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## Enhancing the quality of impact assessments in France

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### Impact assessment on new laws : a long way...

- | 1990's : new governance tools emerge in France : assessment of public policies, open consultation, experimental regulation, public efficiency analysis
- | PICQ report august 1994 : a new approach to design reforms...
- | Prime minister instruction to ministers 21 november 1995 : IA mandatory for primary legislation : « *this impact assessment have to enable the Parliament and the government to prepare adequate regulation, bringing to light possible consequences and impact of initiatives submitted to their decision* »

PM guidelines on impact assesement 21 nov 1995

- New PM instruction and guidelines 26 august and 30 september 2003
- Monitoring group chaired by Bruno Lasserre,  
« Towards a better quality of regulation », 2004
- Conseil d'Etat public report 2006 : legal certainty and complexity of the rule of law  
« *useless legislation weakens necessary legislation* » (Montesquieu)  
  
« *When the law chitchats, citizens don't listen any more* »

## 2008 Reform of the French constitution

Balladur committee :

« *proposes that laying an impact assessment should become a **condition for admissibility of the government bill** submitted to the Parliament, the **constitutionnal court** being **empowered to check**, on the proposition of 60 deputies ou 60 senators and just after the draft has been brought in, **that it fullfills standards that an organic law could determine** »*

## 2008 Reform of the French constitution

Article 39 of the French constitution  
after the 23 juillet 2008 constitutional reform :

- | « *Presentation of new bills to the National assembly or to the Senate is submitted to **special requirements set by an organic law.*** »
  
- | *New bills can't be put on the agenda when the presidents group of the first house concerned establishes that these requirements have been **neglected.** In case of dissention between the presidents group and the gouvernement, the president of the house concerned or the Prime minister may refer to the constitutionnal court which will decide within 8 days ».*

## French IAs in a few words

- Organic law 15 april 2009. Immediate implementation, constitutional sanction possible from 1<sup>st</sup> september
- A tool for action and decision : for minister, PM, Conseil d'Etat, and the Parliament
- An effective way to curb « regulatory inflation » and instability of the rule of law
- An instrument to fuel the debate in the Parliament and in the public opinion
- Still some kind of mistrust and difficulties

## What scope ?

All « ordinary » bills

Organic laws

Delegation from the Parliament to the government for executive orders in legislative matters

Some articles of budget and fiscal laws with few specificities

Authorization of the Parliament to ratify a treaty

## What scope ?

- Out of the scope :
- Constitutionnal reforms
- Outline law for public expenses
- Executive orders and their legislative endorsement
- Secondary legislation, except specific matters (local authorities, new committees...)

## What shall we find in a french IA ?

- | One or several documents. *“These documents fix the objective of the bill, list the possible options that would not need extra regulation, and present the reasons why a new law is needed”*.
- | Usual sections :
  - | - Detailed analysis of the situation and of the enforcement of existing laws (including EU law)
    - Objective
    - Options (from general ones to practical measures needed)
    - Impact in every relevant field
    - Consultations (formal and possibly informal processes)
    - Conditions for implementation and success

## What kind of impact is considered ?

- *« The IA makes a precise statement including*
- *the analysis of **economic, financial, social and environmental consequences**, as well as **costs and benefits** expected from the considered measures **for each category** of public administrations, of enterprises and citizens, the method for valuation been explained » ;* an assessment of *« consequences for public sector manpower »*
- a wide range of indicators dealing with direct or indirect consequences is needed
- An comprehensive approach (to be compared with IA of the EC commission after Lisbon treaty)

## What other information

Transitional measures and need for enforcement delays

Primary and secondary legislation to be repealed

List of secondary regulation needed as a consequence

Conditions of implementation overseas and specific conditions needed

## How is the IA prepared ?

Scoping coming legislative initiatives every 6 months > schedule of work

Specifications (6 to 4 month before blue print)

First draft by the ministry in charge.

Round of cross examination by other ministeries

Monitoring by the PM services - ajustment

Control by the Conseil d'Etat – readjustment

IA on the table of the council of ministers, sent to the Parliament and published on the web.

## From theory to practice

- Since 2006, a lot of progress have been made : now almost all bills in the scope (1/3 in 2006), a know how has been developed by departments inside ministeries
- Some specific tools have been developed
- Statistics more in adequation, but still difficulties to get relevant data
- Some skepticism from the level 1 services : fading away progressively

## From theory to practice

- Until last year, document « inside the walls of government » : now offered to the debate (public opinion and parliament) : major shift of perspective
- Advantages : more attention paid
- Drawbacks : selective information, more pressure, sometimes difficulties for really discussing options

## Several levels of monitoring and control

- Interministerial contradiction (effective)
- Internal supervision of the general secretariat of the government
- First level of external control : Conseil d'Etat, secret position but quite demanding
- Second level of control by the Parliament : no constitutionnal sanction at present, but the threat is to be taken seriously
- Last level : constitutional court

## Adapting the structures and attitudes

- Quite demanding for services inside government : expertise and ressources needed
- Still visible influence on the quality of drafts
- Time is needed for a good assessment, vs political agenda
- Taking everybody on board !
- The stakes are high : considerable expectations from the Parliament



**Thank you for your attention**  
**Your questions and remarks...**

