

# **The decree on complicated infrastructure projects. How Flanders (attempts) to deal with sensitive or (likely) contested infrastructure projects**

Governor Cathy Berx  
Province of Antwerp

AERTE Days Lyon  
31<sup>st</sup> of May 2018



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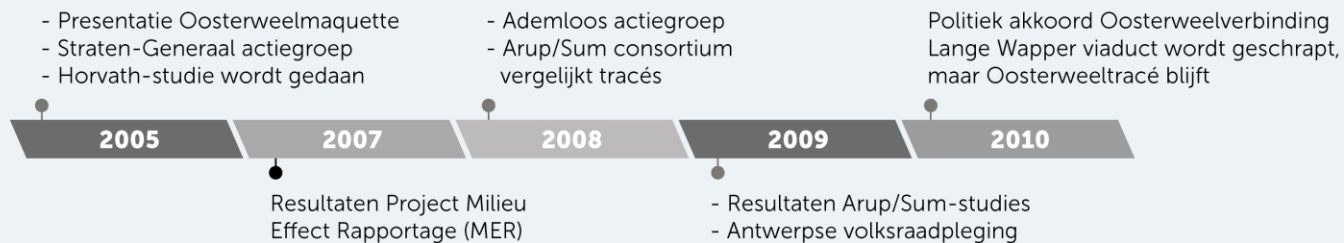


The Antwerp Ring. Congestions causing a traffic 'heart attack'

**Een project in de  
luwte (1995-2005)**



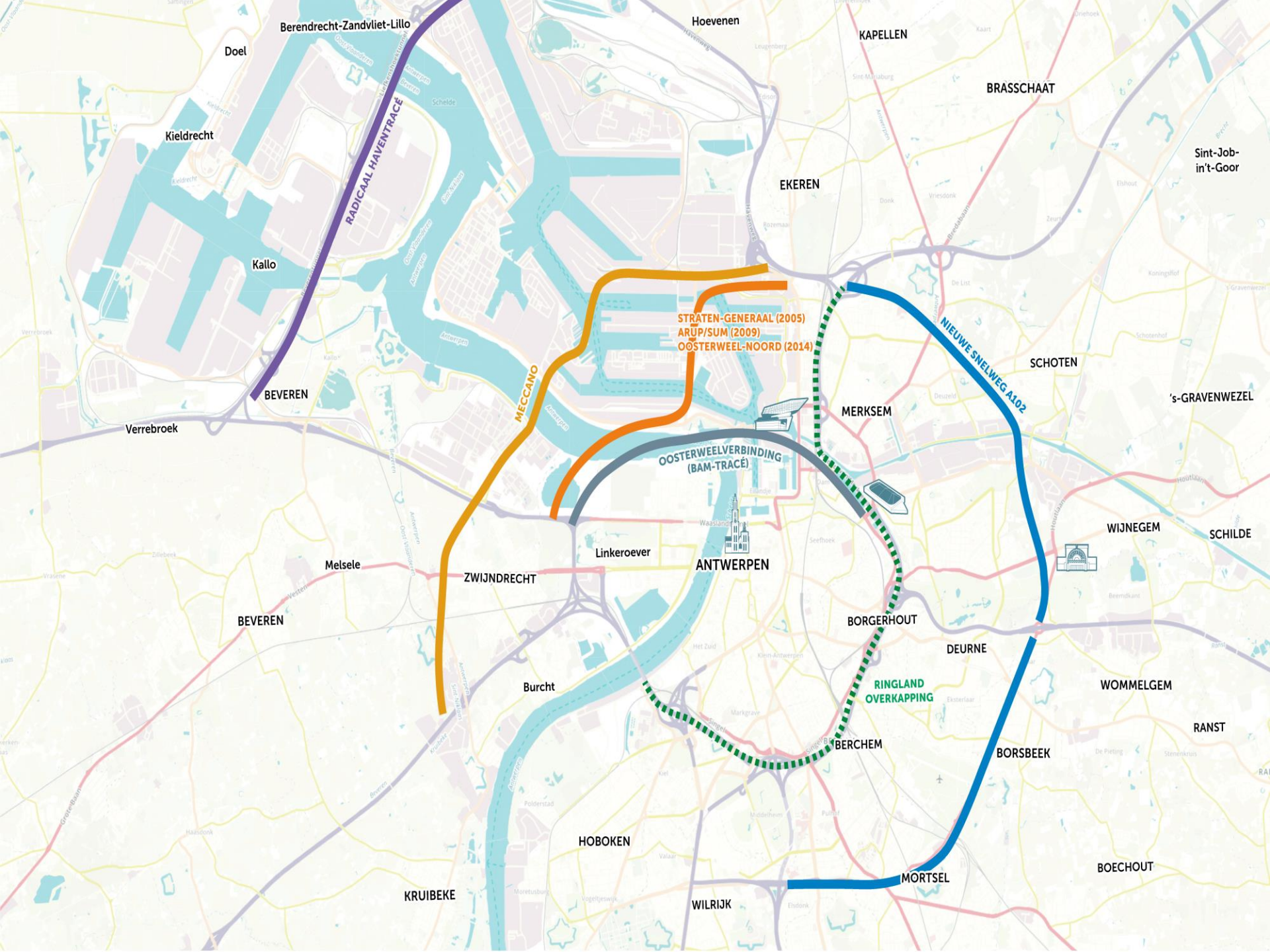
**Van maquette tot  
schrappen Lange  
Wapper (2005-2010)**



**De Ringland-tango  
en het historisch ak-  
koord (2014-2017)**







# Initial Plan proposal (2005)

The so-called '**Oosterweelconnection**'-or '**BAM tracé**' with a.o. **2 main highlights**:

1. Construction of a **tunnel under the river Scheldt**
2. Construction of the '**Lange Wapper-bridge**' across the docklands

→ The Oosterweelconnection → a **third intersection** to cross the river Scheldt **rounding up the Antwerp Ring entirely**

→ **Preliminary studies** such as EIA (Environmental Impact Analysis on the strategic 'plan' level) already approved 'below the radar'.

