

Chapter 3 discusses the translation of the regulatory life-cycle into the procedural system governing policy-making. Strategic planning, public consultation and transparency, as well as justification and impact assessment constitute distinct yet intertwined moments in the cycle, and they support the balancing of technocratic and political dimensions in decision-making.

Chapter 4 addresses the principles, mechanisms and actors involved in the regulatory quality “policy”. This chapter touches upon the organisation of public administrations to cope with the related responsibilities and tasks, as well as the implications for parliamentary assemblies and independent regulatory authorities. The latter institutional actors are not (should not be) considered as merely passive recipients of initiatives by governments, but rather they should be equally responsible leaders in the overall reform strategy. To achieve such a comprehensive strategy – the book emphasizes – it is critical to invest both in upgrading, diffusing and maintaining the professionalism of all those involved in the regulatory process; and in ensuring an objective, accountable and effective regulatory oversight.

The book concludes with a wide discussion on the challenges that regulatory reformers have faced in the past few decades and the perspectives open for further consolidation of practices and progress. The book clearly benefits from a well balanced comparative approach. From the discussion, no specific model emerges as the best one, following a true spirit of sharing, understanding and lesson drawing. The book stresses the evolutionary character of regulatory reforms worldwide. It highlights the development and diffusion – even, it may be argued: the fashion – of the tools and the rationale underpinning their use over time, and from one jurisdiction to another. In this evolution, equal attention should be paid to optimising the flow of regulation and maintaining the stock. While the main focus of OECD countries appears to generally have shifted from legal drafting techniques to the assessment of compliance costs and – in the past decade especially – to administrative burdens measurements, a new frontier has emerged with regard to the economic analysis of law. It refers to the introduction of behavioural economics as a further supporting discipline contributing to enhancing the effectiveness and efficiency of regulatory action.

The same comparative, neutral spirit is embodied in a further positive feature of the book – its multi-

disciplinarity. The authors – two legal scholars and an economist – engage in a constructive exchange highlighting various perspectives and emphasising different explanatory and interpretative factors. Such an exchange is all the more valuable considering the common allegation that Italy counts among the countries with a distinct legalistic approach to governance and its reform. Throughout the volume, the main themes are presented notionally and also discussed critically. For both purposes, the authors draw from established supporting references, which are presented in a rich bibliography of more than 20 pages and include both academic sources and official documents. The book is published in Italian but it has an outspoken international spin, confirmed by the authors’ choice to leave many English and French quotes un-translated in the text.

De Benedetto, Martelli and Rangone remind us that regulatory reform must be a continuous exercise by regulators and policy-makers, a self-imposed discipline intrinsic in policy-making. It should not be confined to periods of crisis, only, hoping in its miracle solutions. That would not only clearly distort the very nature of regulatory reform, hijacking its tools and principles to rather short-sighted or (illegitimately) partial and partisan goals. It also misplaces expectations and eventually de-legitimizes reforms efforts. That would not be smart – and we cannot afford it.

*Governing Disasters – The Challenges of Emergency Risk Regulation*

Edited by Alberto Alemanno

Cheltenham: Edward Elgar, 2011

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As it stems from the subtitle of this book, its main theme is the notion of emergency risk regulation, which is interpreted as a regulatory action aiming to mitigate the impact of an immediate disaster. Mainly centred on the European volcanic ash crisis, authors from a variety of disciplines are focused on the key regulatory dilemmas of emergency risk regulation and the questions it puts before regula-

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tors, industry, consumers, scientists and scholars. Apart from defining the notion of emergency risk regulation and the use of scientific advice in times of crisis, many contributors suggested proactive approaches for regulatory responses, often fragmented and multi-layered, in real or potential catastrophes. From a legal perspective, defining an appropriate response to emergency situations, crisis management and regulatory decision making, heavily depends on interdisciplinary areas of research which exceeded the main normative issues. This book reveals an original perception of emergency risk regulation, a possibility of defining generic rules and procedures to emergency situations.

