

Better Regulation in the EU

EEB

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Content

- Context of EU better regulation
- Implications of Brexit
- Impacts on environmental policies
- EU as a community of law and a driver for sustainable development v an ineffective regional intergovernmental organisation

General observations on BR

- Better Regulation Agenda in continuous development.
- Important differences between approach in UK, NL or US and EU
- But expectations, interests behind it and tools used pretty much same everywhere; reduce the costs of regulation for regulated industries.
- Strong similarities with EC proposals for regulatory cooperation under TTIP.
- Direction of travel is clear: deregulation



Juncker's Priorities

- 10 political priorities resulting in a narrowing and downgrading of the EU environmental agenda; climate policy as part of an Energy Union only.
- And submit this to a strengthened Better Regulation agenda.
- Recent developments: slight improvement of agenda in 2016 through circular economy, SDG and Paris deal but also a continuous narrowing of focus on emergencies like Greece, migration, Russia/Turkey, terror and UK.
- Juncker now tasked to develop white paper on future of Europe ahead of 60 years Treaty of Rome celebrations in March 2017

Juncker's Better Regulation

- Launched in May 2015 by a new Vice President for 'Better Regulation', Frans Timmermans.
- Going significantly further in a number of crucial ways:
 - Renamed IAB to Regulatory Scrutiny Board, extended its powers linked to Fitness Checks, effective veto.
 - Further strengthening of central control within the European Commission.
 - Impact Assessment Guidelines that in practice put emphasis on monetisation of costs and benefits.
 - New Stakeholder Consultation Guidelines that fail to address problems of information asymmetry.
 - One sided focus on reducing regulatory costs, not only administrative burdens.

New IIA on BLM

A new Inter Institutional Agreement on Better Law Making (IIA on BLM), agreed in December 2015 meant to commit the EP and Member States to apply BR principles when agreeing new laws;

No longer extensively promotes self and co regulation as 2003 version did.

Commission tried but failed to limit the options for EP and MS to their proposals.

Final IIA an improvement compared to EC proposal though it contains problematic provisions on quantifying burdens on business and considering targets to reduce them.

Implications of Brexit

- Immediate result of the vote to leave was a firm and clear response from EU Presidents, and another toxic blame game.
- A further narrowing of EU priorities (defence, immigration, growth, climate on a good day) with MS seeking to return powers to national level.
- An emboldened far-right movement across the EU.
- Better Regulation and cutting red tape disappeared from Juncker's 2016 State of the Union speech.
- An agreement in Bratislava among EU 27 to come up with a 'future of Europe' plan by March 2017.

Implications for environmental policy: standstill and delays

- Fitness Checks standardise policy evaluations and raise expectations to reduce burdens on business: Natura 2000, environmental reporting, REACH, chemical safety
- Delays in adoption of measures: criteria for Endocrine Disrupting Chemicals
- Applied selectively: Member States opposing a Fitness Check of the Common Agricultural Policy
- All existing environmental policies will be subject to a Fitness Check sooner or later.

Outlook Natura 2000

- FC for N2000 was announced in 2013, became controversial after Juncker's mandate to Vella to 'merge and modernise'.
- Technical findings released in June 2016 but political decision continues to be delayed.
- Solid political majority in EP and Council in support of keeping and better implementing Directives.

Transforming Europe by 2030

- EU (and the UK) is committed to a global agenda of transformational change through the SDGs and Paris agreement.
- Requires an EU wide new SD Strategy to deliver.
- Should effectively replace existing Europe 2020 Strategy and the Juncker political priorities acting as a filter.
- Provides a global consensus on what the worlds biggest challenges are and how to solve them based on best available evidence and science.

Reviewing Better Regulation; the specifics

- From 'Better Regulation' to fixing Europe's law making system, strengthening the rule of law and protection of fundamental rights.
- Address public-private trade offs by putting policy objectives above reducing burdens.
- Encourage national level policy innovation as opposed to pushing against 'gold plating'.
- Data and information to be gathered as part of regulatory compliance, e.g 'no data, no market'.
- Recognize evidence on failures of voluntary systems.
- Getting serious about enforcement in all fields of EU law.

Further reading

- EEB Paper on BR and TTIP:
www.eeb.org/index.cfm/library/better-regulation-ttip-under-the-radar/