→ Contract on the design sign off signed with a private consortium with a value of EUR 3 bn

# Initial proposal BAM





# substantial citizen protest

**Pressure groups/action committees (StRaten-Generaal, Ademloos and Ringland)** formulate alternatives and obtain massive citizen support

Main concerns:

- 1. City development:** Oosterweel is a scar that will ruin Antwerp and its future development
- 2. Air pollution:** people will suffocate, get ill and die an early death
- 3. Quality of life:** avoid traffic too close to the city. A city is built for people to enjoy life. They need open and green spaces, no extra traffic or concrete.

# Substantial citizen protest

## ACTIONS

- 1. Successfully channelling of social frustration**
- 2. A referendum/pebliscite** on the 18th of October 2009: 58% NO, 40% Yes
- 3. Procedures at the Council of State**



# Air pollution

2012 air quality map: NO<sub>2</sub> - Average ( $\mu\text{g}/\text{m}^3$ )



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# City development

## EERSTE INFO-AVOND OVER OOSTERWEEL



**De ring in een sleuf, naast het Sportpaleis:  
zo wil de Vlaamse regering het. Foto KOS**



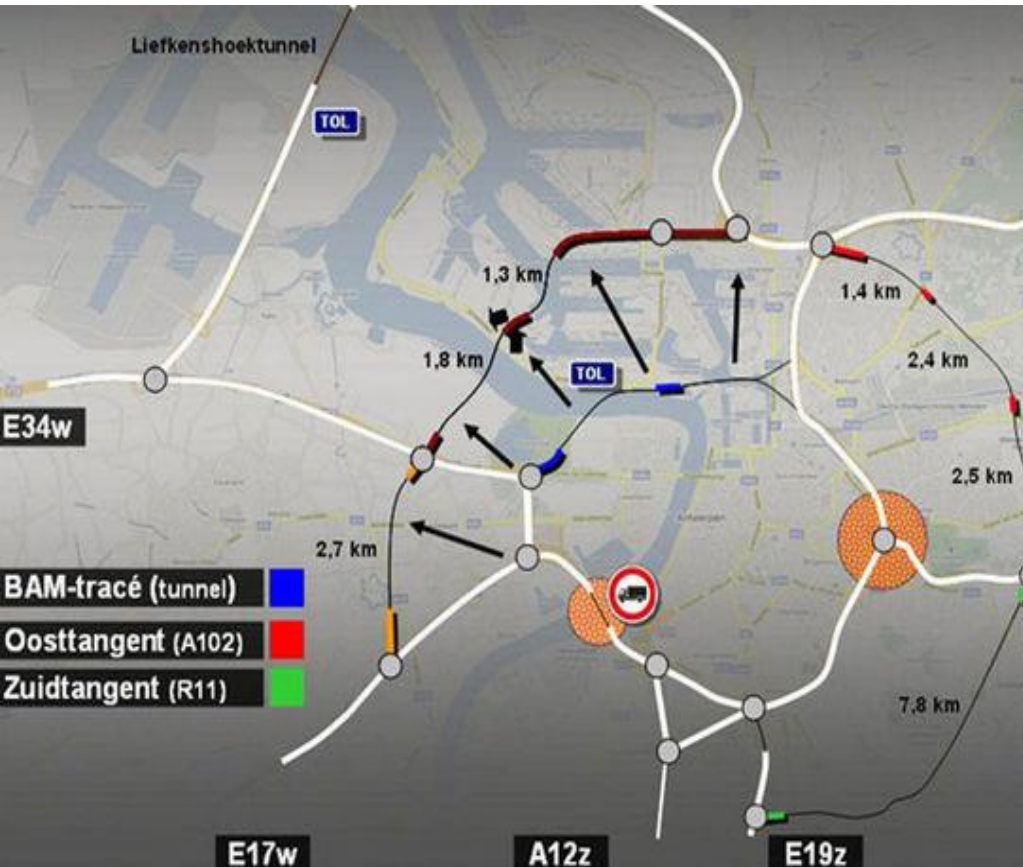
**De overkapte ring naast het Sportpaleis:  
het voorstel van stRaten-generaal. KOS**



