

THE EU'S BETTER REGULATION AGENDA AND THE FUTURE OF POLICYMAKING – UP, DOWN AND SIDeways

PROPOSAL FOR A CEPS TASK FORCE

Andrea Renda

Background

The Better Regulation Agenda has made considerable inroads into the EU policy process since 2002, especially in the European Commission. Over the past 15 years, the European Commission has committed to higher standards of stakeholder consultation; the ex ante impact assessment of major policy initiatives; the monitoring and ex post evaluation of existing policies; and the analysis of entire policy areas (in REFIT and Cumulative Cost Assessment exercises). All in all, it is fair to say that although there is room for improvement, the European Commission stands out as a champion of better regulation at the global level, certainly ahead of most, if not all, EU member states.

The European Commission relaunched its commitment to better regulation by proposing further improvements in 2015, which could strengthen the accountability, transparency, and effectiveness of the Commission's action. These include:

- ° two new windows for stakeholder consultation (on inception Impact Assessments and after the proposal is presented);
- ° a renewed and now integrated set of guidelines, with an extensive toolkit;
- ° the extension of impact assessment to major, selected implementing and delegated acts;
- ° the creation of two new permanent platforms for stakeholder consultation (Lighten the Load-Have your Say, and the REFIT Stakeholder Platform);
- ° and the transformation of the Impact Assessment Board into a stronger, full-time Regulatory Scrutiny Board which now features three independent members, also with the competence to scrutinise ex post evaluations and REFIT studies.

Later developments have led to additional novelties such as the 'innovation principle', 'innovation deals' and an insightful Commission Communication on better regulation for innovation-driven investment. The 2015 better regulation package also came with a proposal for a new Inter-Institutional Agreement on Better Regulation, which later led to the agreement between Commission, Parliament and Council on a new, important Inter-Institutional Agreement on Better Lawmaking.

These efforts must now be fully implemented, and it will take some more time to see the full package at work. At the same time, some scholars have criticised the reform for not being more ambitious, for example for not incorporating more advanced and experimental methodologies, or creating more balance in the input received from stakeholders. Moreover, there are still concerns about the ability of the Commission to cope with the increased workload without losing quality and oversight in its actions, especially for what concerns the choice of which of the thousands of implementing and delegated acts to subject to impact analysis and stakeholder consultation.

Even more importantly, the ability of the European Parliamentary Research Service and the willingness and ability of the Council of the EU to become more proactive players in evidence-based policymaking

is still in question, and this could undermine the whole policy cycle, as these two institutions play a crucial role in amending Commission proposals.

Furthermore, member states often seem ill equipped to effectively transpose, implement and enforce EU legislation, let alone assess and evaluate its impact. This means that Europe is still a long way from achieving a complete, transparent, and accountable policy cycle.

Finally, some scholars argue that the EU should depart from traditional methodologies such as cost-benefit analysis to embrace a new vision of better regulation, aimed at promoting long-term goals, for instance sustainable development through the enactment of coherent regulatory and legislative proposals.

Against this background, CEPS proposes to convene a **Task Force on Better Regulation in the EU**, which will be structured around a series of 4-5 meetings and will produce a report with detailed policy recommendations on the future of the better regulation agenda. The tentative timeframe for the proposed Task Force is February-September 2017, with the final report being published in late September 2016. The official launch of the Task Force could coincide with the CEPS Ideas Lab, on 23-24 February 2017. An ad hoc meeting could be organised on that occasion, or at an earlier event in January.

Schedule and Content of Meetings

The proposed topics to be covered by the Task Force are the following (the list may change after consulting with Task Force participants):

1st Meeting (March/April 2017): Better regulation in the European Commission (1)

- Methods used for impact assessment, and variations in methodology across DGs
- Stakeholder consultation: the REFIT stakeholder platform and other channels for consultation throughout the policy process
- How to ensure balance in stakeholder consultation by allowing all affected stakeholders to voice their opinions on proposed and existing EU policies
- Specific policy areas: presentations

2nd Meeting (April/May 2017): Better regulation in the European Commission (2)

- Implementing and delegated acts: how to achieve more transparency and evidence-based policy
- The role of risk analysis in the European Commission's impact assessment
- Innovation, precaution, experimentation: how to make EU regulation more adaptive?
- Should better regulation be more closely linked to the ten priorities and the sustainable development goals?
- Specific policy areas: presentations

