted various peer-to-peer approaches such as the OECD mis- and dis-information hub and sharing case studies to help governments determine the approaches they should follow. He emphasised that governments should not be fearful about getting rules wrong – and that this important conversation is simply not taking place currently. Katju Holkeri noted that the OECD review into trust in Finland was very useful to get a direct message to policy makers. Panellists noted that identifying the main categories of stakeholders is critical in the context of administrative simplification exercises. There is often a risk that archaic rules are removed that have no impact, and while there may be some low hanging fruit, there will also be blind spots. It was also noted that the focus should be on removing *unnecessary* burdens: reducing rules, standards etc are not without risks. Currently there is a debate around the risks of environmental impacts and polluted rivers in the UK. Legislative success needs to be redefined. It is not about volume. It is about impact.

¹ Department of Health and Social Care (2023), Post-implementation review of regulations relating to the Care Quality Commission. <https://www.gov.uk/government/consultations/post-implementation-review-of-regulations-relating-to-the-care-quality-commission/post-implementation-review-of-regulations-relating-to-the-care-quality-commission>.

Breakout session 1: Role of parliament in better regulation

Discussants: Roger Küttel (Advisor Regulatory Policy and Analysis, State Secretariat for Economic Affairs, Switzerland), Emilia Korkea-aho (Professor of European Law and Legislative Studies, University of Eastern Finland)

Moderator: Paul Davidson (Policy Analyst, OECD Measuring Regulatory Performance Programme)

The first discussant noted that parliament is an important player in better regulation, but politicians are unfamiliar with the often technical language used. Parliament has a key role itself in carrying out public evaluations of government policies. Various parliamentary motions in the Swiss Parliament have had a better regulation focus in the past 5-10 years; including on RIA and the creation of an independent oversight body. While these motions ultimately failed, they nevertheless demonstrated recognition and an appetite from parliament to improve the objectivity of decision-making in Switzerland.

The second presentation noted that better regulation is primarily driven by the government, but it is a shared or joint responsibility with the parliament. This was termed as an “active agency” in realising better regulation goals. From a parliamentary perspective, the opportunities afforded for both pre- and post-legislative scrutiny serve as two vital functions in the overall operation of better regulation. That said, it was also noted that the quality of the scrutiny role played can reflect an absence of skills. The current system relies heavily on the goodwill of the better regulation actors through informal or soft law means. One suggestion in the European context to overcome this issue was to create semi-permanent bodies.

Discussants noted various approaches to parliaments’ role in better regulation in OECD countries. At the outset, parliament plays a crucial oversight role of executive action. One suggested way to utilise parliament to improve executive rule-making was to refuse to vote on Bills without impact assessments, or in situations where the relevant oversight body had rejected a submitted impact assessment. Parliamentary institutions play an important regulatory quality role, although in practice it is often unfulfilled. For instance, most countries have entities responsible for providing research directly to parliamentarians, although there were significant differences in the levels of resources and capacities across countries. In practice this meant that undertaking some level of impact assessment was far beyond the capabilities of most research services. One observation was that communication between relevant government ministries and parliamentary research services is low, and in some cases non-existent. At an institutional level, unsuccessful attempts had been made in some countries to adopt something akin to the Interinstitutional Agreement between the European Commission, European Parliament, and the Council.

Discussions concluded that parliamentary involvement typically occurs very late in the rule-making process. It was noted that parliamentarians’ opportunities to put questions to ministers is after the relevant Bill has been tabled, and there may not be a significant amount of parliamentary time before the Bill is put to a formal vote. One interesting example highlighted to try and overcome this issue was to allow civil servants from the relevant ministry to directly assist parliamentarians in understanding the potential impacts of a Bill. However, this approach was not without problems of its own in terms of putting pressure on civil servants as they had to effectively remain independent from their own ministry whilst undertaking such work. Another point noted was that longstanding monitoring and evaluation plans by the executive were often amended or added to during the parliamentary process, meaning that ministerial resources required reallocating to reflect these changed priorities.