# Substantial citizen protests



# Proposed alternatives



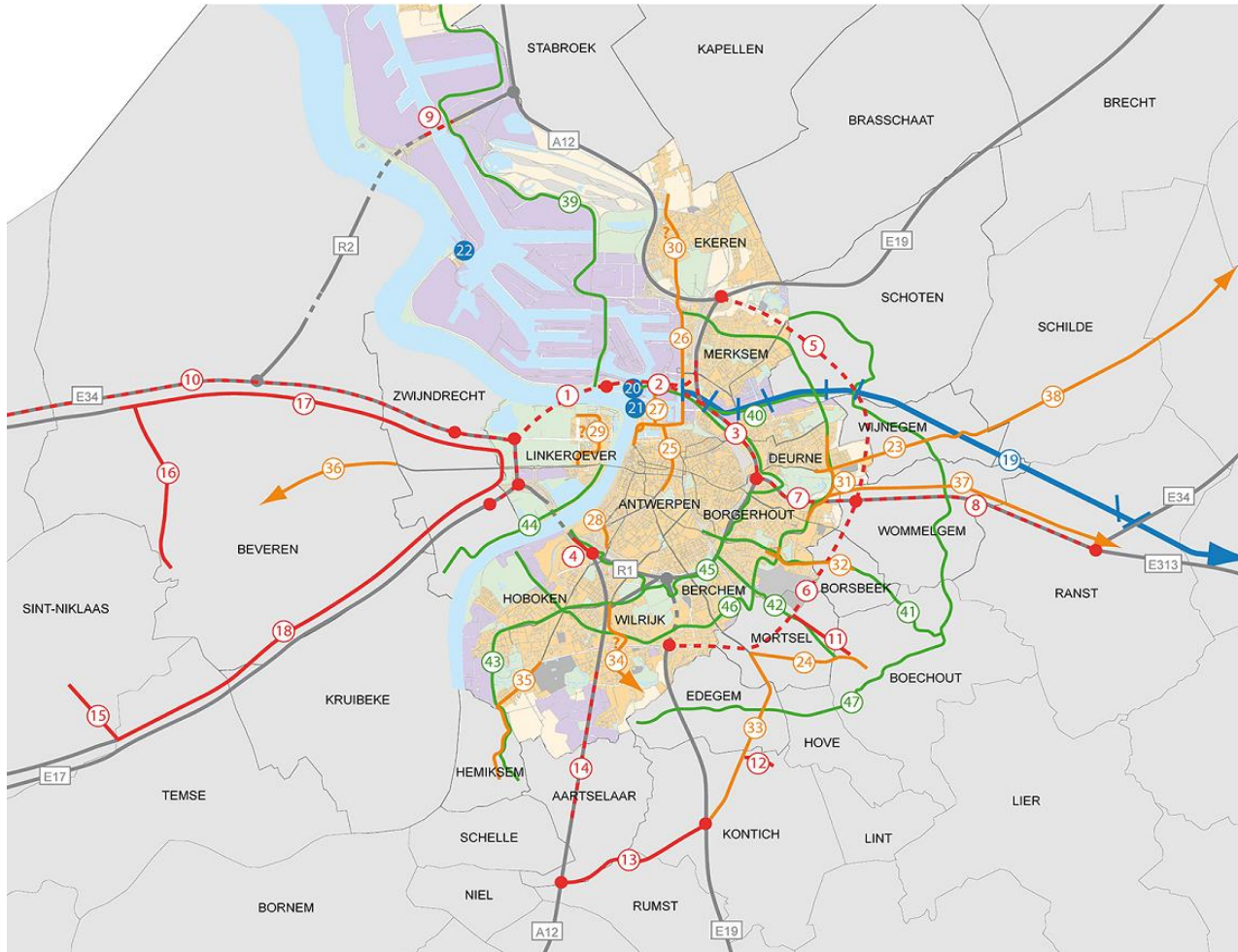


# Proposed alternatives (power of images/imagination)





# Governmental reaction: (unilaterally) adjusted plans. Master Plan Mobility 2020 for Antwerp (2010) reaffirmed in 2014: bridge skipped, extra infrastructure and focus on modal shift: public transport, bikelanes, waterway)



## Wegenwerken

- Sluiting van de R1 via Oosterweelverbinding met Scheldetunnel (1)
- Kanaaltunnels (2)
- Viaduct Merksem verdwijnt (3)
- Herinrichting spaghettiknoop (4)
- Aanleg A102 onder het maaiveld (5)
- Vertunnelling R11 (6)
- Herinrichting E313/E34 met
  - Spitsstrook tussen Antwerpen en Ranst (7)
  - Extra rijstrook tussen Ranst en Wommelgem (8)
- Verbeteringen R2-Thijssmantunnel (9)
- Ombouw expressweg N49 tot snelweg (10)
- Heraanleg R4 te Gent (niet op kaart)
- Ingrepen in de zuidoostrand
  - Verbinding N10-R11 (11)
  - Verbinding N171-N1 (12)
  - Verbinding N171 (13)
  - Verbetering aansluitingscomplexen N177-A12 (14)
- Ingrepen in het Waasland
  - Aanleg tangent E17-N70 (15)
  - Aanleg tangent N70-E34 (16)
  - Aanleg parallelweg langs E34 (17)
  - Aanleg parallelweg langs E17 (18)

## Vervoer over het water

- Aanpassen bruggen Albertkanaal Antwerpen-Meerhout (19)
- Renovatie Roeyersluis (20)
- Renovatie Kattendijksluis (21)
- Renovatie Van Cauwelaertsuis (22)

