



Impact of Covid-19 on the Rule of Law: Rule-making and Access to Justice in times of crisis

MENA-OECD Working Group on Regulatory Reform and the Rule of Law

22 June 2020 - 11 :00-13 :00, via Zoom
(Paris Time)

Right

Meeting Overview and Objectives

The MENA-OECD Working Group on Regulatory Reform and the Rule of Law (WG IV) is organising its annual meeting on the ***“Impact of Covid-19 on the Rule of Law: Rule-making and Access to Justice in times of crisis”*** on 22 June 2020 at 11:00-13:00h via Zoom. This meeting is jointly organised with the MENA-OECD Governance Programme - Centre – Caserta - Italy

As highlighted by the Regional Charter for Regulatory Quality, which was directed by the delegates of the WG IV,¹ Regulatory Policy and Governance is a crosscutting theme for MENA countries that helps protect citizens against financial, economic and societal uncertainties. As part of the Regional Charter, law drafting techniques and procedures are highlighted to have a direct impact on the effectiveness of legislation and regulatory quality. Transparent and coherent legislative drafting procedures help promote public participation in the rule-making process, foster trust in the justice system, and reinforce the rule of law.

On the other hand, quality policy making in the context of the pandemic can help ensure effective access to justice for citizens and businesses, by focusing on people-centred solutions to the limitations posed by social distancing measures and lockdowns.

In light of the current pandemic, emergency rulemaking and difficulties to make justice available are raising several questions in compliance with the Rule of Law principles. Tackling the COVID-19 global health emergency and its economic and social impact involves legislations and regulatory decisions at almost every stage and in nearly every area. Such decisions, in turn, involve limitations to movement and to the regular functioning of justice and protection services, which may impair the capacity of the most vulnerable groups to access them, as well as endanger fundamental due process rights and guarantees. While in times of crisis, it becomes hard to anticipate and identify the impacts of these emergency regulations, good practices and recommendations on regulatory policy and governance remain crucial to ensure the respect of the rule of law principles. As highlighted by the OECD Note “Regulatory Quality and COVID-19: Managing the Risks and Supporting the Recovery”², a wide array of international regulatory co-operation approaches could be used to align government responses. This is also applicable for the rule of law, which requires that all the regulations adopted through a fast-track procedure should be subject to careful post-implementation reviews, and that access to justice is enabled even in the crisis context.

As underscored in the forthcoming ***OECD Policy Brief on the Impact of COVID-19 on Access to Justice and Compendium of Country Innovations***, evaluating what works and for whom when introducing changes to the justice sector, as well as introducing a people-centred lens to the justice policies implemented during this period, are crucial elements to ensure equal and effective access to justice. The recent adoption of the **new indicator for SDG target 16.3.3** defined as “the proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism, by type of mechanism”, illustrates that the ability to access suitable mechanisms when facing

¹ The Charter provides a common framework of principles and good practice for regulatory management in countries of the Middle. It has been prepared on the basis of technical and political consultations since 2009 with both OECD and MENA countries. Link: <http://www.oecd.org/mena/governance/RegionalCharterEN.pdf>

² The note is elaborated in consultation with the Chairs and the Bureaus of the Regulatory Policy Committee and the Network of Economic Regulators. Link: [http://www.oecd.org/regreform/regulatory-policy/Regulatory-Quality-and-Coronavirus%20-\(COVID-19\)-web.pdf](http://www.oecd.org/regreform/regulatory-policy/Regulatory-Quality-and-Coronavirus%20-(COVID-19)-web.pdf)

a legal problem is a key aspect in achieving SDG 16.3 (promoting the rule of law at the national and international levels and ensuring equal access to justice for all), and therefore maintaining availability and accessibility of justice mechanisms in this period will be crucial to avoid backtracking on the progress made towards this goal.

In this context, this meeting, organised by the MENA-OECD Governance Programme, will identify key recommendations and lessons learnt about policy making in times of crisis, with a focus on ensuring access to justice and effective legislative techniques. The meeting will discuss the impact of the COVID-19 pandemic outbreak and emergency rulemaking on the Rule of Law in order to exchange lessons learned from MENA and OECD countries to stay compliant with the Rule of Law in times of emergencies and crisis

This meeting will complement the MENA-OECD Governance programme of work on Good Governance and the Rule of Law. Over the past few years, the programme published several country assessments and regional reports on Good Governance and legislative drafting manuals that benchmarked practices in the MENA region against OECD and international practices.