The work of parliamentary committees was raised as an important check on executive action. Discussants noted that the committee processes often allow for submissions, hearings, and other forms of engagement from interested parties. Although it was noted that there is a risk that parliamentarians are limited to hearing from the “usual suspects” that had the time and resources to engage in the government’s original proposal. Not only does this risk a duplication of efforts, it also risks creating confirmation bias for the resultant policy depending on the reactions of the government when it proposed the original rule. Concerns of consultation fatigue were also noted. It was further noted that parliamentary committees can announce inquiries into

matters of public importance, and that these may take place alongside work of relevant ministries in identifying issues and proposing potential solutions, thereby risking duplication.

The last major issue raised was that by and large, better regulation principles do not apply to parliamentary-led initiatives. This additionally relates to amendments to Bills, which generally originate from the government in most OECD countries. It was noted that adopting better regulation principles could be viewed as impinging on the powers of the parliament as the supreme rule-making body. Nevertheless, in an analogous way to better regulation's associated improvements to government decision-making, better regulation also offers benefits to parliament's rule-making activities.

Discussants agreed that there was a demonstrated need for the executive and parliament to improve both co-ordination and co-operation. One suggestion was to invite parliamentary representatives to existing executive-led activities, such as various workshops (e.g. on regulatory impact assessment and other regulatory management tools, as well as transposition workshops in the European Union Member States), which could become platforms for national parliaments to utilise. Discussants agreed that increasing outreach between the government and parliament is important to help overcome some of the identified difficulties. One suggestion was for the OECD to strengthen the involvement between the Regulatory Policy Committee and other existing institutions such as the Global Parliamentary Network.

Breakout session 2: Measuring the impact of more participatory, responsive and transparent rule-making

Discussant: Petri Uusikylä (Research Director, University of Vaasa)

Moderators: Christiane Arndt-Basclé (Head of OECD Measuring Regulatory Performance Programme) and Estera Szakadatova (Junior Policy Analyst, OECD Measuring Regulatory Performance Programme)

The discussions of the breakout session centred around exploring innovative methods for measuring how stakeholder engagement can enhance the decision-making process and boost the acceptance of regulations. The primary aim was to advance methodologies for assessing the quality and effects of stakeholder participation and transparent processes throughout the legislative and regulatory cycle.

OECD data shows that only 10 OECD countries publish reports on the performance of consultation practices on draft regulations, and only five countries publish indicators on the performance of consultation practices. These results acknowledge the limited government involvement in assessing the performance of the rule-making process. Generally, publishing information and data on the performance of regulatory management tools can enhance the transparency and quality of rule-making and foster support and buy-in for rules. However, to achieve a comprehensive understanding of rule-making, participants recognised the necessity of breaking down the regulatory policy cycle into distinct phases and identifying key indicators for each stage. It was emphasised that the development of these indicators should be a collaborative effort involving policy makers and stakeholders affected by the policies.

The discussant shared an example of a study² measuring the quality of aspects of the law drafting process including the quality of stakeholder engagement, regulatory impact assessment and *ex post* evaluation. The success and reliability of the indicators and insights into the law drafting process were supported by engaging both law drafters and stakeholders in the evaluation. The distributed survey featured a blend of closed and open questions, complemented by qualitative interviews. The good response rate and engagement of internal and external stakeholders underscored the considerable significance and interest both respondents attached to better regulation.

One of the most noteworthy findings from the study highlighted significant disparities in perceptions between law drafters and stakeholders, particularly concerning the quality of stakeholder engagement. Law drafters tended to perceive the process as open and inclusive, allowing for broad participation. However, stakeholders expressed concerns about the lack of interactivity, suggesting that they would like to receive more feedback from policy makers on how their comments were used.

The indicators generated from this study hold promise in multiple applications according to their authors. They can be integrated into a performance management system of ministries, or alternatively, the indicators can be employed as a self-assessment tool. The indicators provide in-depth information of what worked, what did not, and help to identify opportunities for further process development in the use of better regulation tools.

Building on the presentations, participants in the breakout session brainstormed about ways to measure the quality of stakeholder engagement at all stages of the policy cycle. These suggested measures could include:

- Measuring the impact of more consultative approaches on rules by using for example anonymous perceptions surveys of officials and stakeholders to understand the actual impact of consultations on the development of rules. Experiments (e.g. randomised controlled trials) can also be used to assess the impact of more participatory and inclusive rule-making practices.

