

This year's activities and results

The Norwegian Better Regulation Council's main priority in 2020 has been to work with statements. Our statements have contributed to dialogue with the public administration and the business community's interest groups.

Priorities and resource use

Like everyone else in 2020, the Norwegian Better Regulation Council had to adapt its operations and priorities to the Covid-19 pandemic and extensive use of home offices. We switched from physical to digital meetings, and eventually succeeded in adapting the content, length and format of our meetings to be appropriate for digital implementation. Statements have been our main priority throughout 2020, and despite the adjustments we were forced to make as a result of the Covid-19 pandemic, the Norwegian Better Regulation Council managed to produce the same number of statements in 2020 as in 2019.

The Norwegian Better Regulation Council continues to prioritise building expertise and efficiency in the organisation, as well as closer cooperation with international organisations and regulatory oversight bodies in other countries. This has laid the foundation for more thorough and better work with each individual statement case, and more consistent reviews of the more than 364 cases that are within the Council's mandate. Experiences from previous years show that the statements generate dialogue and the exchange of information with those responsible for drafting regulations. The Norwegian Better Regulation Council has continued this

practice from previous years, and in 2020, we also prioritised meetings and dialogue with all ministries or directorates that receive statements containing significant criticism.

“The Norwegian Better Regulation Council produced the same number of statements in 2020 as in 2019, despite the adjustments we were forced to make as a result of the covid-19 pandemic»

The Norwegian Better Regulation Council has, as far as possible, continued its activities with regard to lectures and participation in various networks that collaborate on improving regulatory work. Together with our work on monitoring individual cases, this has provided insight into the challenges facing those responsible for drafting Norwegian regulations.

Our studies, and the work we perform each year with respect to tracking all cases where we have issued statements, provide valuable information about developments in the quality of studies and reports on new regulations. All in all, this data provides a better picture of general trends than the statement cases.

The Norwegian Better Regulation Council has continued to expand its international involvement. In addition to participating in Reg-WatchEurope, the Norwegian Better Regulation Council has also participated in the Norwegian delegation to the OECD's Regulatory Policy Committee (RPC). This international cooperation is in part used to compare working methods. The Norwegian Better Regulation Council

cil has received constructive feedback on cases that were translated and presented to colleagues in other countries.

Surveys of relevant regulatory proposals

In 2020, the Norwegian Better Regulation Council surveyed 316 studies and reports on ordinary regulatory proposals that affect the business community. The secretariat reviews everything related to regulatory changes that is sent out for consultation, and selects those cases that are within the mandate of the Norwegian Better Regulation Council. Our reviews are based on an overall assessment used by the Council to determine which cases warrant a statement. Our studies are based on criteria adopted by the Council, as well as the expertise that has been developed in the secretariat since 2016.

From the allocation letter:
 The Norwegian Better Regulation Council's work should lead to statements on proposals for new or amended regulations that affect the business sector's framework conditions.
Performance indicators:

- Number of statements per year

Through these studies, the Norwegian Better Regulation Council has a unique opportunity to identify features and tendencies in Norwegian studies and reports as expressed in consultation papers. The Norwegian Better Regulation Council has completed four full years of studies.

Is there a discussion of the effects on the business community?

Describing the effects on businesses is important to prevent unintended effects and unnecessary costs. We see effects are often described

in the cases we review. It is nevertheless worth noting that 20 per cent of the studies and reports do not mention effects on the business community.

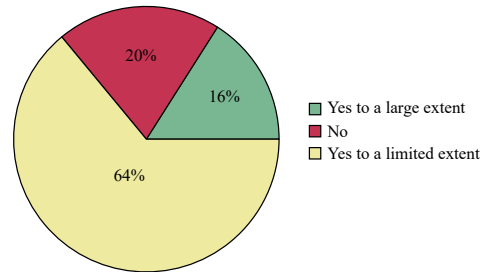


Figure 1: Is there a discussion of the effects on the business community?