## Extra openbaar vervoer

- Tramlijn Deurne - Wijnegem (23)
- Tramlijn Mortsel - Boechout (24)
- Tramlijn en heraanleg Leien en Operaplein (25)
- Tramlijn tot Ekeren (26)
- Tramlijn ontsluiting van het Eilandje (27)
- Tramlijn ontsluiting Nieuw Zuid (28)
- Tramlijn ontsluiting Linkeroever-Noord (29)
- Tramlijn tot Leugenberg (30)
- Tramlijn Wommelgem (31)
- Tramlijn Borsbeek (32)
- Tramlijn Kontich (33)
- Tramlijn Wilrijk (34)
- Tramlijn Hemiksem (35)
- Tramlijn Beveren (36)
- Tramlijn Ranst (37)
- Lightrail Oostmalle (38)

## Extra fietspaden

- Havenroute (39)
- Albertkanaal (40)
- Berchem-Borsbeek-Vremde (41)
- Spoorlijn Lier-Antwerpen (42)
- Hoboken-Hemiksem (43)
- Beatrijslaan-Burcht (44)
- Ringfietspad (45)
- Districtenroute (46)
- Gordel randgemeenten (47)



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...growing protest and increasing  
opposition



**In search of a solution to accelerate  
complex and sensitive  
infrastructure projects...  
The Commission Berx**

# Commission Berx (November 2009-February 2010)

## Why is it so hard to successfully complete strategic infrastructure projects of an immense public interest in Flanders?

### A. Assignment:

1. Analyse the causes of the structural complexity and delay in the decision-making processes from start to completion of public (and private) strategic infrastructure projects
2. Develop specific proposals for the improvement of the decision-making processes and procedures from a broad perspective

### B. Defined/presumed problem:

1. Long duration and/or a lack of clear (intermediate) decision-making lead to:
  - a. Loss of quality
  - b. Rising costs
2. Systematic lack of and/or vulnerability of 'public support' and/or 'social consensus'
3. Lack of balance between public and private interests: should and how should judicial procedures be reformed, to restore that balance?



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# The Commission Berx: approach

## C. Working method:

1. Call for proper expectations
2. A balanced approach on several fronts
3. Analysis of some specific projects
4. Elaboration of a refined problem analysis
5. Examination of foreign reports and legislation
6. Proposals from administration and civil society organisations

## D. Structure of the report :

<b>Chapter I: Introduction</b>	<b>Chapter IV: Set quick wins short-term realisation</b>
<b>Chapter II:</b> Refined problem analysis	<b>Chapter V:</b> Wide range of recommendations
<b>Chapter III:</b> General observations	<b>Chapter VI:</b> Paradigm shift for judicial review
<b>Chapter 7:</b> Summary conclusions	





# The Commission Berx: proposals for new process and procedure (1)

## Mental shift:

- **Participation and co-creation** from the **start until the realisation** and exploitation of (new) infrastructure

## A. Invest in an open, informal exploratory preliminary phase

- Early (not definite) detection of all (possible) stakeholders
- Shared definition of the societal problem and/or opportunities (traffic heart attack ↔ quality of life, clean air, public health and city development)
- Out of the box exploration of all solution alternatives without exclusives, taboos or 'determined favourites'
- Accept and embrace knowledge, insights, large perspectives...from civil society
- Communicate in an open, true and honest way



# The Commission Berx: proposals for new process and procedures (bis)

## B. Integrated formal procedure

➤ **Draft preference decision** concludes the informal phase

➤ Plan Environment Impact Analysis

➤ Formal public investigation

➤ **Preference decision**

➤ Possibility of public consultation

➤ Judicial control

# **The Commission Berx: proposals for new administrative processes and procedures (bis)**

- **Further elaboration of the project**
- **Integrated project Environmental Impact Analysis and special implementation plan**
- **Public consultation**
- Environmental permit (including expropriation permit, forest/nature compensation...)
  - Mitigation measures (noise barriers, buffers, ...)
  - Judicial review
- **Realisation**

# The Commission Berx: preconditions

## A. Performant project management:

- Mandated person with qualities in the area of **process management**
- Involvement of **professional forms of 'mediation'**

## B. Solution oriented inter- and intra-administrative cooperation:

- No compartmentalisation
- Stimulate **endeavour to find a solution, creativity and collaboration** between public service staff
- **Abolition of binding opinions** and **other forms of unilateral decision-making power**
- **Integrated advice procedures and/or advices**
- Efficient and constructive collaboration between different levels of government

# The Commission Berx

Paradigm shift for judicial review and protection

- A. Solution-oriented procedures for administrative judges
- B. Timely restoration of procedural and formal errors
- C. Extend the available remedies for administrative judges to settle disputes in a balanced and solution driven way



I

**Application of the principles of the  
Commission Berx to the complex  
infrastructure and mobility project in the  
Antwerp area...**

# Practical examples of the new working method suggested by the Commission Berx

Masterplan 2020 Mobility Antwerp, 2 new projects:

- **New highway A102 (drilled tunnel)**
  - **Tunnel beneath the R11 (the so-called R11bis)**
- Flemish government appointed Governor C. Berx as **process facilitator**
- A strong **participative and interactive** process was put in place
- All possible **stakeholders** were involved in a **very early stage**
- **R11bis** was abandoned by the Flemish government: unacceptable impact, no proven added value, highly contested



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# Process-approach of the A102/R11bis project