² Uusikylä, P. et al. (2023), *Quality indicators of the regulatory law drafting process in Finland*. Available at: <https://julkaisut.valtioneuvosto.fi/handle/10024/164973>.

- Tracking the number of revised regulations based on input from stakeholder engagement.
- Metrics on the frequency and transparency of consultations including on the provision of feedback to stakeholders on how their comments were taken into account, collecting information on the number of comments and clicks received on each consultation.
- Metrics on the type of stakeholders included, assessing whether consultations genuinely reach all affected parties, assessing the participation of unusual suspects, the representativeness of stakeholder input, and the regional dynamics of stakeholder engagement.
- Assessing whether regulatory impacts on affected stakeholders were considered.
- Assessing the timeliness of legislative proposals and consultations.
- Soliciting feedback from stakeholders on the quality of the consultations.

It was emphasised that not receiving stakeholder comments also represents a form of feedback and policy makers should aim to identify why they were unable to engage stakeholders in consultations.

Participants agreed that ideally quantitative and qualitative research methods such as focus groups are combined to fully understand the quality of engagement processes in rule-making, identify gaps and priority actions for improvement.

Breakout session 3: Improving the transparency of impact assessments

Discussant: Nils Björkstén (Visiting Professor, College of Europe)

Moderators: Daniel Trnka (OECD Deputy Head of Regulatory Policy Division) and Gloriana Madrigal (Policy Analyst, OECD Measuring Regulatory Performance Programme)

The discussant opened the session highlighting the importance of improving the quality and clarity of information used in impact assessments. While there is a consensus regarding the need for better and more accessible information, it is often the case that time pressures, resource constraints, and administrative inertia limit their application. The discussant provided examples of ways in which administrations could improve transparency of impact assessments. For instance, some institutions have taken steps to increase the clarity of information by requiring public servants to comply with readability and language standards. This has helped convey technical messages to the public, politicians, and media; increasing the possibility of meaningful engagement and use of the data produced in the impact assessments. On the other hand, the way in which stakeholders are engaged during the regulatory process can help harness different insights to increase the quality of the information and evidence used by public officials. One way to increase the quality and diversity of the information is by facilitating the engagement of stakeholders by actively reaching out to relevant actors and by spelling out the rationale, expected impacts, interactions, and potential outcomes for the proposed regulation.

The discussion also focused on when and how stakeholders should be engaged in the regulatory process. Given that the regulatory impact assessment is a process rather than a specific point in the regulatory cycle, engagement should be continuous and tailored according to the specific situation. Among the examples shared by participants on ways to gather information from different groups were informal gatherings with colleagues from the administration to collect their views, directly reaching out to regulated parties, use of infographics or different communication methods. Furthermore, participants identified common challenges to systematically consulting with a wide range of stakeholders such as time constraints, limited staff, and political considerations.

The group also addressed the topic of quantification and qualification of impacts. While quantification of impacts increases transparency, it can be time and resource intensive, hence it is important that it is meaningful and useful for policy makers. By making the presentation of costs and benefits accessible, understandable, and transparent, politicians and decision-makers are more likely to utilise impact assessments. Another topic covered during the discussions is the obligation to quantify specific impacts (e.g. administrative burdens), but not the benefits. This might lead to difficulties balancing the costs and benefits of regulatory proposals with non-economic benefits (such as human dignity). One way in which regulators are dealing with this is by explicitly stating the benefits of a regulatory proposal as a first step in the impact analysis. This approach allows policy makers to keep track of the benefits, even if they are not quantifiable or easily measurable.

Panel 3: Improving engagement and outreach with “unusual suspects”

Speakers:

- Kristiina Kumpula (Chair of the Advisory Board on Civil Society Policy (KANE), Secretary General of the Finnish Red Cross Organization)
- Bairbre Meaney (Principal Officer, Youth Reform, Strategy and Participation, Department of Children, Equality, Disability, Integration and Youth, Ireland)
- Lauri Rapeli (Head of Research, Faculty of Social Sciences, Business and Economics, and Law, Åbo Akademi University)
- Salla Saastamoinen (Deputy Director-General, European Commission, Joint Research Centre)
- Johanna Suurpää (Director General, Department for Democracy and Public Law, Ministry of Justice, Finland)

Moderator: Daniel Trnka (OECD Deputy Head of Regulatory Policy Division)

The panel addressed the key issue of how policy makers can engage with “unusual suspects” and how to gather the points of views of those who are unable or unwilling to provide comments to public consultations. The topic is of relevance, given the need of administrations to foster trust in government action by engaging with different stakeholders to develop more robust, efficient, and people-centred regulations.