Are small businesses taken into consideration?

Public regulation of business activities can lead to unnecessary burdens. This is especially challenging for small businesses. Only 13 per cent of the studies and reports surveyed in 2020 assessed how small businesses will be affected by the regulatory change. In 2018, it was 10 per cent, and in 2019 it was 13 per cent.

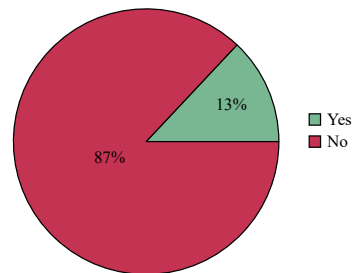


Figure 2: Are small businesses taken into consideration?

Have simplifications been explicitly proposed for the business community?

There has been a longstanding goal of simplifying the workday for companies. Just under a quarter of the studies and reports on regulatory

proposals within the Council’s mandate in 2020 presented explicit proposals for simplifications for the business community. The situation has remained unchanged in recent years.

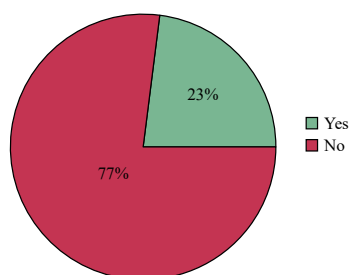


Figure 3: Have simplifications been explicitly proposed for the business community?

business community in 2020. In the event of amendments to regulations, the responsible agency rarely publishes decision documents that show how the agency has assessed the consultation input from those affected in the case.

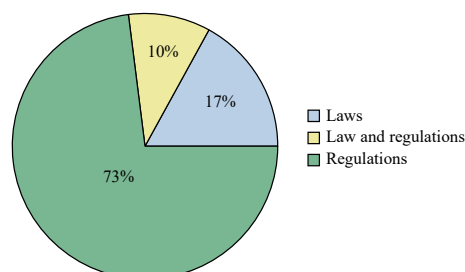


Figure 5: Type of regulation?

Do the studies and reports describe alternative measures?

Studies and reports where alternatives have been assessed as “not applicable” have been sorted out. This accounted for 31 per cent of the cases. Of the remaining 217 studies and reports, where alternative measures would have been relevant, 53 per cent do not describe alternative measures. Main alternatives are alternatives to regulation, while subvariants are alternative ways of regulating.

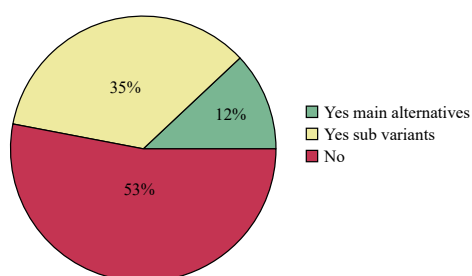


Figure 4: Does the studies and reports describe alternative measures?

Type of regulation?

Amendments to regulations account for 73 per cent of the regulatory changes that affected the

Background for the proposal?

In 2020, 35 per cent of the proposals for regulatory changes that affect the business community were related to EEA regulations. The review of these cases provided a basis for a set of recommendations from the Norwegian Better Regulation Council on the processing of EEA cases in public administration.

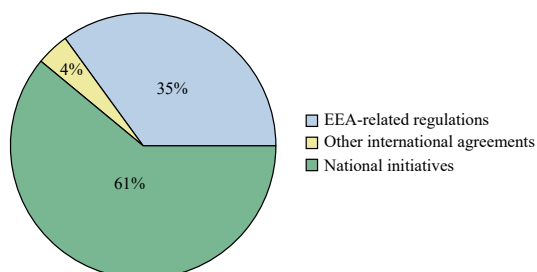


Figure 6: Background for the proposal?

The Norwegian Better Regulation Council’s statements

Through its statements, the Norwegian Better Regulation Council determines whether proposals for new or amended regulations have been sufficiently studied.