For more information:

- OECD (Forthcoming, 2020) Policy Brief on the Impact of COVID-19 on Access to Justice and Compendium of Country Justice Innovations
- OECD (2020), [Regulatory Quality and COVID-19 Note: Managing the Risks and Supporting the Recovery](#)
- OECD (2019), [Equal Access to Justice for Inclusive Growth: Putting People at the Centre](#)
- OECD (2019), [Legal Needs Surveys and Access to Justice](#)
- OECD (2018), [Regulatory Reform in the Middle East and North Africa: Implementing Regulatory Policy Principles to Foster Inclusive Growth](#) (Arabic version)
- OECD (2018), [Legislation and Good Governance: The Role of Legislative Drafting Manuals](#)
- OECD (2016) [Regional Charter for Regulatory Quality, MENA-OECD](#)
- OECD (2013) [Regulatory Reform in the Middle East and North Africa: Implementing Regulatory Policy Principles to Foster Inclusive Growth](#)
- OECD (2012) [Policy Recommendations of the Council on Regulatory Policy and Governance](#)

AGENDA

10:45 – 11:00	Technical Instructions
11:00 – 11:15	Opening remarks:
	<ul style="list-style-type: none"> • Ms. Anabela Pedroso, State Secretary for Justice of Portugal Co-Chair of the MENA-OECD Working Group on Regulatory Reform and the Rule of Law • Mr. Nabil Ajroud, Legal Advisor of the Tunisian Government, Co-Chair of the MENA-OECD Working Group on Regulatory Reform and the Rule of Law • Mr. Maurizio Mensi, Executive Director of the MENA-OECD Caserta Centre, Italy • Ms. Miriam Allam, Head of the MENA-OECD Governance Programme, OECD
11:15 – 12:00	Covid-19 crisis, emergency rule-making and access to justice: The impact on the Rule of Law in MENA Countries
	<p>This session will discuss emergency rule making and measures and ensure accessible justice in response to the Covid-19 crisis and its impact on the Rule of Law in MENA countries (reference document here).</p> <p>Speakers:</p> <ul style="list-style-type: none"> – Mr. Daniel Trnka, Senior Policy Analyst in the Regulatory Policy Division, OECD (7 min) <p><i>Tour de table with intervention from (2-4 min)</i></p> <ul style="list-style-type: none"> – Mr Hossam Sadek, Deputy Minister of Justice for International Cooperation – Egypt – Mr Maurizio Mensi, Executive Director of the MENA-OECD Governance Programme - Centre – Caserta - Italy – Mr Mohamed Abusondos, Deputy Minister of Justice– Palestinian Authority – Mr Nabil Ajroud, Legal Advisor of the Government – Tunisia <p><u>Discussion and questions (15 min)</u> Participants will be invited to provide brief feedback (2min) on the emergency rule making in their respective countries and its impact on the Rule of Law.</p> <p><u>Main question:</u></p> <ul style="list-style-type: none"> – What are the main impacts of the Covid-19 crisis on the Rule of Law in your respective country? With particular focus on:

	<ul style="list-style-type: none"> - How the crisis is affecting emergency rule making. - How “Emergency” regulations can be adopted through “fast-track” procedures). - How to consult with advisory groups and experts from all relevant areas. - How to reviewing emergency measures after their implementation period.
12:00 – 12:45	Drawing lessons to comply with the Rule of Law in times of crisis
	<p>This session will be organised in an open discussion format (tour de table) to allow participants to discuss good practices and lessons learned on how to ensure an effective response to COVID-19 crisis, responsive to the Rule of Law principles. The discussion will take place in light of the good practices, identified by the OECD Note on Regulatory Quality and COVID-19 and by the forthcoming OECD’s Policy Brief on the Impact of COVID-19 on Access to Justice and its associated Compendium of Country Innovations, as well as the OECD’s criteria for people-centred justice services.</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Ms Tatyana Teplova, Head of Division, Policy Coherence for SDG’s, Gender, Justice, and Inclusiveness – OECD (7 min) <p><i>Tour de table with intervention from (2-4 min)</i></p> <ul style="list-style-type: none"> - European Commission (TBC) - Mr Lahkim Bennan Abdelila, Secretary General of the Ministry of Justice – Kingdome of Morocco - Mr Abullah Al-Majid, Executive Director for Innovation – Ministry of Justice – United Arab Emirates - Mr Hamoud Alhitar, President of the Supreme Court – Yemen - H.E. Mr Hans Grundberg, Ambassador of the European Union to Yemen <p><u>Tour de table – Discussion based on the following items: (15 min)</u></p> <ul style="list-style-type: none"> • Key initiatives, main challenges and lessons learned for ensuring accessibility of legal and justice services during and post-emergency period • Simplification of civil and administrative legal processes especially for vulnerable groups and enterprises in accessing justice.