Panellists acknowledged that traditional means of carrying out consultations can have limitations when engaging with actors beyond the “traditional ones”. Moreover, avoiding consultation fatigue is crucial to connect to citizens and other groups in a meaningful way. One way to promote the engagement of different actors is to randomly select the participants for a specific consultation. This technique can be complemented by leveraging insights from academia to help design more robust sortition methods (e.g. stratification and randomisation). The European Commission has taken steps to reach out to different groups of citizens and increasing the diversity of the views collected to inform public policy. One example is the Conference on the Future of Europe,³ where citizens were invited to provide their views on different themes and policy areas. Participants were selected by sortition, and the consultation was done in the country’s national language, reducing entry barriers for participants. The positive results from this exercise have paved the way for the introduction of three citizens’ panels to develop recommendations on food waste, virtual worlds, and learning mobility.

The panellists explored strategies policy makers can leverage to ensure diversity in stakeholder engagement. Speakers underscored the need to devote time and resources to understand the structural barriers that might hinder participation (e.g. language, location, culture) and design consultations that are tailored to the needs of the audience. In this context, planning, prioritisation, and political support are key to ensure that limited resources are allocated in an efficient way and that the data collected through the consultations helps to produce high-quality policies. Finland’s experience with consultations on integrating migrants and with prison inmates can shed light on the critical success factors to engage with marginalised or non-traditional groups. Elements such as providing interpretation services, addressing the issues in an accessible and understandable way, and designing workshops close to the relevant communities have been fundamental to build trust in the administration.

³ European Commission – Conference on the Future of Europe. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en.

Understanding and addressing barriers preventing engagement with all affected parties is important to ensure that disengaged or marginalised groups are involved in rule-making. Identifying the target population and the information gaps faced are the first steps to designing meaningful public consultation. Complementing this with a sound engagement process and a long-lasting relationship between the administration and the different actors in society can help boost trust in public action and improve stakeholders' perception of public consultations.

Finally, the discussion covered the engagement process across different groups. While putting in place standards for consultation can help policy makers reach out to unusual suspects, providing support and feedback to ministries might be even more relevant. One good practice in this regard is the National Framework for Children and Young People's Participation in Decision-making developed by the Government of Ireland.⁴ The document provides useful information and guidance for departments, agencies, and organisations to foster the quality of their engagement with children and young people. Broadening the engagement with different groups calls for the development of new tools and expertise across the public administration. The provision of training and capacity building activities can help overcome barriers to involving specific groups (e.g. youth, elderly, etc.) in rule-making.

The panel concluded with the following advice for governments:

1. Create a safe space for participation, which can help foster trust from different groups.
2. Engage with civil society organisations or put in place advisory boards that can help bridge the distance between the administration and specific actors.
3. Develop practical tools and ways on how to successfully engage specific groups.
4. Establish permanent structures to increase trust.
5. Institutionalise the consultation process and involve different levels of government.
6. Consider the internal structure of specific groups. A deeper understanding of the community can help build a long-lasting relationship between the different parties and the administration.
7. Understand the incentives and drivers of citizens' participation to design an adequate consultation process.

⁴ Government of Ireland – Department of Children, Equality, Disability, Integration and Youth (2021), National framework for children and young people's participation in decision-making. <https://hubnanog.ie/participation-framework/>.

Plenary discussion: Plenary and table discussion

Rapporteurs:

- Susanne van Melis (Deputy Head, Legal Affairs and Regulatory Policy, Ministry of Justice and Security, Netherlands)
- Genovefa Ružič (Head of Division for Regulation and Public Administration Quality, Ministry of Public Administration, Slovenia)
- Steve Glange (Ministry for Digitalisation and administrative reform, Luxembourg)

Moderator: Paul Davidson (Policy Analyst, OECD Measuring Regulatory Performance Programme)

The plenary discussions centred around enhancing impact assessments and improving outreach and information exchange between governments and the parliament.