The Council also assesses whether new or amended regulations are formulated such that the objectives can be achieved at a relatively low cost for the business community.

The Norwegian Better Regulation Council is responsible for prioritising the cases on which it will issue statements. Cases with potentially major consequences for the business community are prioritised. In 2020, the Norwegian Better Regulation Council issued 38 statements. This is the same number as in 2019.

Results of the Norwegian Better Regulation Council's statements

In 2020, we reviewed 145 cases where the Norwegian Better Regulation Council has previously issued a statement. The statements were issued during the period from the Council's establishment in 2016 to June 2020. In cases where there are no publicly available decision documents, it is difficult to judge the effect of the Norwegian Better Regulation Council's statement.

It takes time before the potential effect of a statement from the Norwegian Better Regulation Council becomes apparent. Of the cases on which the Norwegian Better Regulation Council issued a statement in 2019, only 37 per cent were adopted/imposed as of June 2020.

Results

In 84 cases where the Norwegian Better Regulation Council issued a statement, there are no public decision documents. Of the cases where decision documents are available, the Norwegian Better Regulation Council's statement is mentioned in about 60 per cent of the cases.

Statements that indicate insufficient studies and

reports ("red statements") are those that are most often mentioned in the decision documents. This is a trend we have also observed in previous years. The Norwegian Better Regulation Council is mentioned in 76 per cent of the cases where the Council has issued a red statement and there are available decision documents. The proportion is somewhat lower for statements on studies and reports that have some weaknesses ("yellow statements"), where 60 per cent of yellow statements were mentioned in the decision documents. For statements on studies and reports that were deemed sufficient ("green statements"), 41 per cent were mentioned in the decision documents.

"The trend indicates that the Norwegian Better Regulation Council's red statements are increasingly mentioned in the decision documents produced by those responsible for drafting regulations"

The trend indicates that the Norwegian Better Regulation Council's red statements are increasingly mentioned in the decision documents produced by those responsible for drafting regulations. This may be a sign that the Norwegian Better Regulation Council has established itself as a recognised actor in the Norwegian institution of consultative hearings.

Dialogue with ministries and directorates

In most cases, the Norwegian Better Regulation Council sends advance notice of a statement to the responsible ministry or directorate. In cases where we have identified insufficient studies and reports ("red cases"), we request a formal meeting with the responsible ministry or directorate. In 2020, we held seven delivery meetings. We still believe that dialogue with those responsible for developing regulations is an important tool for increasing the quality of studies

and reports in Norway, especially when considering that in 84 cases where the Norwegian Better Regulation Council has issued a statement, there are no public decision documents. Dialogue is important for gaining insight into what actually happened from the time the proposal was sent out for consultation until the regulatory change was adopted.

“We see that the affected business community has been identified in 83 per cent of the Covid-19 cases, which is more often than what we found in our surveys of ordinary cases”

From the allocation letter: The Norwegian Better Regulation Council’s work should lead to statements on proposals for new or amended regulations that affect the business sector’s framework conditions.

Performance indicators:

- Assessment of the effects of the Norwegian Better Regulation Council’s statements, including assessment of changes in the major regulatory developers over time.

Surveys of Covid-19 cases

Since March 2020, we have been looking at regulatory proposals related to the Covid-19 outbreak that were sent out for consultation, and which affected the business community. We have reviewed 48 proposals to identify typical features and trends in the studies and reports. Most of these cases were proposals for temporary regulations, and over 70 per cent of these had a proposed duration of less than 12 months, see figure. The regulatory proposals have had short consultation deadlines; for 66 per cent of the cases, the consultation deadline was one week or less. Despite this, there have been many consultation responses

No significant differences in the quality of studies and report

Our review of regulatory proposals related to Covid-19 does not provide a complete picture of the overall public measures related to the virus outbreak. Some of the remedial measures for the business community were regulatory changes that were sent for out consultation, but there are also a number of support measures for the business community that did not involve regulatory changes. Some of the measures with the greatest negative impact on the business community were decisions and recommendations based on previously existing laws, and therefore not sent out for consultation. Some regulatory changes related to the virus outbreak were not sent out for public consultation.