Step 1: open questionnaire sent to all the involved or interested stakeholders: action committees, municipalities to collect as much information, perspectives, insights, obstacles as possible

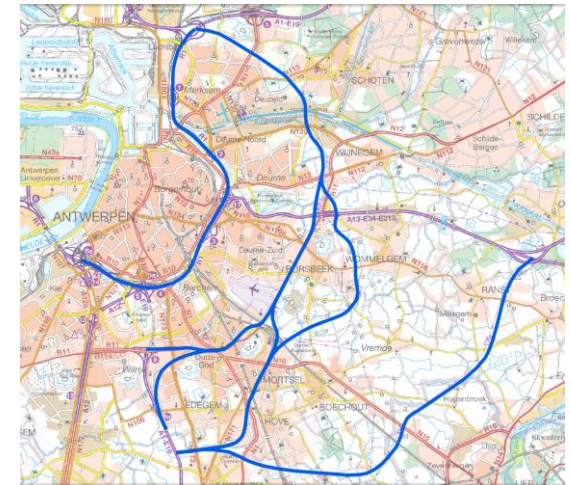
Step 2: elaboration of an open **working and concertation structure**

Step 3: **open discussions** in an open consultative group with all the stakeholders

Step 4: elaboration **first proposals**, alternatives and plotted roads based on the available information

Step 5: **preparation** of the **public consultation**: travelling **information markets** to prepare the formal public consultation

Step 6: **EIA on plan level**: investigation of the consequences for the inhabitants, the environment, the space and mobility



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# Process-approach of the A102/R11bis project

Step 7: **15/1/2014-15/2/2014**: 'Notification-file' plans A102/R11bis made over to local authorities, organisations and associations. **600 'involvement reactions' were submitted to the EIA service.**

Alternatives were listed and carefully studied

Step 8: **Draft of EIA on plan level**: first directives, 'funneling' report and examination of the proposed alternatives

Step 9: **Thorough draft mobility study by Transport and Mobility Leuven**. Main question: are the suggested alternatives sufficient to solve the structural congestion on the Antwerp Ring and to increase the viability in the eastern boarder of the city?

**Preliminary conclusions**: separation between local and long-distance traffic is crucial; Priority needs to be given to northern instead of southern connectivity of the Antwerp Ring; R11bis provides no added value.

<http://www.poortoost.be/project/aanleg-a102-en-r11bis>

# The Decree on Complex Projects based upon the embedded conclusions and proposals of the Commission Berx

- **25th of April 2014:** the Decree on Complex Projects was called in life
- **Implementation date:** 1st of March 2015
- The decree stipulates **large and open participation and co-creation** as a requisite to obtain the necessary permits for a complex project via one integrated project.
- <http://www.complexeprojecten.be/>



Figuur 4: Impressie van de vallei van de Kleine Nete ter hoogte van een gepland overstromingsgebied, onderdeel van de coördinatieopdracht voor de vallei.

Jaarverslag coördinatieopdracht gouverneur – 2013 – Antwerpen



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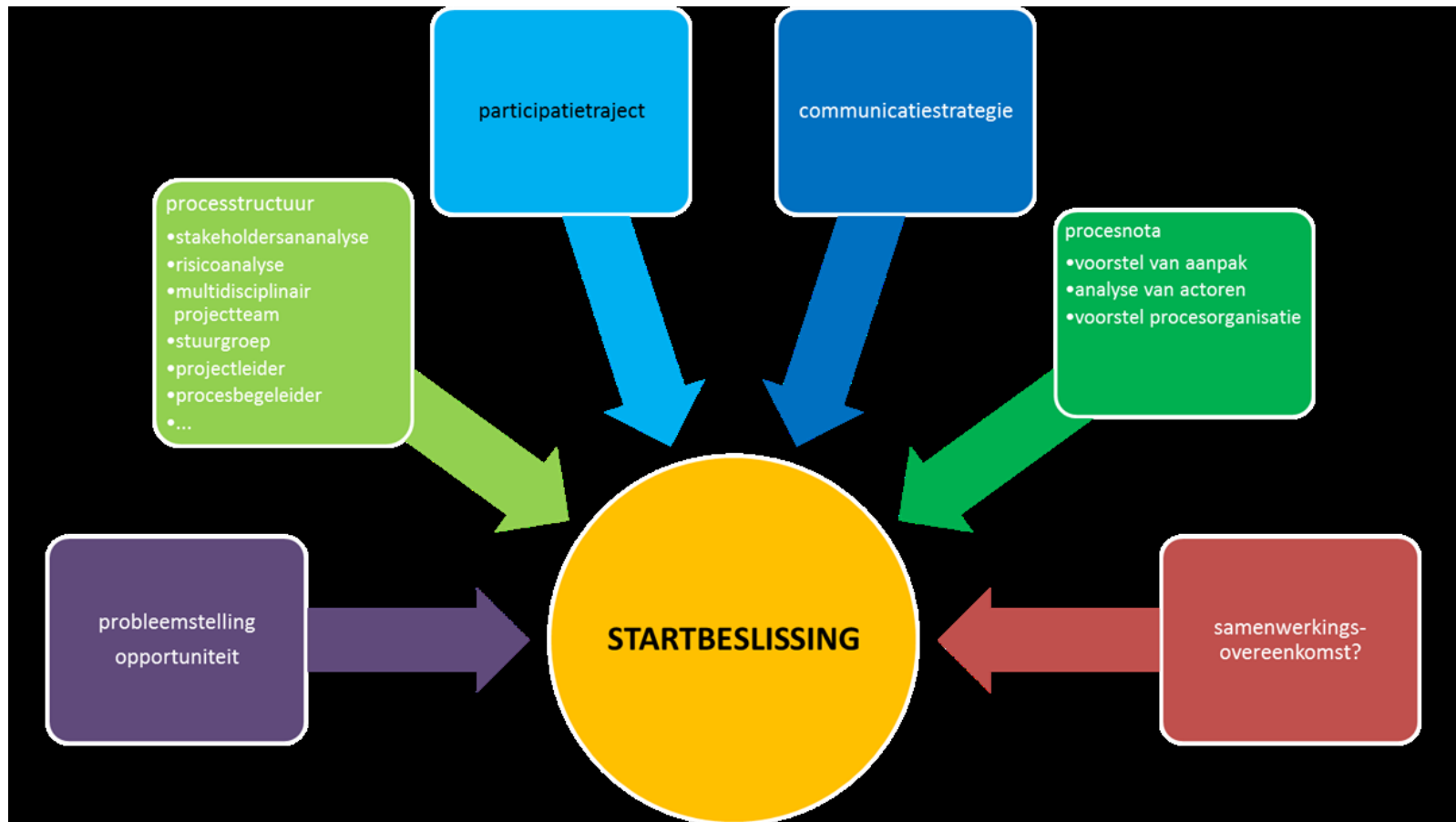


