
MULTI-LEVEL GOVERNANCE IN THE EU

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European integration over the past decade has been a policy—creating as well as market—deepening process. Most obviously the Single European Act (1986) and the Maastricht Treaty (1993) are part of a process of market regulation in which a wide variety of non-tariff barriers have been reduced or eliminated. Second, perhaps less obviously, these institutional reforms have led to a single policy—a system of multi-level governance that encompasses a variety of authoritative institutions at supranational, national and subnational levels of decision making.

Multi-level governance initially described a “system of continuous negotiation among governments at several territorial tiers-supranational, national, regional and local” that was distinctive of EU structural policy (Marks 1993, Hooghe 1996) but the term is now applied to the EU more generally (Hooghe and Marks 2001, Bache and Flinders 2004). The multi-level governance perspective is a recent addition to the theoretical attempts to understand the EU, although its roots are found in earlier neofunctionalist theories in the works of Ernst De Haas (1958) and Leon Linbreg (1963) (Hooghe 1995, Marks et al. 1996). Multi-level governance suggests that a new form of policy-making is developing in the EU. According to this perspective, central governments remain vitally important to this policy-making, but they do not have a monopoly of decision-making power. Instead, policy-making responsibility is now shared among a variety of actors at European, national and subnational levels. ‘The emerging picture is that of a polity with multiple, interlocked arenas for political contest.’ (Hooghe 1995).

This perspective argues that European institutions (such as the Commission and The European Parliament (EP) can be influential, independent actors in EU policymaking. It also suggests that subnational actors are increasingly affected by developments at the EU level and as a result have mobilized to participate in policy-making at that level. One of the most obvious ways in which this has occurred is through the opening of subnational lobbying offices in Brussels. In

this perspective, subnational actors are sometimes as important to EU policy-making as central governments and EU institutions. Each level of actors holds important resources, such as information, political power, expertise and prestige, and all are engaged in a bargaining relationship. Subnational actors, therefore, do not necessarily have their role in the EU mediated by central governments. They may still use domestic channels to access the EU, but these are not the only channels open to them. Central governments are not always able to act as 'gatekeepers' between the EU and subnational actors. It is worth repeating that the multi-level governance perspective acknowledges the continued importance of central governments in EU policy-making. Subnational and European actors have nowhere replaced the central governments as authoritative decision-makers. Multi-level governance also suggests that some subnational actors (such as the German Länder) are more influential than others, in part because of their financial and political power at the domestic level. Finally, advocates of the multi-level governance perspective indicate that it has greater significance in some policy sectors at some policy-making stages than in others. It has been argued, for example, that bargaining among EU, national and subnational actors is particularly important in relation to the structural funds, and, within this sector, at the implementation stage rather than when treaty revisions are being drafted.

Intergovernmental perspectives paint a markedly different picture of policymaking in the EU (Moravcsik 1993, 1995). In this view, central governments remain the most important actors in the EU and decisions result from bargaining among these governments. The European institutions, on the other hand, are of only limited significance. They are unable to drive decision-making further than is acceptable to the central governments, and their main purpose is to facilitate intergovernmental bargaining by reducing transaction costs. Subnational actors are also marginal to EU decision making. If they are able to exert any influence over decision-making, this comes through their capacity to influence their central government. Even when subnational actors are present in EU policy-making, their capacity for independent action is severely constrained by the central governments (although the extent of the constraint to some extent depends upon the domestic constitutional structure). In direct contrast to the claim made by multi-level governance, therefore, intergovernmental perspectives assert that central governments are able to act

as ‘gatekeepers’ controlling subnational participation in EU policy-making. This is claimed to apply even with respect to policy sectors, such as the structural funds, that most directly concern subnational actors.

INTRODUCTION

There are two basic alternative conceptions to analyse developments in the European integration process:

State-centric governance The core assumption of the state-centric governance (or Intergovernmental) approach is that European integration does not challenge the autonomy of nation-states but strengthens it. No government has to integrate more than it desires because the bargains rest on the lowest common denominator of the participating Member States. Thus, the sovereignty of the state is not harmed.

Multi-level governance state executive and state arenas remain the most important pieces of the European puzzle. However, the European integration is a polity creating process in which authority and policy-making influences are shared across multiple levels of government; subnational, national and supranational. In other words, the states ‘pay’ a price in their sovereignty and their national competencies in order to gain achievements in other fields.

TWO MODELS OF THE EUROPEAN UNION

What would be the main arguments of each approach on the National States-EU authority division?

