

### Rule of law

Rule of law means that no one, including government is above the law, where laws protect fundamental rights, and justice is accessible to all. It implies a set of common standards for action, which are defined by law and enforced in practice through procedures and accountability mechanisms for reliability, predictability and “administration through law”. Rule of law has been considered as one of the key dimensions that determine the quality and good governance of a country.

There are several interpretations of the rule of law. We use the one developed for The World Justice Project’s (WJP) Rule of Law Index as one of the most comprehensive and systematic approaches. Accordingly, the rule of law encompasses the following four universal principles: “the government and its officials and agents are accountable under the law; the laws are clear, publicised, stable and fair, and protect fundamental rights, including the security of persons and property; the process by which laws are enacted, administered and enforced is accessible, efficient and fair; justice is delivered by competent, ethical, and independent representatives and neutrals, who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.”

Based on these four principles, WJP developed nine key factors that form the basis of their Rule of Law Index. From those we have selected four for presentation here, being the most crucial for good governance. These are: limited government powers, fundamental rights, regulatory enforcement and civil justice. In addition open government data will be presented separately. Information summarised in these factors represents the perception of experts and citizens.

#### Limited government powers

Limited government powers is a combination of seven key elements (subfactors): that government powers are defined in fundamental law; that they are effectively limited by the legislature; that they are effectively limited by the judiciary; that they are effectively limited by independent auditing and review; that government officials are sanctioned for misconduct; that government powers are subject to non-governmental checks and transition of power is subject to the law. This composite indicator measures whether authority is distributed, whether by formal rules or by convention, in a way that ensures that no single government organ has the ability to exercise unchecked power.

Even within OECD member countries there is a marked variation on the extent of limitations on government powers. The Nordic countries have the most limitations on government powers followed by Australia and New Zealand, while government powers are the least controlled in Turkey, Mexico and Greece. As expected, the average score of OECD member countries on this indicator is high, showing that there are substantial checks on government powers. In partner, participant and accession countries, controls of government powers are more limited, including the Russian Federation, Ukraine and China.

When looking at the OECD average for the subfactors that are aggregated to this composite indicator, the best developed, with the highest score, are the laws related to the transition of power (0.87) (where 1 signifies highest adherence to the rule of law), while least developed are sanctions for government officials in case of misconduct (0.67) and the role of independent auditing and reviews should also be increased (0.73).

#### Fundamental rights

This composite indicator captures the protection of fundamental human rights and as a result, it is a normative measure. It includes evaluation of eight key elements: equal treatment and the absence of discrimination; effective guarantees to the right to life and security of person; due process of law and rights of the accused; effective guarantee of freedom of opinion and expression; effective guarantee of freedom of belief and religion; freedom from arbitrary interference with privacy; effectively guaranteed assembly and association and fundamental labour rights. It covers a relatively modest menu of rights that are firmly established under international laws and are most closely related to rule of law and good governance concerns.

The average score for the OECD member countries is high at almost 0.8, meaning that the guarantee of fundamental rights is strong in most countries. Similarly as in the case of limited government powers, fundamental rights are best guaranteed by the Nordic countries (Sweden, Denmark, Norway and Finland) followed by New Zealand and Spain, while least guaranteed in the same three countries, Turkey, Mexico and Greece. This indicates that there is a strong association between ensuring that government powers are limited and securing fundamental rights ( $R^2$  equal to 0.81). However, regulatory enforcement is weaker on average across OECD member countries as compared to the adherence to fundamental rights. It is more diverse in the partner and participant countries, where fundamental rights are well guaranteed – although still below the OECD average – in Brazil and South Africa, while improvements may be needed in the remaining countries, especially China and Egypt.

On average in the OECD member countries equal treatment and absence of discrimination is the area where further action is needed (0.7), while the guarantee of freedom of the right to life and security of the person is the best developed (0.86).