# Decree on complex projects: an overview





# Decree on complex projects: Exploration phase



# Decree on complex projects:

## Research phase

- Integrated, well-thought consideration of alternatives on strategic level:
  - Environmental research
  - Financial-economic
  - Spatial fitting-in with the landscape
  - Design research
  - And others
- **Preference decision**  
Establishment from chosen alternative at the strategic level
  - Possibility of appeal: Council of State
  - Legal consequences: f.e. building restriction

### Alternatives research report

#### Consultation

#### Integrated research

#### Synthetic report

#### Draft preference decision

#### Public inquiry

#### Preference decision

#### Announcement

# Decree on complex projects: Design phase

- Further concretisation to achievable project
- Focus shifts from strategic to project level

- **Project decision**

Establishment from chosen alternative on implementation level

- Permits
- Authorisations
- Reclassification/ Change in the designated use
- Management and monitoring
- Action program

- Legal consequences

- Possibility of appeal: Council of State

**Project research report**

**Integrated research**

**Synthetic report**

**Draft project decision**

**Public inquiry**

**Project decision**

**Announcement**

# Decree on complex projects: Implementation phase

- Project implementation and monitoring: evaluation of the predicted effects



# Appointment of the intendant

- Early call for the 'covering' of the Ring by the action committees
- 16th of December 2015: appointment of **intendant** Alexander D'Hooghe (MIT). Assignment → studying and implementing the 'covering-over' of the Antwerp Ring

His concrete tasks?

- **Draft an ambition note and support structure** for the project
- **develop a viability concept for the area around the Ring**
- **draw up a set of specifications for design teams**
- **set up a consultative board in order to create a solid support infrastructure**



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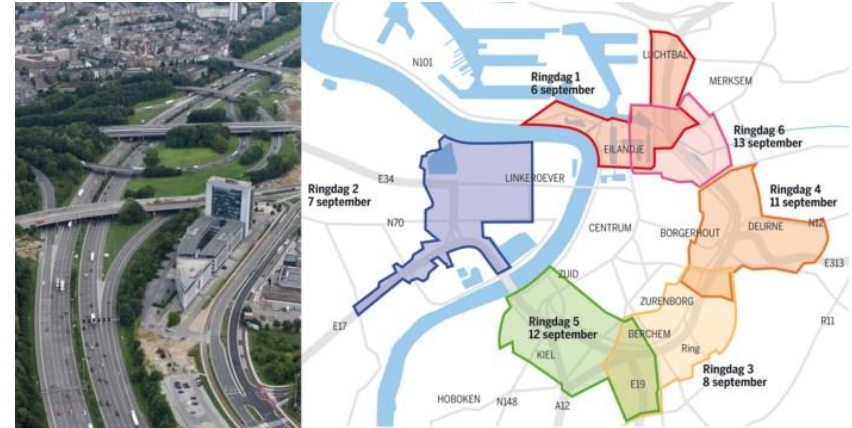
# The intendant: his results and selection of six international design teams

Publication of the ambition note after 10 months of consultation rounds with action committees and stakeholders

Selection of six international design teams:

1. Zone North
2. Zone West
3. Zone South East
4. Zone East
5. Zone South
6. Zone North East

<https://www.overdering.be/>



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# The 'Toekomstverbond': a historic compromise for the Antwerp region

- Puts an **end to years of political impasse**
- A fresh proposal and solution for the mobility, viability and public health in the Antwerp region: the **radical Haventracé & Oosterweel light**
- Of **urban, regional, Flemish and national importance**
- Favours a **modal shift 50/50, a covering-over of the entire Antwerp Ring.**
- Guarantee for long-term collaboration between action committees, authorities and stakeholders
- **End of the procedures on behalf of the action committees** (Ademloos, Ringland, StRaten-Generaal) at the Council of State → final permits
- **8th of February 2018: official launch of the Oosterweel works:** groundbreaking ceremony on the left bank of the Scheldt (Linkeroever)