3rd Meeting (May/June 2017): Better regulation in other EU institutions

- Assessing the opportunities and challenges of the Inter-Institutional Agreement on Better Lawmaking
- The EPRS turns 5: how to make it more impactful in its work?
- Will the Council even have own capacity to perform policy appraisal? Should it focus on impacts on member states?
- Should the European Parliament and the Council reach out more to stakeholders, and how?
- Case studies

4th Meeting (September 2017): Better regulation in member states

- Beyond RegWatch: the state of better regulation in the EU27
- Improving the input of member states in the impact assessment, ex post evaluation and REFIT processes
- Implementation, compliance and better regulation in member states: looking for improvements in the delivery phase
- Better regulation and the European Semester

All meetings will take place at CEPS premises in Brussels, with a monthly frequency, and will be full day meetings running approximately from 9.30am through to 5pm.

The Task Force will be moderated by Andrea Renda, CEPS Senior Research Fellow and Head of Regulatory Policy. The Regulatory Policy Unit at CEPS will provide research and organisational support alongside CEPS administrative staff.

Joining the Task Force

Participation in the Task Force is subject to a fee to cover the research and organisational expenses. CEPS Corporate Members are entitled to receive a significant discount. Discounted fees will be considered for non-members if they decide to become a member of CEPS.

The fee covers:

- The research carried out by CEPS for the purpose of this Task Force
- Organisational, catering and other costs of all meetings
- Web access and documentation
- Launch of the final report in Brussels in a public event to maximise exposure
- Press release and communications management
- Printing and editing costs of the final report
- Distribution of the final report to key stakeholders in industry and policy-making
- Three printed copies of the final report per member (mailing included)

The fee does not cover travel and accommodation costs for Task Force members to attend the meetings.

Upon request, CEPS will mail additional copies of the final report to members, at their expense. The final report will be launched at a public event in Brussels, open to the press, with the presence of high-level policy-makers. Additional launch events in other European capitals may be organised, if sponsored by members of the Task Force.

Fee Structure (+21% VAT if applicable)	
CEPS Corporate Members	€ 2,500
Non-Members	€ 5,000
Academics	€ 500 [upon request]
Policy-makers	Free of charge [upon request]

To join the Task Force, please fill in the application form on the next page. If you have any questions do not hesitate to contact us:

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REGISTRATION FORM
Better Regulation in the EU

Person attending the meetings			
Title:	First name:	Last name:	
Job title:			
E-mail:		Telephone:	
Company / Institution			
Company / Institution name:			
Postal address:			
	Postcode:	City:	Country:
Contact Person:			
E-mail:		Telephone:	
Billing information			
Tax register number (VAT for Europe):			
Your reference, Customer Purchase Order No. or Cost Code N:			
Department:			
Postal address:			
	Postcode:	City:	Country:
Contact person:			
CEPS members – check the applicable fee (+21% VAT)			
<input type="checkbox"/>	Participant EUR 2,500		
Non-members - check the applicable box (+21% VAT)			
<input type="checkbox"/>	Full Fee EUR 5,000	<input type="checkbox"/>	My company is interested in becoming a member of *CEPS
Date:		Signature:	
Return to: <i>Diana Musteata</i> diana.musteata@ceps.eu +32 2 229 39 34 CEPS 1 Place du Congrès 1000 Brussels Belgium			
More information: If you would like to become a member or need more information, please contact <i>Andrea Renda</i> , Senior Research Fellow at andrea.renda@ceps.eu +32 2 229 3961 or <i>Kerstin Born</i> , Director for Corporate Relations, at kerstin.born@ceps.eu or +32 2 229 39 10.			

*Discounted fees for this Task Force will be considered for non-members if they decide to become member of CEPS



ANNEX

Principles and Guidelines for CEPS Task Forces

This Annex offers guidance to prospective Task Force members and other interested parties in understanding the functioning of a CEPS Task Force and the process of drafting a Task Force report. Task Forces are processes of structured dialogue among industry representatives, policymakers, consumers and NGOs, who are brought together over several meetings. Task Force reports are the final output of the research carried out independently by CEPS in the context of the Task Force.