Based on our review, we believe that there are no significant differences in the quality of studies and reports for these consultation papers compared with ordinary consultations despite the short deadlines. We see that the affected business community has been identified in 83 per cent of the Covid-19 cases, which is more often than what we see in our surveys of ordinary cases. The effects on the business community are studied somewhat less frequently in the Covid-19 cases. Alternative measures are more often considered in ordinary cases than in the Covid-19 cases.

Same number of ordinary consultations

We believe there appears to have been a greater focus on simplification, digitalisation and flexible regulations for the business community than

in ordinary regulatory proposals. This may be due to the fact that many of the proposals are remedial measures for the business community. Another observation is that some of the measures that were introduced as temporary at the beginning of the virus outbreak were later proposed to be made permanent. This is something the Norwegian Better Regulation Council will monitor further, by looking more closely at which studies and evaluations are used as a basis when the regulations transition from temporary to permanent, for example.

Our findings indicate that other regulatory work was largely maintained during the virus outbreak. We have not seen a decrease in the number of ordinary regulatory proposals sent out for consultation in 2020 compared with 2019.

In 2021, the Norwegian Better Regulation Council will continue to work on monitoring and surveying regulatory proposals related to the virus outbreak that are sent out for consultation.

Advisory activity and information work

The Norwegian Better Regulation Council advises ministries and directorates on business economic impact assessments and effective regulation. When the Norwegian Better Regulation Council issues a red (critical) statement on proposals for new or amended regulations, we offer a delivery meeting to provide guidance. The Council can also assist the responsible ministry in the work of assessing the consequences of EEA-relevant regulations.

From the allocation letter: The Norwegian Better Regulation Council's work should provide general guidance to the public administration on the preparation of impact assessments, while the responsible ministry should receive assistance in assessing the consequences of EEA-relevant regulations.

Performance indicators:

- Number of consultation meetings and guidance meetings offered and held.
- Assessment of the effect of the advisory work in general and for important regulatory developers in particular.

Guidance for statements from the Norwegian Better Regulation Council

The purpose of delivery meetings for red statements from the Norwegian Better Regulation Council is to engage in dialogue on studies and reports in general and the specific consultation in particular. The meetings are usually held at the responsible department or directorate, and the Norwegian Better Regulation Council is represented by the secretariat. In 2020, all meetings have been digital, which has worked well and as intended.

In 2020, we issued 13 red statements. The Norwegian Better Regulation Council's secretariat has had extensive written and oral dialogue, with the case officers who are responsible for the studies and reports in most of these cases. We have offered a consultation meeting in ten cases, and seven such meetings were held. This communication provides useful insight into the challenges that those responsible for preparing studies and reports face in their work, such as the correct use of analyses prepared by consulting firms, time pressure in the study and reporting process, difficulties in finding data on affected businesses and political guidelines. The dialogue also contributes to an increased un-

derstanding of the Norwegian Better Regulation Council's statement and the basis for the Norwegian Better Regulation Council's criticism in each individual case.

Guidance on studies and reports on the consequences of EEA-relevant regulations

The Norwegian Better Regulation Council was asked to provide input to the government's work to improve the ministries' EEA work. In the spring of 2020, we delivered a summary of the experiences we have accumulated through consultation processes in EEA cases. The Norwegian Better Regulation Council believes that EEA-related proposals are generally more poorly studied than "national" proposals, based on the information in the consultation papers.

The document set out proposals that can help to improve the processes and raise the quality of studies and reports in EEA cases. Measures that will raise the quality of studies and reports in general will probably also contribute to better studies and reports on EEA cases. The Norwegian Better Regulation Council therefore believes that this should be a primary focus. In addition, the Council proposed a number of specific measures in relation to EEA cases.