	<ul style="list-style-type: none"> • Using innovation, to increase policy response and accessibility of justice • Ensuring independence, quality and efficiency of national justice systems under the emergency period. • The role of national justice systems as safeguards against potential abuses of power under the emergency period
12:45 – 12:50	The programme of work of the MENA OECD Working Group on Regulatory Reform and the Rule of Law
	<ul style="list-style-type: none"> • Amr Soliman, Policy Analyst, MENA-OECD Governance Programme
12:50 – 13:00	closing remarks
	<ul style="list-style-type: none"> • H.E. Mr. Ambassador Antonio Bernardini, Permanent Representative of Italy to the OECD and co-chair of the MENA-OECD Governance Programme

MENA-OECD Working Group on Regulatory Reform and the Rule of Law

The Working Group on Regulatory Reform and the Rule of Law has enhanced its mandate. It aims at enhancing the regulatory environment by using sound evidence, systematic consultations, regulatory tools, and regular reviews of the stock of legislation is a common priority for MENA countries. The OECD has developed a Regional Charter for Regulatory Quality (2016) providing MENA countries with a common framework of principles and good practices for regulatory management. MENA countries also benefit from the OECD Recommendation on Regulatory Policy and Governance (2012) which supports the implementation of regulatory reform to achieve strategic public policy objectives. The MENA-OECD Working Group on Regulatory Reform and the Rule of Law (WG IV) promotes a forum for MENA countries and international experts to exchange on good practices in regulatory reform and discuss how to ensure effective access to justice services and strengthen the rule of law. The Working Group is part of the MENA-OECD Governance Programme - a strategic partnership between MENA and OECD countries to share knowledge and expertise, with a view to disseminating standards and principles of good governance that support the ongoing process of reform in the MENA region. The outcomes of discussions from the Working Group IV feed into the OECD Public Governance and Regulatory Policy Committees.

The MENA-OECD Governance Programme

The MENA-OECD Governance Programme is a strategic partnership between MENA and OECD countries to share knowledge and expertise, with a view of disseminating standards and principles of good governance that support the ongoing process of reform in the MENA region. The Programme strengthens collaboration with the most relevant multilateral initiatives currently underway in the region. In particular, the Programme supports the implementation of the G7

Deauville Partnership and assists governments in meeting the eligibility criteria to become a member of the Open Government Partnership. Through these initiatives, the Programme acts as a leading advocate of managing ongoing public governance reforms in the MENA region. The Programme provides a sustainable structure for regional policy dialogue as well as for country specific projects. These projects correspond to the commitment of MENA governments to implement public sector reforms in view of unlocking social and economic development and of meeting citizens' growing expectations in terms of quality services, inclusive policymaking and transparency.

The MENA OECD Governance Programme Training Centre – Caserta (Italy)

The MENA-OECD Governance Programme Training Centre was established in 2012 by the OECD and the Italian National School of Administration (SNA), to support the public administrations of Middle East and North African countries and promote initiatives for capacity building in order to enhance efficiency and effectiveness in the public sector and foster Good Governance. The Centre is hosted by the SNA in the prestigious setting of its training centre in the Royal Palace in Caserta. It is part of the MENA-OECD Governance Programme which fosters public sector reforms and strengthens international cooperation, supporting dialogue among public administrations to promote sustainable economic growth in the MENA Region. The Training Centre is also part of the Action Plan on Open Governance and Anticorruption of the Deauville Partnership for Arab Countries in Transition (Governance Pillar).

The OECD

The Organisation for Economic Co-operation and Development (OECD) is an international body that promotes policies to improve the economic and social well-being of people around the world. It is made up of 37 member countries, a secretariat in Paris, and a committee, drawn from experts from government and other fields, for each work area covered by the Organisation. The OECD provides a forum in which governments can work together to share experiences and seek solutions to common problems. We collaborate with governments to understand what drives economic, social and environmental change. We measure productivity and global flows of trade and investment.

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