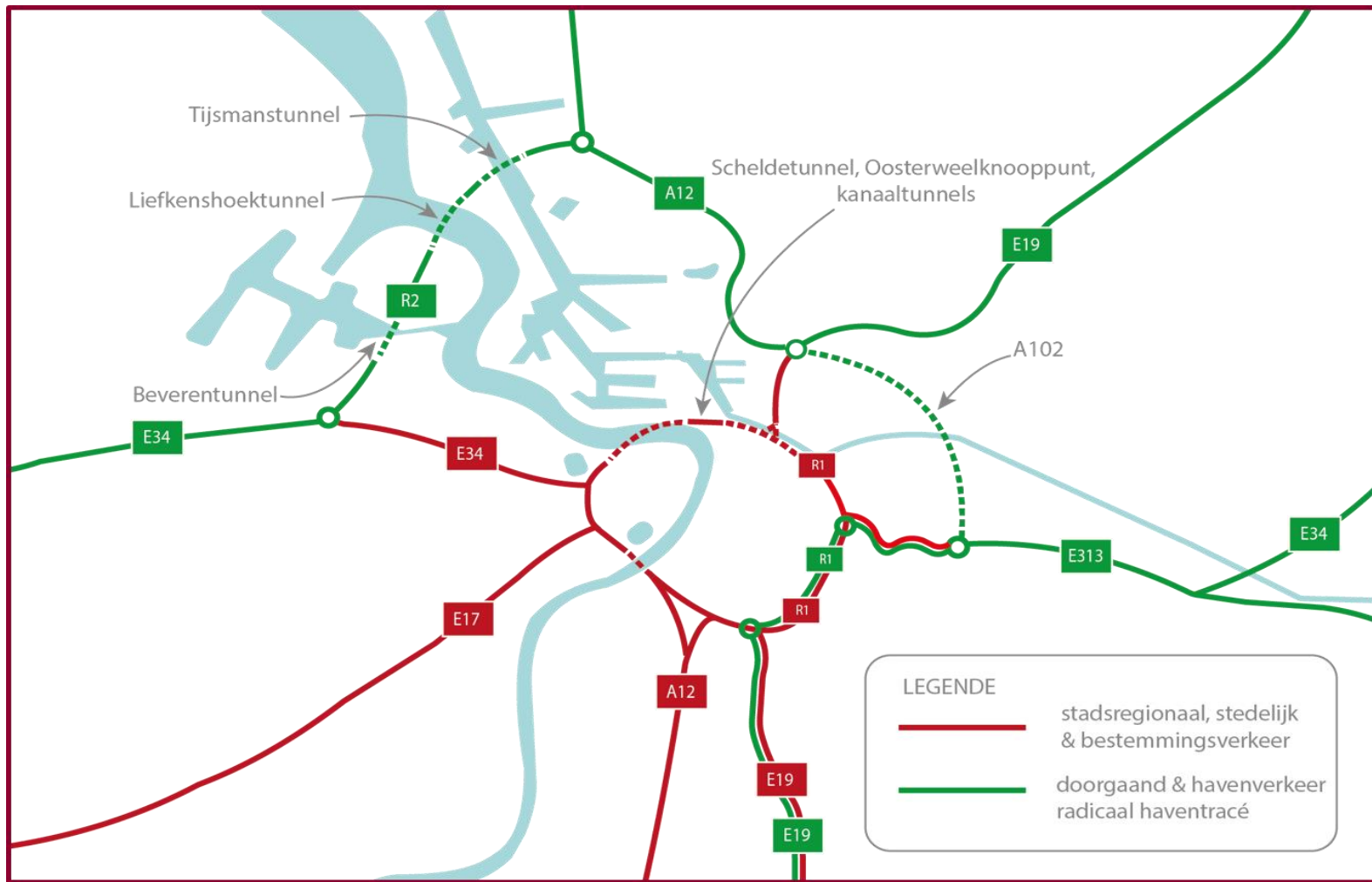
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# The 'Toekomstverbond': the radical Haventracé & Oosterweel light



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# Cooperation structure Routeplan 2030

Masterplan 2020



Routeplan 2030



Multi-annual, integrated, multimodal investment programs: Regional Council for Mobility, working community, Antwerp work platform



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# Creation of 4 workbenches

Implementation common goals 'Toekomstverbond' 2017 between citizens' movements and authorities:

1. Realisation of the **roofing-in of the Ring**
2. Realisation of the **modal shift**
3. **Rounding up the Ring with the Oosterweelconnection light** (local traffic)
4. **Development of the radical Haventracé for port traffic and long-distance traffic**

Each goal of the 'Toekomstverbond' gets its own workbench assigned to exchange knowledge and expertise

Main pullers of the 4 workbenches:

1. Intendant Alexander D'Hooghe
2. Jan Van Rensbergen (BAM)
3. Jan van Rensbergen (BAM)
4. Cathy Berx (governor)



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# Approach workbench Haventracé

- Development of the **radical Haventracé E34 (West)– R2 – A12 – A102 – E34 (East)** to lead long-distance traffic away from the city.
- **Traffic vision**, enriched with **spatial development to increase quality of life**: integration of the tracé and a link/interface with public transport, park & rides, bicycle highways and more greenspace.
- Firm focus on **health effects**.
- **Former planning initiatives** from the Haventracé like the E34/E313 and the A102/(R11bis) **will be revised and updated**.
- The Workbench Haventracé started in January 2018.
- Members: Governor Cathy Berx (president), representatives of the Flemish Government, provinces, North-Brabant, local authorities, action- and community groups, Port of Antwerp, VITO, VMM, chamber of commerce, other experts,...
- Open question list to collect all the available information, perspectives, insights, obstacles.