#### Regulatory enforcement

The regulatory enforcement composite indicator measures the extent to which regulations are fairly and effectively enforced. It does not assess what and how government regulates, just how regulations are implemented and enforced. It considers areas of regulation that all countries regulate to some degree, such as public health, workplace safety, environmental protection and commercial activity. The key elements include whether government regulations are effectively enforced; government regulations are applied

and enforced without undue influence; administrative proceedings are conducted without unreasonable delay; due process is respected in those proceedings; and the government does not appropriate without reasonable compensation. As a result, this indicator is different from the regulatory quality management indicators included in *Government at a Glance 2009*, which focused on consultation, regulatory impact assessment and regulatory simplification.

Regulatory enforcement is strongest in Sweden, Japan, Denmark and Austria, closely followed by Australia, Norway, the Netherlands, Finland and New Zealand, while it needs improvement in Mexico, Greece, Turkey and Italy. Overall, there is room for considerable improvement in many OECD member countries, as the OECD average amounts to 0.71. Partner and participant countries all scored below the OECD average. The best performers are Brazil and South Africa, and the worst is Ukraine.

Looking at the elements of regulatory enforcement, improper influence of the application and enforcement of government regulations are the rare, receiving the highest score (0.77), while their effective enforcement could be improved the most (0.67).

### Civil justice

The civil justice composite measures whether ordinary people can resolve their grievances effectively through the civil justice system, which requires that the system be accessible, affordable, effective, impartial and culturally competent. The components cover whether people can access and afford civil justice; whether civil justice is free of discrimination; whether civil justice is free of corruption; whether civil justice is free of improper government influence; whether civil justice is not subject to unreasonable delays; whether civil justice is effectively enforced; and whether alternative dispute resolutions are accessible, impartial and effective.

Access to civil justice is the highest in the Nordic countries, as well as in the Netherlands and Germany. Italy, Mexico and Turkey are the OECD member countries with the lowest scores for civil justice. Of the four key contributors to rule of law examined – limited government powers, fundamental rights, regulatory enforcement and access to civil justice – the average performance of OECD member countries is the lowest in the case of civil justice (0.69), just slightly below

regulatory enforcement (0.71), while Brazil and South Africa perform the best among partner countries.

The biggest access problem for the civil justice system across OECD member countries is timeliness (0.47), while civil justice free of corruption recorded the highest score (0.8).

### Methodology and definitions

Data is collected by The World Justice Project by a set of five questionnaires, based on the Rule of Law Index's conceptual framework. The questionnaires are administered to experts and the general public in the countries. On average there are more than 300 potential local experts per country qualified to respond to the questionnaires and the services of local polling companies are engaged to administer the survey to the public. Data are available for 28 OECD member countries as well as 8 partner and participant countries. All variables used to score each of the composite indicators are coded and normalised to range between 0 and 1, where 1 signifies the highest score and 0 the lowest. More detailed information on the selected factors of limited government powers (2.10), fundamental rights (2.11), regulatory enforcement (2.12) and civil justice (2.13) is available on line at <http://dx.doi.org/10.1787/888932943172>, <http://dx.doi.org/10.1787/888932943191>, <http://dx.doi.org/10.1787/888932943210>, <http://dx.doi.org/10.1787/888932943229> respectively.

### Further reading

Aghast, M. et al. (2013), *WJP Rule of Law Index 2012-2013*, The World Justice Project, Washington.

### Figure notes

Data for Iceland, Ireland, Israel, Luxembourg, the Slovak Republic and Switzerland are not available. Data for Hungary are not displayed.

For Italy changes in the legislation introduced in 2013 are not reflected.

Information on data for Israel: <http://dx.doi.org/10.1787/888932315602>.