Underlining that both experts and officials often overlook the perspectives of various stakeholders, listening to a wide array of voices during rule-making is critical. Consultations play a pivotal role in enriching the stakeholder experience and fostering a sense of being heard and valued. The value-added by consultations extends beyond just the policy outcome – it contributes to strengthening democratic principles. Identifying barriers to engaging stakeholders or their representatives therefore significantly matter. Currently, existing barriers prevent certain stakeholders from participating effectively in consultations. To address this, it was suggested that consultation processes should prioritise accessibility and ease of use. Clear and concise information should be provided to ensure that stakeholders understand the importance of consultations and their potential impact on rule-making.

Governments need to redesign RIAs to make them more effective. Participants underscored that RIAs should not merely be documents; they should also serve as tools that make complex information accessible. This includes providing a clear explanation of facts, the potential advantages and disadvantages of alternative regulatory and non-regulatory options, and a summary of stakeholder feedback. Presenting the impact assessments in a clear and accessible manner can help better inform decision makers as well as make the analysis more understandable to stakeholders.

Challenges persist in producing high-quality RIAs. A balance has to be struck between the quantitative and qualitative assessment of impacts, and a holistic approach including consultations should be adopted to qualitatively identify regulatory effects. Regulatory benefits should be quantified to the extent possible. Amendments by parliamentarians may not be adequately assessed, which may create challenges in terms of understanding the full consequences of proposed changes. More resources should be devoted to monitoring and assessing whether rules meet their objectives.

There is a strong need for improved collaboration and knowledge-sharing between the government and the parliament. Parliament should be viewed as a key stakeholder in rule-making and provided with the opportunity to give input into consultations or be engaged in opinion or perception surveys. Considering the differences in parliamentary arrangements across OECD members, benchmarking, political commitment, and structured co-operation between parliament and executive were suggested as potential solutions to enable parliaments to benefit from better regulation practices.

The session broached the idea of making RIAs more iterative, allowing for stakeholder input at various rule-making stages. Publishing RIAs alongside consultations can lead to more effective consultations and ultimately better-informed decisions. However, it was also noted that at the early stages of policy development, consultations can be more targeted to a specific group of stakeholders to ensure confidentiality and enable deliberation to take place.

Closing remarks

Speakers:

- Susanna Siitonen, Director of Legislative Affairs, Ministry of Justice, Finland
- Anna Pietikäinen, Head of the Regulatory Policy Division, OECD

Susanna Siitonen highlighted the good collaboration across the Finnish administration in the organisation of the 14th MRP Conference, as the event brought together five national institutions who helped deliver a highly successful meeting. Furthermore, Susanna Siitonen underscored the importance of the regulatory community in the wider discussion around democracy. She concluded her intervention by welcoming future collaboration between Finland and the OECD.

Anna Pietikäinen opened by stating that it was somewhat unsurprising that conference participants gathered agreed on the importance of stakeholder engagement for rule-making. The conference clearly demonstrated that quality rule-making and quality stakeholder engagement are key to increase trust in government, and to improve both the quality of and compliance with rules.

The conference illustrated that consultation exercises themselves are valuable. In particular, when it is made clear how inputs have been taken on board or when inputs are provided through participatory moments, focussing on experiences. And this is possible – we have heard many examples of reaching beyond the usual suspects and how this has improved rule-making.

However, the discussions showed that there is also broad agreement that we need to improve how things are working. We do not have the luxury of continuing as business as usual; that this is not an option. We have also heard many comments and questions that are realistic on the challenges in securing resources and political support for going the extra mile. Unfortunately no silver bullet exists to convince politicians or civil servants to devote resources and time to stakeholder engagement. However, the conference has unearthed a variety of examples of concrete actions and practices that we can draw on and that we can share with policy makers in our countries – and we have example from all stages of the regulatory process.

The Conference successfully delivered on its objectives, particularly fostering peer learning and support across OECD countries and other stakeholders. Anna Pietikäinen concluded by thanking the organisers, who have been a successful example of government co-ordination.

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