

EUROPEAN DIMENSION OF BETTER REGULATION

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Key words

Better Regulation, Better Lawmaking, Meta – Governance, Legislative flood, Legislative overflow, Legislative rules of government, rule-making, Regulatory impact assessment (RIA), Policies, Sunset - Legislation, Gold – Plating, Mandelkern Report, Lisbon agenda, Office of Information and Regulatory Affairs (OIRA) /USA/, Compliance Cost Assessment.

RESUMÉ

Introduction

A politology view on this problems is using for „Better Regulation“ a term „Meta-Governance“. The term „Meta-Governance“ was defined by R. Jessop (*Review of International Political Economy 4*) as „a counter-process to governance whereby economic and political co-ordination is achieved despite the limitations of governments, states, firms, governance, and clans“. In this paper, the general term “Better Regulation is used – as it is in the Mandelkern Report – in contrast with „Better lawmaking“. In practice, these expressions are not generally clearly defined and no clear distinction is usually made between them, which occasionally leads to misunderstandings. Better lawmaking refers only to those measures whose purpose is to support the process of lawmaking with a view to improved output (meaning the preparation, drafting and enactment of legal acts).

The term „Better Regulation“

„Better Regulation“, in contrast, is a substantially broader term, which does include the area of lawmaking, but is not limited to that area. The acts and political programmes on the

European level are based on two different understandings¹: On the one hand regulation is understood in the narrow sense to be the enactment and specification of government regulations, on the other hand it is also understood to be government guidance and programmes as a whole. The common denominator is that regulation in any case encompasses more than just legal acts, and that „Better Regulation“ does not refer just to the process of policy formulation, but also to the implementation and application of policies. We can see it on an example of two versions of art. 2 (first version and last amended version) of Czech Legislative rules of government. The phenomenon well known as „Gold-Plating“- means „over-implementation of a European directive by the creation of extra national requirements going beyond those in the directive“².

Beginnings of Better Regulation Policy in the EU – Lisbon Agenda

An initial step towards improving the regulatory environment in the Institutions of the EU was taken when the European Union Institutions adopted the drafting guidance recommendations contained in the Inter-Institutional Agreement of December 1998. The purpose of this was to improve the quality of draft legislation. The Edinburgh European Council of 1992 made the task of simplifying and improving the regulatory environment one of the Community's main priorities. However, it was not until the mid-nineties that the search for better quality became systematic. The Heads of State and Governments of the European Union met in Lisbon in 2000 and launched a series of ambitious reforms at national and European level as part of an overall strategy.

Quality of Regulation – Mandelkern report

One of the practical measures taken to deliver this policy was the establishment of a group, representative of Member States, under the Chairmanship of a judge of the Council of State in France, Mr. D. Mandelkern, to examine ways in which policy – making and regulation drafting could be improved in the Institutions of the EU. The group reported in November 2001 and produced a blueprint for Better Regulation in the European Union. The report was

¹ According to the terminology of Baldwin, R., Cave, M.: Understanding Regulation: Theory, Strategy, and Practice, Oxford 1999

² Mandelkern Group on Better Regulation, Final Report, 13 November 2001, EU, pg. 82

met with universal acclaim and its recommendations were largely adopted by the EU Institutions.

Better Regulation and law of European communities

The development of Better Regulation in the European Union accelerated further with the EU White Paper on Governance. The White Paper suggests that there are link between good governance and the drive for Better Regulation.

Regulatory Impact assessment

Regulatory Impact assessment is an effective tool for modern, evidence-based policy making. It provides a structured framework for informing the consideration of the range of options available for handling policy problems and the advantages and disadvantages associated with each. It does not replace the need for a political decision-rather, it provides in a structured manner some of the factual information essential to a good policy development process and a well-informed final decision.³

Conclusion

Progress has been made on each of these fronts by the Institutions of the European Union and, with the renewal of the Lisbon strategy in 2005, emphasis was put on the development of Better Regulation policy in the Member States of the European Union. Having reached the half-way stage of the Lisbon process started in 2005, the Commission decided to re-launch the strategy with a focus on growth and jobs and a streamlined process to enhance Member States ownership of their reform programmes.

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³ Mandelkern Group on Better Regulation, Final Report, 13 November 2001, EU, pg. 19