## 2. STRATEGIC GOVERNANCE

### Rule of law

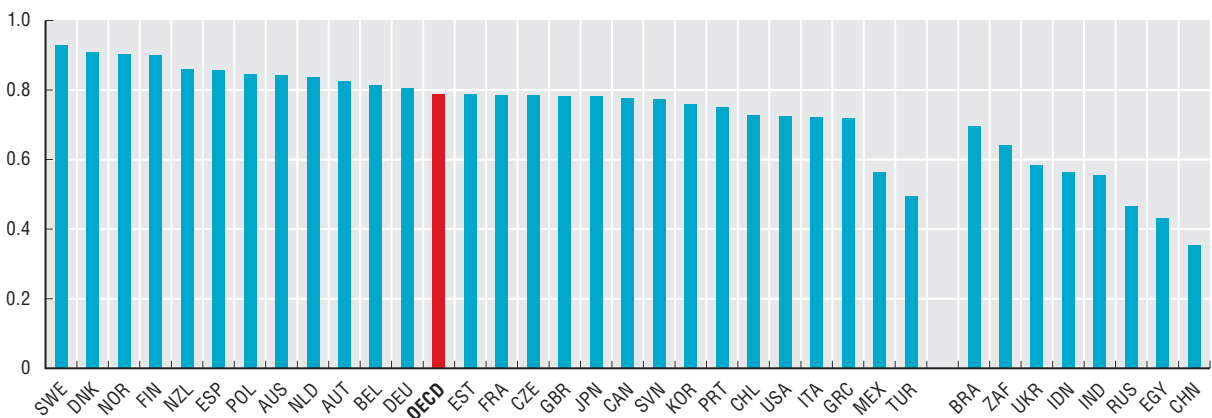
#### 2.5. Limited government powers (2012-13)



Source: The World Justice Project.

StatLink <http://dx.doi.org/10.1787/888932940987>

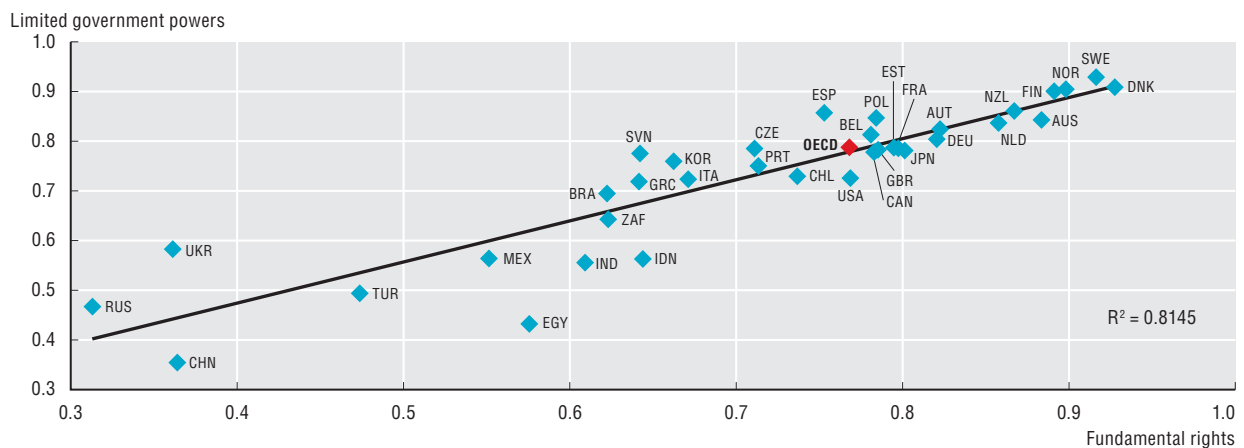
#### 2.6. Fundamental rights (2012-13)



Source: The World Justice Project.