State-centrism

- The overall direction of policy-making is consistent with state control
- State decision-makers respond to political pressures that are nested within each state
- There is a clear separation between domestic and international politics.
- “The unique institutional structure of the EC is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable”-Moravcsik, 1993.

Multi-level governance

- European integration has diminished the prerogatives of the state
- The state no longer monopolizes European level policy-making or the aggregation of domestic interests
- Decision-making competencies are shared by actors at different levels rather than monopolized by state executives. Supranational Institutions have independent influence in policy-making and their role of must be taken into account in order to explain European policy-making.
- Collective decision-making among states involves a significant loss of control for individual state executives.
- States do not solely monopolize the links between domestic and European actors: subnational actors operate in both national and supranational arenas, creating transnational associations in the process.

SOURCES OF MULTI-LEVEL GOVERNANCE

The state, as an entity is based upon an actor-centred approach. The key actors are the elected politicians in the central state executive.

One may ask the basic questions, which are the following: Why would states allow competencies to be shifted out of their own hands to supranational institutions? Why would states allow their own sovereignty to be weakened? Why would states tolerate European integration if it threatened their own political & domestic control?

First, the correct question is not “why do states give up sovereignty in the process of European integration,” but rather “why do particular actors shift competences to the European Union?” Institutions influence the goals of those who hold positions of power within them, but it is unlikely that political actors will define their own preferences solely in terms of “what will benefit the institution?” Preserving the institutions is one factor out of many others.

Secondly & historically, the creation of nation-states in Western Europe enabled rulers to mobilize and enhance their resource base. State building was a more effective means to war making, control over the national market, a larger economic base and a better instrument for taxes collection. A different shape of the state, which will serve the governance and citizens in a better way, can be an option, even if it reduces the state’s prerogatives.

Why would government leaders wish to shift decision-making to the supranational level?

- The political benefits may outweigh the costs of losing political control
- There may be intrinsic benefits to do with shifting responsibility for unpopular decisions or insulating decision-making from domestic or other pressures.
- Tenure in government requires electoral success. Many political leaders might pursue policy goals not derived from strengthening state executive control but from benefiting one sector (for example, agricultural).

Limits on Collective State Executive Control

If we try to examine the EU system through a principals and agents division, we will find inherent limits on the collective state executive control over the EU agenda:

- 1) There are inherent weaknesses in a system of multiple principals (the states) control over a supranational agent (council, commission etc.). The principals' are prone to competition, mistrust and conflict among themselves. Furthermore, the basic ambiguousness of the treaties of the EU provides ample room for interpretations by both principals and agents
- 2) Thanks to the requirement of unanimity, a supranational agent needs only to gain the approval of one of the various principals in order to prevent the approval of any unwanted change in the principal/agent relationship. Practically, however, it is not as simple as that.
- 3) Information: Due to its vast capability to gather information and competencies which are not available to the Council of Ministers, the European Commission, a more EU oriented body has developed a very powerful source of independency & influence.
- 4) Mutual mistrust leads state executives into highly detailed mandates to the European Commission. This way the Commission is able to build very specialised policy networks of technical experts designing detailed regulations enhancing its influence/independence vis-à-vis the Council;
- 5) State executives do not possess the ability to forecast precisely the effects of their own collective actions.

POLICY-MAKING IN THE EUROPEAN UNION

If we want to answer the question ‘who decides what in European Union policy-making?’ we should decompose the policy making process to its components. By analyzing who is the ‘main player’ in every stage we would be able to determine if the State-executive are those in power-in accordance to the state-centric approach. On the other hand, if we will find that the State-executive (in the form of the council or another) are one, even if an eminent, player among many, this will strengthen the multi-level governance approach. We will divide the policy making process to four aspects:

1. Policy Initiation

The European Commission alone has the formal power to initiate and draft legislation according to the TEC. However, a closer look highlights that regulatory initiative at the European level is demand-driven rather than the product of an autonomous supranational action. What is the role of the council of ministers in the policy initiation stage?

Article 208 of the TEC determines that “the council may request the Commission to undertake any studies the council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals”. The political weight of the council is such that the commission is bound to pay close attention to the ministers’ wishes. Furthermore, the increasingly developed council’s machinery creates many new ideas and initiations that enable the council to influence policy directions and priorities.

The states find some aspects easier for co-operation when there is no binding EU law (like where there are big national differences). These non-legal agreements do not have to be initiated by the commission and often they are easier to agree upon at ministerial level. State-centric advocates can find strengths in these arguments as they show that the state representatives, in the council and outside of it, have a key role in the policy initiation stage.