That is why it was necessary to define the concept of “emergency risk regulation” and its features already in the Introduction, written by the Editor Alberto Alemanno. He subsequently applied this theoretical framework to the description and analysis of the regulatory answer in the aftermath of the Icelandic volcano Eyjafjallajökull’s eruption. Emergency risk regulation presupposes either the existence, or a mere threat of a disaster, natural or man-made hazard, creating an event causing physical damage, destruction or drastic modification to the natural environment. To qualify as a disaster which calls for crisis management procedures that are different from ordinary ones, such risk must be sudden, significant and natural. This implies that emergency risk regulation comes at stake within the first two stages of a disaster: mitigation to reduce its potential impact and emergency response after the event occurs. The book illustrates that emergency risk regulation neither represent disaster prevention – known as ‘crisis management’ – nor post-event actions such as government assistance, insurance compensation and other forms of assistance. However, the volcanic ash crisis has shown that the distinction between mitigation and response is often unclear. Although this line is blurred and various risk management categories are interlinked, the specificity of emergency risk regulation is that it operates in the initial phase of the disaster cycle. This is where public attention is focused when abrupt and sudden natural or man-made hazards materialise and tend to influence such regulation.

Risk communication plays an important role in emergency risk regulation. Other features of emergency risk regulation include the uncertainty and the lack of suitable scientific evidence and the involvement of scientific advice in an environment with

inherent global dimension. Every emergency situation as a materialisation of unforeseen events poses a challenge to existing risk regulatory schemes, and the transboundary nature of emergencies makes it even more difficult to adopt effective regulatory responses. The lack of scientific knowledge towards disasters points to the fact that science-based risk regulation is not the ultimate solution. The emergency context in which the regulatory framework operates makes each feature of emergency risk regulation distinctive. Although emergency situations are difficult to prevent and predict, this volume supports the idea that the number of mistakes in emergency risk regulation may be mitigated by better understanding of the challenges facing this type of regulation.

Each contribution to the book brings a specific perspective on the general framework and challenges of emergency risk regulation which are set out in the Introduction. The first part of the book aims at describing the volcanic ash crisis and its learned lessons. While part two is focused on ideologies, narratives and communication challenges, the third part finally goes beyond the volcano crisis and addresses some other issues of emergency regulation primarily related to scientific, technical and normative uncertainty. Part four focuses on the organisational mechanisms of emergency regulation. Part five is an elaboration of the EU passengers’ rights regulation in emergency risk regulation. The final part suggests new perspectives for emergency risk regulation as well as a variety of instruments available to prevent emerging systemic risks in order to minimize their impact. A short epilogue draws the main lessons of these interdisciplinary contributions, calling for the abandonment of zero/risk approaches and better understanding of challenges facing emergency risk regulation.

In order to avoid a merely taxative overview of the chapters, the various contributions should be presented in line with their relationship to features of emergency risk regulation. This was the approach the editor provided in the Introduction. However, it is important to note that Chapter 1 provides an overview of what happened in the aftermath of the eruption of the Icelandic volcano and unfolds the events of the procedures followed by regulators. Many questions Alemanno opened here are further elaborated in subsequent chapters.

Being triggered by (the treat of) an unpredictable, sudden and significant event which may lead to paralysis in decision making, Chad Briggs in Chapter

11 illustrated the prospects of scenario planning in creating systematic decision making through decisions that could be made in advance. He argues that recent developments in scenario planning reflect organizational conflict over core values and argues that networks of experts and adapted methods of cumulative risk assessment and contingency planning may be taken well in advance. In the previous Chapter 10 Lorenza Jachia and Valentin Nikonov elaborated contingency plans and advised regulators to consider embracing all functions of the risk management process in their contingency plans. To be effective in the immediacy of crisis, regulators must design systems which embrace all functions of the risk management process.

The structure of legislation and of regulatory process should reflect risk-management methodology. The policy issues to be addressed through preventive strategies in risk-based governance models, is the focus of Chapter 16, where Giuliano Castellano illustrated prerequisites to establish a correct set of incentives to reduce the impact of unexpected events. He argues for a shift in the policy goals and the streaming of governance action towards *ex ante* models. Consequently, Christopher Lawless in Chapter 15 stressed that from an organisational perspective, a holistic and integrated approach is needed to understand the challenges of emergency risk regulation in a global context. This chapter has highlighted the important dimensions of uncertainty in scientific evaluation and anticipation of the volcanic ash problem. Emergency risk regulation represents a regulatory methodology combining the risk approach with the possibility of resorting to extraordinary measures. As risk regulation generally applies in the aftermath – unlike risk regulation which is designed to serve as protection beforehand – the legal framework of emergency risk regulation should comply with different issues. In Chapter 8 by Alfredo Fioritto and Marta Simoncini two issues are identified: the process of formulation of standards and the definition of the right means of their implementation.