The Norwegian Better Regulation Council pointed out the importance of allocating sufficient resources to the public administration's work on EEA cases. The scope of regulatory changes is large, and any errors in their implementation in Norway may have major consequences. The demand for speed and efficiency may compromise thoroughness and accuracy. It is important for the affected parties to become involved at an early stage, before there is an official Norwegian position in the case. A new consultation may therefore also make sense later in the process. The Norwegian Better Regulation Council further stated that it is important to in-

crease transparency in the processing of consultation input to regulations by publishing a public decision document. Last but not least, as EU countries have often done, we should establish our own, independent quality control and cooperate with the EU on Better Regulation.

The Norwegian Better Regulation Council has a close professional collaboration with the Norwegian Agency for Public and Financial Management and contributes to the work of further developing the guidance material related to the Norwegian Instructions for Official Studies and Reports.

Guidance material on regelradet.no

In 2020, we published guidelines aimed at those responsible for studies and reports on regulatory proposals and those who write consultation papers with proposed regulations that affect the business community. We have focused on guidance on describing the business community that is affected by proposed regulations. We have also collaborated with Statistics Norway to ensure good statistical sources for describing the business community. We have published examples of calculating costs for the business community in connection with new or amended regulations. In addition, we have published a checklist with the qualities of good consultation papers on EEA-relevant regulations that affect the business community.

The Chair of the Norwegian Better Regulation Council met with the Minister of Finance

The Minister of Finance set aside an hour on 2 September to hear about the Norwegian Better Regulation Council's work and talk about the work on studies and reports and the basis for government decisions.

The Chair of the Norwegian Better Regulation Council briefed the Minister on the Council's

tasks, as well as national and international cooperation. She highlighted the Council’s findings on the quality of studies and reports in cases that affect the business community, and explained what the Norwegian Better Regulation Council does to contribute to a better basis for decision-making. She also presented the Council’s wishes for measures that could ensure better studies and reports in the future.



Sandra Riise and the Minister of Finance

“We greatly appreciate the Minister of Finance’s support for our work. The Ministry of Finance is a particularly important player. They are a major producer of regulations that affect the business community. In addition, they are responsible for the Norwegian Instructions for Official Studies and Reports. All in all, it was very interesting to talk to the Minister of Finance about our work,” said Council Chair Sandra Riise after the meeting.

Regulatory simplification and regulation

Cooperation on good regulation

The European network of regulatory oversight bodies, RegWatchEurope, and the OECD are important arenas for acquiring and sharing knowledge and following professional development and practice. Several European countries have a long tradition of working to reduce

administrative burdens, and have therefore established regulatory oversight functions in their countries.

The Norwegian Better Regulation Council also participates in the Better Regulation Network, together with the Norwegian Ministry of Trade, Industry and Fisheries and the Brønnøysund Register Centre. International professional development provides useful knowledge on an ongoing basis, and we work to make current and relevant knowledge readily available both for Norwegian public administration and for the business community.

From the allocation letter:

The Norwegian Better Regulation Council should follow professional development and practice in the areas of regulatory simplification and regulation. The Norwegian Better Regulation Council should participate in international regulatory oversight cooperation.

Performance indicators:

- Assessment of the effect on the Norwegian Better Regulation Council’s work with statements as a result of national and international professional development and practice in the areas of regulatory simplification and regulation
- Assessment of how the Norwegian Better Regulation Council has obtained and disseminated information on regulatory simplification and regulation

Main activities in RWE in 2020

The Danish Business Forum for Better Regulation was admitted as a member of RegWatchEurope (RWE) in June 2020. The Danish forum is an independent advisory body appointed by the government, with 19 members from various organisations in the private and public sector. The forum highlights both na-

tional and EU regulations that can make it unnecessarily cumbersome to run a business. In Denmark, the government has committed itself to either following the Danish Business Forum for Better Regulation's recommendations or publicly explaining why it does not follow them. This is called the "follow-or-explain principle".

