

## Book Reviews

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*La qualità delle regole [The quality of regulation]*  
by Maria De Benedetto, Mario Martelli and  
Nicoletta Rangone  
Bologna: Il Mulino, 2011,  
248 pp., € 18.50, Soft cover

Lorenzo Allio\*

The book by De Benedetto, Martelli and Rangone is a convincing contribution to overcoming the notion that modern regulatory regimes must strive for aseptic mechanicalness, if they seek to enhance the quality of their public policy choices through regulatory reform. The survival of the fittest (regime) does not pass through full, absolute and unconditional rationalisation. And regulatory reform encompasses such a wide range of dimensions, tools and stages that, while it needs to be constructed consciously and comprehensively, it cannot be reduced to mechanically deploying initiatives and techniques.

In this respect, the book broadly espouses the current concept of Smart Regulation, as pursued by a few number of governments, and pleads for an even more inclusive approach which encompasses legal-economic, procedural, organisational and even sociological aspects. Such approach appears to be particularly suitable in the present time of (post-)crisis governance. On the other hand, the book is not an academic essay and the authors deliberately chose not to further explore the original notion of smarting up regulation, as promoted by leading academics in the 1990s in relation to enhanced flexibility and responsiveness of regulatory processes and outputs.

In about 250 pages, the authors touch upon the main themes characterising the debate about regulatory reform, swinging from a discussion of the features determining the quality of individual regulatory outputs to more systemic considerations of the framework conditions for achieving regulatory quality. The Introduction (Chapter 1) sets the background and investigates the rationale for addressing the *quality* of regulation. Interestingly, the authors apply the quality lens also to tackle commonly acknowledged weak spots of regulatory regimes, such as the complexity (i.e. the overlapping, contradictory character) of many regulations and their “hypertrophic” production – two areas usually ascribed to the *quantity* dimension of regulation. In so doing, the chapter bridges the notion of “quality of regulation” (“*qualità delle regole*”) with the one of “quality regulations” (“*regole di qualità*”), while reminding at the same time the limitations of regulatory reforms. The book gives hence a wise cue to better regulators – be they officials and decision-makers, consultants or academics – about what objectives leveraging regulatory quality can actually achieve but also what structural failures it cannot solve.

Chapter 2 dwells on the various phases of the “lifecycle of regulation”, stressing that regulation must be managed throughout its whole lifespan: from its design to the adoption, from its implementation and enforcement to the evaluation and revision. While at present this assumption is generally recognised by OECD countries on paper, its practical application still finds resistances or difficulties. What seems moreover to still be missing is the implementation of the corollary that ensues from – i.e. that no regulatory tool or institutional architecture, taken individually, can produce successful reform. The latter is only the sum of many necessary but not sufficient constitutive elements yielding regulatory quality.

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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

320 pp., £75.00, Hardback

*Tatjana Jovanic\**

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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