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# First results workbench covering-over





# Conclusions

- Oosterweelconnection: much bigger than Antwerp
- Symbol for complicated, strategic infrastructure projects
- New insights on conflict escalation:

**Substantive conflict** (trace: close or away from the city; bridge or tunnel)



**Procedural conflict** (time-perspective, 'depoliticization': use and abuse of studies and so called evidence)



**Relational conflict** (doubt on representation; polarization; fighting each-other instead of 'for' the right cause; distrust and personal aversion)

# Conclusions

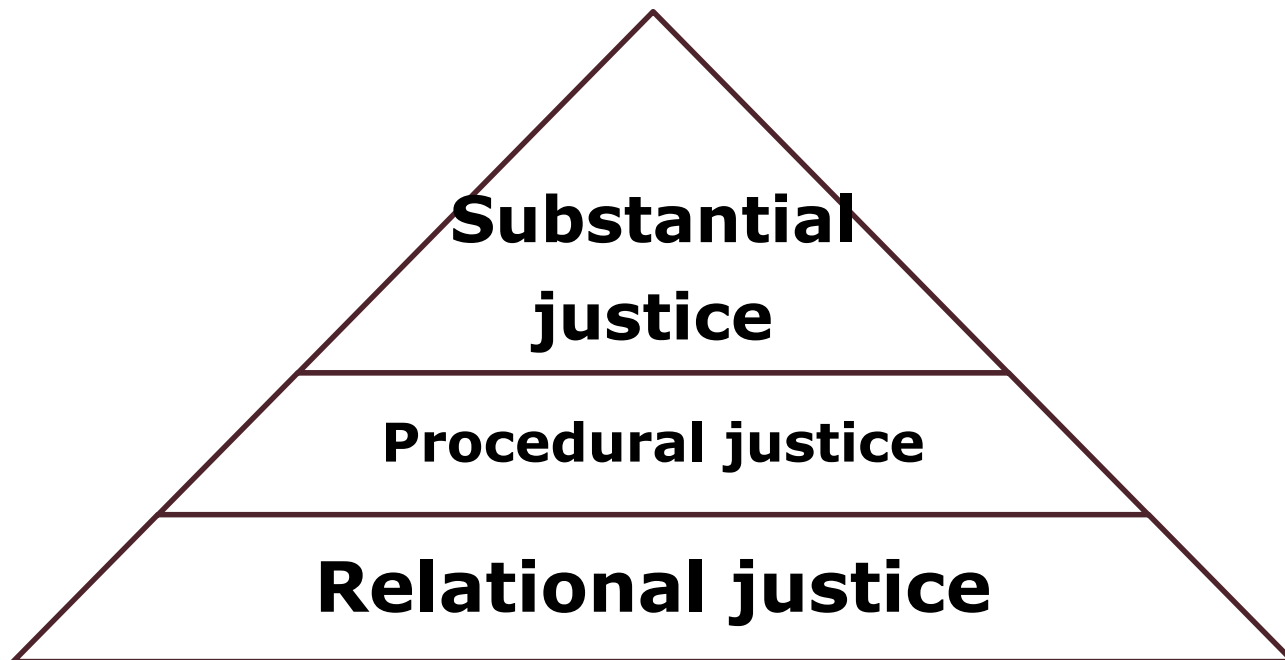
- **Reconsider** the notion of 'social/**citizen support**' for complicated, strategic infrastructure projects.
- 'Social support' is a myth
- So-called 'social/citizen support' is often a rhetorical instrument to legitimise unilateral imposed public projects.
- Contemporary democracies count a lot of so-called 'stand-by' publics that can become active or even virulent when their interests are at stake
- 'social/citizen support' can be very ephemeral
- 'social/citizen supports' can contradict each other

# Conclusions

- **Constructive conflicts** are **useful** (Chantal Mouffe): engagement, broader perspective, more insights, knowledge, better solutions
- Constructive conflicts deal with **fair distribution of the advantages and disadvantages** of large infrastructure projects
- Essence of the debate: how to realise a robust project that reinforces quality of life, increases the quality of public space, guarantees smooth, sustainable and safe traffic

# Conclusions

- Better alternative for the concept of 'social/citizen support':
- Fairness or justice → the permanent effort to seriously take into account the concerns of people
- Three important dimensions of fairness/justice



# Conclusions

- Civil participation  $\neq$  flight of political responsibility
- Participation = getting back to the essence of politics: taking binding decisions on who gets what and when.
- More 'democratic' democracy (monitoring democracy)
- Appreciation for resistance helps to connect more people and stakeholders with public policy and decision-making
- Richer and stronger parliamentary democracy
- Resistance is/can be oxygen for politics



**Questions or  
remarks?  
Thanks!**