Another issue in emergency risk regulation is uncertainty, especially scientific uncertainty. Chapter 7 by Vincent Brannigan represents an overview of the problems of scientific evidence in regulatory action. In line with this, focused primarily on the volcanic crisis of 2010, Chris Jonson and Alain Jeunemaitre (Chapter 4) elaborated the role of scientific input for contingency planning showing the effect of *ad hoc* application of the precautionary principle by the Eu-

ropean Transport Council. Their key finding is that a framework for involvement of leading systemized scientific advice is needed to avoid future problems. Chapter 9 by A.M. Viens open an important question of the lack of consensus as to the truly desired social course of action, known as ‘normative uncertainty’, and urges for solutions drawing on moral philosophy. That is to say, in times of crises, normative uncertainty implies that moral standards may be under a pressure and there are challenges to the rational actor model. In such situations regulatory action may be distorted by informational influence and prevalent interests. The focus of Chapter 5 (Adam Burgess) and Chapter 6 (Sweta Chakraborty) illustrate these challenges by exploring the role of media and risk communication amid the volcanic ash crisis. The outcome of Burgess’ study is that the qualification of hazards is contingent upon the nature of the hazard, and that the role of media should not be exaggerated. Stressing out the main elements in risk communication, Chakraborty provided the input for the best risk communication strategy in emergency situations. In Chapter 7 Brannigan argues that the industry, by transferring the burden to the regulators, caused a paradigm shift. Similar concerns on decision making in the volcanic ash crisis were put forward by Donald Macrae in Chapter 2, who concluded that public leaders and risk managers often neglect the importance of media.

Risks have important financial impacts and calculating these represents an example of the complexities that economists are facing in providing an estimate of the financial impacts of disasters. In Chapter 3 Ragona, Hansstein and Mazzocchi explained the process of calculating a higher financial loss of European flag carriers above the overall economic impact estimated by air traffic organisations.

Risks to health, safety and the environment have an inherent global dimension and call for global transnational governance. As elaborated in several social studies of science and society, risks are culturally constructed, socially framed and diverse cultures diversely affect them. On the EU level, crisis management is still conceived to be in the domain of member states. However, the Treaty of Lisbon introduced a legal basis for a pan-EU emergency regulation.<sup>1</sup>

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1 Article 222, Consolidated Version of the Treaty on the Functioning of the European Union, 2009.

Therefore, the argument that the diffuse nature of EU law in the field of network industries, put forward by Francisco Lopez-Jurado in Chapter 12, seems to be convincing in explaining what are the preconditions for providing better responses to systemic risks. Challenges to existing regulatory schemes are also presented by Morten Broberg (Chapter 13) and Nick Bernard (Chapter 14). Both chapters are related to the application of the Air Passengers' Rights Regulation in emergency situations and its limits when it comes to exceptional, emergency situations. Both authors concluded that the Icelandic eruption has proved this Regulation to be inadequate even for achieving its declared goal of consumer protection.

Overall, this book represents an important collection of interdisciplinary and multidisciplinary contributions, an original attempt to present main issues that have been identified by authors focusing on emergency risk regulation. From a theoretical standpoint, it is very important for defining the notion of disaster and features of emergency risk regulation in a systematic way. In addition, it is a valuable source of references to the literature for those who wish to learn more about this specific sub-field of risk research. Each of the chapters, from a different disciplinary perspective, ends with a bibliography

and identifies a number of themes about the nature of emergency risk regulation.

The book should be a valuable source of information and references for regulators, the regulated, and scholars in a wide range of disciplines such as law, economics, risk analysis, management, political science, sociology as it provides an original perspective on emergency risk regulation. While literature in many disciplines often calls for rules and scenarios for effective crisis management, most disciplines are sceptical about the possibility of systematized responses to each extraordinary event. This book shows that a new set of instruments to both prevent emerging systemic risks and minimize their impact is not a fiction and is indeed possible to be developed through an *ex ante* policy action. For presenting challenges of emergency risk regulation as such, it would have been better that the book encompassed more disasters, rather than the Icelandic volcano, notably those related to food and the environment. However, the fact that the edited volume finds its origin in the 1<sup>st</sup> HEC Workshop specifically devoted to the Volcanic Ash Crisis, which brought together a strong team of contributors, one particular disaster as the main focus of the volume has been fully explored and documented.