The EU's regulatory oversight body, the Regulatory Scrutiny Board, organised a conference in September on The Role of Scrutiny in Better Regulation. The conference had many participants, indicating that there is a strong interest in independent regulatory oversight bodies in many countries. In this context, the RWE prepared a memorandum on Further Development of Regulatory Oversight at EU-level, as an input to the EU's work on better regulation. The input was published in October.

Conference on better regulation in the EU

Germany, Portugal and Poland have put better regulations on the agenda through three terms in the Council of the European Union. In connection with the German Presidency in 2020, a digital conference on better regulation was arranged on 3 November. At the conference, the contents of RWE's memorandum were presented¹

Regulatory oversight on the agenda in Europe

The autumn meeting of the Better Regulation Network was held digitally on 3 and 4 December 2020. The Better Regulation Network is a collaborative network for the work on better regulation in Europe with more than 30 participating countries. On the agenda this time was "regulatory oversight", i.e. the work of controlling regulations. RegWatchEurope explained the importance of independent control of regulatory proposals.

Small businesses

Several countries have challenges related to the assessment of effects on small businesses. Few countries have formal requirements in their frameworks, but Germany and the United Kingdom have their own guides and checklists for assessing the effects on small businesses. The Norwegian Better Regulation Council will consider whether any of this material can form the basis for similar guidance in Norway.

OECD Regulatory Policy Committee

The Organisation for Economic Co-operation and Development (OECD) has 36 member countries and works to promote policies based on market economy and democratic institutions, with a focus on improving the well-being of all citizens. The OECD also compares the systems in different countries and makes recommendations on best practice in many policy areas.

The Regulatory Policy Committee (RPC) was established in 2009 to help member states build and strengthen their reforms in this area. The committee aims to be a platform to help member states use regulatory policy tools and learn from each other's experiences.

"The Norwegian Agency for Public and Financial Management (DFØ) is the responsible coordinator for Norway's membership in the OECD's Regulatory Policy Committee. The secretariat of the Norwegian Better Regulation Council was a regular participant in the Norwegian delegation to the committee in 2020"

One of the committee's goals is to promote strategic, knowledge-based and innovative so-

lutions for the public sector by developing a global vision for regulatory policy and governance. An overarching goal is to strengthen public governance by promoting regulatory policies that ensure transparency, legitimacy, accountability and respect for the law.

The Norwegian Agency for Public and Financial Management is the responsible coordinator for Norway's membership in the OECD's Regulatory Policy Committee. The secretariat of the Norwegian Better Regulation Council was a regular participant in the Norwegian delegation to the committee in 2020. The Committee holds two meetings and one conference a year, in addition to workshops on current topics.

Guidance and data collection on regulatory policy

In 2020, the main focus was on good regulatory policy related to the Covid-19 crisis. The OECD has prepared a number of recommendations and guidelines for authorities on this topic.

Other topics have also been on the committee's agenda, including the development of best practice for international cooperation on regulations, how laws and regulations affect competitiveness and how insight from behavioural economics can be used to create good regulations. Regulation of new and emerging technologies is also a major aspect of the Commit-

tee's work.

Work moving forward

In 2020, the Committee conducted a major survey on the status of member countries' implementation of the OECD's recommendations for good regulatory policy from 2012. The Norwegian Better Regulation Council contributed to Norway's response to this survey. The results of the survey will be published in the Regulatory Policy Outlook report towards the end of 2021 and will provide an indication of opportunities for potential improvement in each country and important trends and developments within the committee's field. The committee also works on making proposals for principles for efficient and innovation-promoting regulatory development in the face of new technology. This work will probably be central to the committee's agenda in 2021.

In the opinion of the Norwegian Better Regulation Council, the OECD and its member countries work on good regulatory policy is a crucial foundation for renewed economic growth. Norway is an economy with high wage levels and high tax levels compared with many other countries. Thus, it is especially important that we have appropriate regulations. The Norwegian Better Regulation Council will therefore continue to follow the OECD's work closely.