



PROGRAMME WORKSHOP 'LEGAL IMPLICATIONS OF BETTER REGULATION'

Date and location

Friday 26 February 2010

Grauwzusters Building
Room 'Promotiezaal'
Lange Sint-Annastraat 7
Antwerp
Belgium

Convenors

Patricia Popelier, Professor of Public Law (patricia.popelier@ua.ac.be)
Anne Meuwese, Marie Curie Post-Doctoral Fellow (anne.meuwese@ua.ac.be)

University of Antwerp
Faculty of Law
Centre for Law and Cosmopolitan Values

Partnership

This workshop is being organised in cooperation with the European Academy for Law and Legislation (www.eall.eu). The EALL – a training and expertise centre based in The Hague – aims to create a community of legislative professionals with a common frame of reference.



Registration

Participation in the workshop is free of charge, but places are limited and advance registration is compulsory. If you would like to attend, please contact Anne Meuwese by e-mail (anne.meuwese@ua.ac.be). She will let you know whether there are still places available.



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Background

The aim of this workshop is to assess the impact of Better Regulation (BR) in legal terms – nearly a decade after this enhanced type of horizontal regulatory policy was first introduced in Europe. Since the recommendations by the Mandelkern Group on Better Regulation in 2001 we have seen a wealth of initiatives, ranging from impact assessment to enhanced consultation and strategies narrowly focusing on administrative burden alleviation. Some measures have been taken at the EU level, others at the national level, with a lot of informal coordination back and forth.¹ Better Regulation tools come and go – as testified for instance by the abandoned British plan for regulatory budgets – but the question which elements have an impact on the practice of the creation and application of law remains unanswered. In particular, possibly due to the perceived 'technical' or 'economic' nature of the topic, the legal implications of the Better Regulation policy are underexplored.

Yet it is becoming increasingly clear that bureaucratic devices such as assessments and informal agreements are revealing of the way in which public power is being exercised and controlled.² Perhaps Better Regulation, despite its 'soft law' character, is even impacting on institutional relations.³ Crucial for the link with the legal environment is the extent to which Better Regulation is shaping the (legitimate) expectations that citizens hold towards public authorities.⁴

Some BR issues of legal relevance have been explored in pioneering publications. To name just a few: the link between impact assessment and fundamental rights assessment,⁵ the opportunities Better Regulation offers for strengthening principles like transparency,⁶ and the potential role for the Court of Justice in regulatory oversight.⁷ In order to get an updated grip on these and other fundamental legal and institutional questions surrounding Better Regulation we propose to gather scholars who have carried out relevant research either from a public administration perspective or from the angle of (European) law. Together we will seek answers to the questions of which norms for processes of lawmaking have taken root and what institutional shifts have been brought about. We will discuss (draft) papers grouped around the following themes:

- Better Regulation: Law & Politics as usual?
- New standards for lawmaking?
- New forums for constitutional values?
- New dynamics for judicial review?

¹ Radaelli, C. M. (2005). Diffusion without convergence: How political context shapes the adoption of regulatory impact assessment. *Journal of European Public Policy*, 12:5, 924-943.

² Stame, N. (2008). The European Project, Federalism and Evaluation. *Evaluation*, 14:2, 117-140.

³ Meuwese, A. C. M. (2008). *Impact Assessment in EU Lawmaking*, The Hague, Kluwer Law International.

⁴ Radaelli, C.M. & De Francesco, F. (2007) *Regulatory Quality in Europe: Concepts, Measures, and Policy Processes*, Manchester, Manchester University Press.

⁵ Toner, H. (2006). Impact Assessments and Fundamental Rights Protection in EU Law. *European Law Review*, 31, 316-341.

⁶ Weatherill, S. (2007). *Better Regulation*, Oxford, Hart Publishing.

⁷ Alemanno, A. (2009). The Better Regulation Initiative at the Judicial Gate: A Trojan Horse within the Commission's Walls or the Way Forward? *European Law Journal*, 15:3, 382-401.



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Workshop Programme:

Friday 26 February 2010		
9h00 – 9h30	<i>Registration</i>	
9h30 – 10h30	<p>Session I</p> <p>Better Regulation: Law & Politics as usual?</p> <ul style="list-style-type: none">• Legal and institutional implications of Better Regulation (Introduction)• Learning from the international experience of regulatory impact assessment	<p><i>Chair:</i> Prof. Jan Velaers – University of Antwerp</p> <p><i>Papers (2x20 mins):</i> Prof. Patricia Popelier – University of Antwerp Prof. Claudio Radaelli – University of Exeter</p> <p><i>Discussant (10 mins):</i> t.b.a.</p> <p><i>Discussion (10 mins)</i></p>
10h30 – 11h00	<i>Coffee break</i>	
11h00 – 12h30	<p>Session II</p> <p>New tests for lawmaking?</p> <ul style="list-style-type: none">• Better Regulation and the legislative process• The consideration of alternative models of regulation• Procedural tests: juridifying participation?	<p><i>Chair:</i> Prof. George Pavlakos – University of Antwerp</p> <p><i>Papers (3x20 mins):</i> Prof. Robert Baldwin – London School of Economics Prof. Rob van Gestel - Tilburg University Dr. Anne Meuwese – University of Antwerp</p> <p><i>Discussant (15 mins):</i> Dr. Alexia Herwig – University of Antwerp</p> <p><i>Discussion (15 mins)</i></p>
12h30 – 13h30	<i>Lunch</i>	
13h30 – 15h00	<p>Session III</p> <p>New forums for constitutional values?</p>	<p><i>Chair:</i> Dr. Gerhard van der Schyff – Tilburg University</p>



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	<ul style="list-style-type: none"> • Legislative Quality as Shared Responsibility • Better or Meta? Fostering Conversations in Better Regulation • Is Better Regulation also more democratic regulation? 	<p><i>Papers (3x20 mins):</i></p> <p>Dr. Helen Xanthaki – Institute of Advanced Legal Studies Prof. Colin Scott – University College Dublin Prof. Stijn Smismans – University of Cardiff</p> <p><i>Discussant (15 mins)</i> t.b.a.</p> <p><i>Discussion (15 mins)</i></p>
15h00 – 15h30	<i>Coffee break</i>	
15h30 – 17h00	<p>Session IV New dynamics for judicial review?</p> <ul style="list-style-type: none"> • Better Regulation and Judicial Review of European Acts • Better regulation by appeal? 	<p><i>Chair:</i> Prof. Anne-Marie Van Den Bossche – University of Antwerp</p> <p><i>Papers (2x20 mins):</i> Dr. Alberto Alemanno – HEC Paris Prof. Wim Voermans – Leiden University</p> <p><i>Discussants (35 mins):</i> Prof. Christiaan Timmermans – Court of Justice of the European Communities David Keyaerts – University of Antwerp</p> <p><i>Discussion (15 mins)</i></p>
17h00 – 17h30	Conclusions and next steps	Dr. Anne Meuwese Prof. Patricia Popelier
17h30 – 18h30	<i>Reception</i>	