Participants in a Task Force

- ✓ Members are for-profit entities, membership organisations or NGOs which participate in a Task Force and contribute to its expenses by paying a fee.
- ✓ Rapporteurs are CEPS researchers who organise the Task Force, conduct the research independently and draft the final report.
- ✓ Chair is an expert appointed by CEPS to steer the dialogue during the meetings and advise as to the general conduct of the activities of the Task Force.
- ✓ Observers are any policymakers or stakeholders who are invited to attend the Task Force meetings and provide oral and written input.

Objectives of a Task Force report

- ✓ Task Force reports are meant to contribute to policy debates by presenting a balanced set of arguments, based on the members' views, available data and literature.
- ✓ Reports seek to provide readers with a constructive basis for discussion. They do not seek to advance a single position or misrepresent the complexity of any subject matter.
- ✓ Task Force reports also fulfil an educational purpose, and are therefore drafted in a manner that is easy to understand, without jargon, and with any technical terminology fully defined.

The role of the Task Force members

- ✓ Member contributions may take the form of participation in informal debate or a formal presentation in the course of the meetings, or a written submission.
- ✓ Input from members is encouraged and will be made available to all members, if it is to be used for the final report.
- ✓ Members represent their institutions but are asked to provide input as experts.



- ✓ Members are given ample opportunity to review the Task Force report before it is published, as detailed below.

Drafting of conclusions and recommendations

- ✓ Task Force reports feature a set of conclusions. To draft these conclusions, rapporteurs will summarise members' views. Wherever members' views do not lead to clear conclusions, general phrasing will be employed.
- ✓ Task Force reports feature a set of policy recommendations. These recommendations are meant to reflect members' views.
 - For a recommendation to be featured in the report, there needs to be 'consensus' or 'broad agreement' among Task Force members. Consensus does not however mean unanimity or full agreement as to every aspect of a given recommendation.
 - Where 'consensus' coexists with a significant minority view, the report will feature this minority view next to the relevant recommendation.
 - Where there is no 'consensus' but several contradictory views, the report will feature all these views and either refrain from making any recommendation or simply advise policymakers to clarify the given subject matter.
 - In all cases, the report will seek to identify the points where there is some form of agreement, for instance a common understanding of facts or opinions.
- ✓ Both conclusions and policy recommendations will be summarised at the beginning of the report in the form of an 'executive summary'.
- ✓ Members will be given ample opportunity to review the text of both conclusions and recommendations.

Drafting of the main text

- ✓ In the main text, rapporteurs detail the results of the research carried out independently in the framework of the Task Force. This part of the report will refer to the discussions during the task force meetings but also to available data and literature.
- ✓ Members' views are not simply presented as such but are also put into context. Wherever there is fundamental disagreement, the rapporteurs will ensure that all views are presented in a clear and fair manner.
- ✓ Scientific literature may be cited in this part of the report. Members are not purported to endorse any reference to this literature. A general disclaimer is inserted to clarify this aspect.
- ✓ The conclusions for each section will be clearly presented, and highlighted if appropriate. For the drafting of these conclusions please refer to the section above.



Use of data

- ✓ Task Force reports feature data that are considered both relevant and accurate by the rapporteurs.
- ✓ Task Force members are encouraged to contribute with any data or propose any sources they may consider relevant.
- ✓ Members may question either the relevance or accuracy of any given data. After consultation with other Task Force members, rapporteurs may decide either to exclude this data or to mention these concerns in the main body of the text.

Sample structure of a Task Force report

1. Editorial information
2. Disclaimer (see example below)
3. Executive summary
4. Outline
5. Main text
6. Summary of conclusions
7. References
8. Annexes, if any
9. List of participants

Sample disclaimer

“This report is based on the discussions in the CEPS Task Force on Innovation and Entrepreneurship, which met on five separate occasions in 2015. The policy recommendations offered at the beginning of this report reflect a general consensus reached by Task Force members, although not every member agrees with every aspect of each recommendation. A list of members, observers and invited guests of the Task Force can be found in Annex 3. The members were given the opportunity to comment on the draft final report, but its contents may only be attributed to the rapporteurs.”



About CEPS

Founded in Brussels in 1983, CEPS is among the most experienced and authoritative think tanks operating in the European Union today. CEPS is a leading forum for debate on EU affairs, whose most distinguishing feature is its strong in-house research capacity, complemented by an extensive network of partner institutes throughout the world.

CEPS' funding is obtained from a variety of sources, including membership fees, project research, foundation grants, conferences fees, and publication sales.



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