StatLink <http://dx.doi.org/10.1787/888932941006>

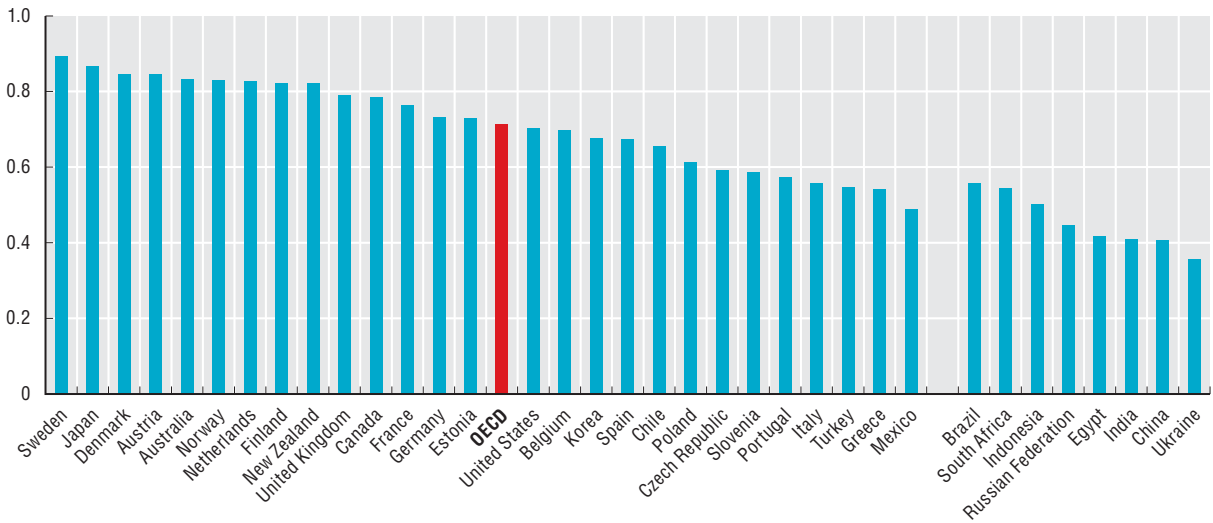
#### 2.7. Limited government powers versus fundamental rights (2012-13)



Source: The World Justice Project.

StatLink <http://dx.doi.org/10.1787/888932941025>

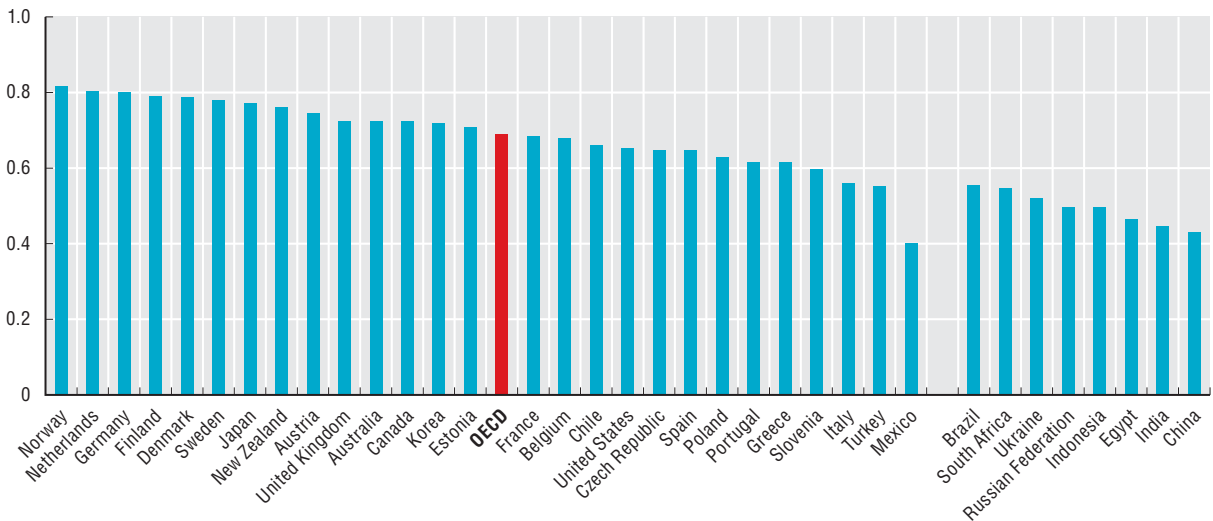
2.8. Regulatory enforcement (2012-13)



Source: The World Justice Project.

StatLink <http://dx.doi.org/10.1787/888932941044>

2.9. Civil justice (2012-13)



Source: The World Justice Project.

StatLink <http://dx.doi.org/10.1787/888932941063>



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