Yet it is important to remember that these demands don’t come exclusively from governmental leaders gathered in the council of ministers or in the European Council. A significant number of initiatives originate in the European Parliament, the Economic and Social Committee, local subnational authorities and private groups with various interests. The commission is a critical actor in

the policy initiation phase, whether one looks at formal rules or at the practice. It is definitely not merely an agent of state executives as some State-Centric advocates might suggest.

The council is not the only decisive actor, as it is part of a system of multi-level governance involving competition and interdependence among the Commission, the Council and the European Parliament, each of which dispose of impressive resources in policy initiation. Hence, from a multi-level governance point of view it seems that the power of agenda-setting has increasingly become a shared and contested competence among the European institutions.

2. Decision-Making

According to the Treaties, the main legislative body of the EU is the Council of Ministers. It is the most important in that that it holds the final decision-making power. As this might sound coherent with the State-centric approach, the reality is that the council relies on the other EU bodies in order to perform its function in the policy making process. State executive dominance is eroded in the decision-making process by the legislative power of the European Parliament and the efforts of interest groups to influence outcomes in the European arena.

The qualified majority vote and the co-decision/co-operation processes

The Single European Act established qualified majority voting in the legislative process. The member state agreement introduced the co-operation procedure that gave the EP a second reading on legislative proposals concerned with internal markets, regional development, social policy and research. The co-operation procedure encouraged a greater dialogue between the two bodies and restricted the council's room for manoeuvre, although it hasn't altered its position as the final decision-maker. This encouraged the states to agree to the co-decision procedure that introduced three readings to the EP on proposals in a number of areas. Furthermore, the EP was given the right to reject the council's common position and in such a case a conciliation committee will be formed to find a resolution.

Collective state control exercised through the Council has diminished and that of the European Parliament has increased proportionally. The progressive extension of qualified majority voting has been the most transparent blow to

state sovereignty. Even the Luxemburg veto power has increasingly diminished. First, the use is stipulated in a risk to a substantial national interest. Practically, the veto right was used not more than 12 times between 1966 and 1985 (which was also the year of the last successful attempt) and even less frequently ever since. A state-centric point of view might claim that sensitive areas (such as security/defence matters, foreign policy etc.) remain subject to unanimity and hence to national veto. Even if this is true, the fact that there are a growing number of subjects that were decided by consensus and are now being decided by the qualified majority voting, reflects a process in formation.

From a multi-level governance point of view EU decision-making can be characterised as one of multiple, intermeshing competencies, complementary policy functions, and variable lines of authority. The council is definitely the main player, but in a multi-player game.

3. Implementation

Multi-level governance is prominent in the implementation stage. In practice, both the Commission and national governments share the competencies of formal executive power and implementation. National governments monitor the executive powers of the Commission, in conjunction with subnational governments and societal actors. On the other hand the Commission has become involved in daily implementation and has contacted subnational authorities and interest groups.

Since the 1980s the Council and individual national governments have become intimately involved and have participated in Commission decisions. As part of the process, state executives have lost exclusive control in a range of policy areas, especially competition control within their borders, aid to national firms autonomously conduct trade negotiations. As in the previous stages, we see that the implementation stage, although still mainly controlled by the state, is shared in authorities and in practice by EU bodies other than the Commission.

4. Adjudication

Throughout the history of European integration the ECJ has constitutionalized European law and expanded European authority towards new policy areas by stating that these were necessary to serve the goals of the Treaties. In practice,

most of the cases that involve interpretation of the Community law business are being transferred, as EU law determines, from national courts to the European Court of Justice. This, along with the other examples, demonstrates another field in which state authority is exchanged with that of an EU institution.

CONCLUSION

European Union Member States are being melded gently into a multi-level polity by their leaders and the actions of numerous subnational and supranational actors. There are different reasons for the shift of competencies from the nation states to the European Union institutions.

The first set of reasons relates to the structure, size and interrelations between the EU bodies. The growing number of states, decisions and areas covered by the agenda and the specialisation of the permanent EU bodies/committees results in a decreased ability in the state leaders represented in the council to achieve their desired goals easily. In addition, the growing competencies of the EP and the commission and the complexity of their relations with the council make the task of keeping all authorities within the nation state more and more difficult.

The second set of reasons might relate to domestic and political benefit. Shifting competencies and also responsibilities to the EU level might credit important points or votes to the state's executives and they are using this tool occasionally.

And last, as the EU process is growing and expanding, the ability of one state representative in the council, to impose his will even if he belongs to one of the strongest states, is declining. The growing fracture in the habit of consensual decisions in the form of qualified majority voting and the number of participants around the table that is about to grow dramatically strengthen the EU as a multi-level governance polity.

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