

Panel 11: 'Better regulation': Trends and developments in policy implementation, compliance, enforcement and supervision

Chaired by: Martijn Groenleer (Delft University of Technology) and Esther Versluis (Maastricht University).

Continuing problems with the implementation of national and EU policies, the compliance of businesses, and the enforcement and supervision by regulatory authorities, make regulation a hotly debated topic among both scholars and practitioners. Induced by the topical 'good governance' debate, we witness a mushrooming of studies and reports on 'better regulation' produced by a host of academic institutes and research centers as well as government bodies including the Dutch Court of Auditors (e.g. 'Weloverwogen Toezicht', 2009), the Inspectieraad (e.g. 'Voortgangsrapportage Programma Vernieuwing Toezicht', 2009) and the various sectoral inspectorates (e.g. the Environmental Inspectorate published a 'Survey of Networks Supporting Inspection and Surveillance in the Member States' in 2009), and EU institutions such as the European Commission (see for example the many documents produced under the label of the 'Better Regulation campaign').

Implementation problems may have a negative impact on effectiveness and efficiency of policies and thus on the legitimacy and credibility of political organizations. All the abovementioned documents therefore aim to improve the implementation, compliance, enforcement and supervision, and signal developments and trends in doing so. Despite years of academic research into the field, we still seem to lack sufficient knowledge of how regulation can help policymakers and regulators to achieve desired outcomes; the regulation of the financial sector (or the lack thereof) and the latest global crisis are a case in point. Indeed, regulation takes place in an increasingly complex (and thus difficult to understand) multi-level system of governance in which regulatory tasks are becoming dispersed over a wide variety of national, European, and international as well as public and private actors.

We distinguish a number of trends and developments that deserve specific attention. First of all, there is a trend towards internationalization of regulation. More and more bodies at for instance the EU level become involved in not only legislating but also enforcing rules at the national level. In relation to this we note the proliferation of independent regulatory agencies at the national and EU level. They are supposed to conduct their tasks with their regard to implementation in an autonomous way, separate from political interference. Such bodies have also been active in forming regulatory networks in such areas as energy, telecom, securities as well as transport and the environment, which potentially bypass political authorities at the government level.

With the expansion of regulation into a variety of sectors, at a range of government levels and through an array of forms, measuring the effectiveness of regulatory efforts has become a key issue of attention. What are the cumulative effects of regulation, positive as well as negative? To what extent do consumers experience the benefits of for instance higher quality of services or lower prices? To what extent does regulation lead to the overburdening of business and cause coordination problems between regulators? In relation to this we note a shift (at least in the Netherlands) in regulatory philosophy, from rule-based regulation to more risk-based or systemic regulation, with a prominent role for self-regulation by companies.

Importantly also, questions of accountability have arisen. For with the increase of the number of actors involved in regulation, it becomes more and more difficult to hold such actors to account for their behavior, particularly if they operate outside of the direct influence of democratically elected politicians. In this respect it is also interesting to look at the role of the courts, parliament and the media and their scrutiny of regulatory activities. It is often in view of parliamentary questions and media attention that politicians call for immediate regulatory measures to be taken whenever something goes wrong or that novel risks become exposed and regulators are forced to take action.

This panel was open to both scholars and practitioners writing about regulation, explicitly encouraging debate between them. It invited papers that:

- o Theorize one or more of the above (or related) trends and developments in regulation.

- o (Empirically) explore changes in approaches to regulation over time.

- o Investigate trends or developments in particular policy sectors.

o Study one or more organizations that are involved in policy implementation or have a regulatory task.

o Analyze the shifting balance between the national, European and international level.

o Examine the role of non-state actors such as businesses and consumers, but also the media.

The theme of this panel was related to research theme 2 of the NIG research program 'The future of the nation state', and more particularly to its subtheme 'policy formulation and implementation in multi-level governance'. It also links to theme 3 'Public management in a joined-up world', under its subthemes 'designing, monitoring and enforcing contracts' and 'evaluating the effectiveness of different types of programs', both aimed at analyzing the new challenges facing public administrations.