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**Interagency processes in the Federal Republic of Germany
dynamics towards growth, differentiation and fusion**

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I. The puzzle or conventional wisdom under scrutiny

1. Is Germany unfit ?

The German administrative mechanisms which connect Government, Administrations and governmental agencies with Brussels have a low reputation: the conventional wisdom among academics (Sasse 1975, Regelsberger/Wessels 1984; Bulmer/Paterson 1988; Bulmer/Jeffery/Paterson 1998; Janning/Meyer 1998) identifies a low degree of competitiveness - compared to their French (Lequesne 1996) and British (Armstrong/Bulmer 1996) counterparts the performance of the German interagency process suffers from horizontal and vertical fragmentation, old-fashioned and cumbersome procedures and institutional pluralism if not ‘cannibalism’, „negative co-ordination“ (Scharpf 1997) and “Politikverflechtung” - „political interwoveness“ or “interconnectedness” (Scharpf 1985). Those features highlight a lack of forceful strategies, late preference building and position taking and – as a result - to minority positions in the Council of Ministers.

Table 1: Qualified majority voting in the Council 1995-1996

Member State	Sum	
	1995	1996
Denmark	7	2
Germany	20	15
France	0	3
UK	11	7
Italy	5	6
Sweden	35	4
Spain	1	4
Netherlands	5	2

Source: 1995: 43rd report of the Council; 1996: Commission, SEC D of 14.7.1997

To get an impression for the complexity we should look at the constitutional and legal bases: Articles 23 and 65 of the Basic Law and subsequent laws, agreements and Rules of procedure between the different branches of the Federal Government, but also between the Länder, the Bundesrat and the Bundestag on the one hand and the Federal Government on the other, which altogether form a 'fine-tuned' piece of balancing different interests for and characteristics of participation and power.

The Basic Law attributes these levels for decision-preparation and -making with specific competencies and functions. The vertical division of power between the Federal level and that of the „federated states“ – the Länder - leads to a complex system involving not only a negotiation structure between equivalent actors but also across the hierarchies of governance existing at each level. The central actors in German EC/EU policy making are the *Federal government*, the *Länder governments* and their federal representation, the *Bundesrat*. One of the persistent features of both levels is the decentralized scheme of administrative interaction, whereby the decision-making on internal and European affairs is filtered from the lowest level towards the highest – administrative as well as political – level (Gaddum 1994). Similarly to the hidden logic behind the decision making in the EU Council of Ministers with the COREPER and working groups, the German system features a bureaucracy which tries to solve conflicts at the earliest and lowest level at hand. Hence, the German EU policy capacity resides largely on problem-solving within bureaucratic networks at each level of governance and only to a limited extent on political solutions to be agreed at the sole levels of ministers or permanent representatives.

For governmental agencies - especially the ministerial administrations - the consequences seem to be negative: They dislike lengthy co-operation procedures among all those who feel concerned. As a reflector of this attitude, the permanent representation of the FRG to the EU complains about late and ambivalent instructions (von Kyaw 1999). Hence, administrations of other EU member states wonder about the 'real' German positions. "Verwalten statt gestalten" (Regelsberger/Wessels 1984) means that German civil servants are perceived as just running their business and not shaping the policy process. Thus, the German administration seems to be not fit for the needs of the EU system.

As a remedy structural and procedural reforms are discussed: the long established conventional strategy proposes to establish a junior minister (Staatsminister) for European affairs at the chancellery (Sasse 1975, Janning/Meyer 1998), other steps to broaden the awareness and to improve the training of civil servants are envisaged (Hoyer 1998). Even the recent transfer of specific responsibilities from the Economic Ministry to the Finance Ministry (- instructions and representation of the FRG before the ECJ - due to the political weight of Oskar Lafontaine and some functional reasons) and the Ministry of Foreign affairs (- co-ordination of interministerial preparation settings - due to the political weight of the Green coalition partner and Joschka Fischer) would not qualify for a sufficient structural remedy: at least during the short reign of Lafontaine the deficits of insufficient co-ordination even grew with regard to misunderstandings and therefore, counterproductive instructions to the working groups for financial, labor and economic affairs.

2. A Successful Setting?

The puzzle begins however when looking at the outcome of German EC/EU policy making: especially British colleagues are surprised that in spite of all the apparent competitive disadvantages German politicians and civil servants show a comparatively high success rate in defining the fundamentals of the EU in most treaty amendments and revisions (Derlien

1999). Not only the principles of a social market economy and monetary stability but also subsidiarity, the 'parliamentarisation' and the 'regio-institutionalisation' of the EU's institutional-procedural system and other principles and objectives dear to German philosophy have been 'exported' into the European Union. „Failing successfully“ (Derlien 1998) might be the puzzle to solve. As explanations are offered: the capacity of the German chancellors to mobilize administrative resources when really needed; based on a broad – not only utilitarian - pro-european consensus and disposing of considerable economic power a high engagement by the top is successful in spite of all administrative bottlenecks and normal complexities. The „Kanzlerprinzip“ rules when Germany becomes seriously challenged (Siwert-Probst 1998). Administrative bottle-necks might then even be understood as a 'machiavellian' plot used to keep partners in the dark and to keep the 'final' say to the political hierarchy. Note that in both the Maastricht and the Amsterdam IGC the Chancellor intervened at the end against drafts which were already agreed between the Foreign Ministry and its counterparts (Maurer/Grunert 1998, Maurer 1998). Linked to that explanation is the suggestion to use a 'polity' versus 'policy' dichotomy (Derlien 1998). In this regard another answer in dealing with the puzzle would be that German actors are strong on constitutional polity issues (e.g. position of EP, CoR and ECB in EMU) and rather weak on day to day policy issues (e.g. in environmental affairs, education and youth policy).

3. Towards a dynamic view

Our argument changes the perspective: from discussing the conventional views on competitiveness towards analyzing trends of structural and behavioral adaptations: in this time-perspective we observe a long term process of increasing involvement of Bonn and Länder based agencies; like other actors German civil servants have massively moved into the Brussels arena; they have gained access and – informal - influence in all phases of the EU policy cycle. The engagement of German administration shows a pattern of considerable growth and differentiation (Rometsch 1996, Maurer 2000) - like those of other national administrations (Rometsch/Wessels 1996, Wessels/Maurer/Mittag 2000).

The evaluation in terms of administrative competitiveness is then different from the conventional wisdom: The direct involvement increases the mobilization and the use of expertise; this system might reduce some coherence but it is perceived as an adequate strategy for the present EU. In this regard decentralization should not be interpreted as fragmentation but as a feature of interagency processes which fit rather good into the process of institutional and inter-institutional developments at the Brussels level.

This alternative view implies also a different analysis of the EU system as such. Whereas conventional wisdom shows clear affinities to state centered approaches and reflects rational choices in a strictly intergovernmental set up, our approach assumes a multi-level governance framework (Marks 1993, Marks/Hooghe/Blank 1996, Marks/Scharpf/Schmitter/Streeck 1996, Scharpf, 1994, Kohler-Koch, 1996, Risse-Kappen 1996) which moves towards a vertical and horizontal fusion of public instruments (Wessels 1997, Wessels 1999). From this view organizational reforms should be discussed in the light of long term trends of both the national and the EU system alike.

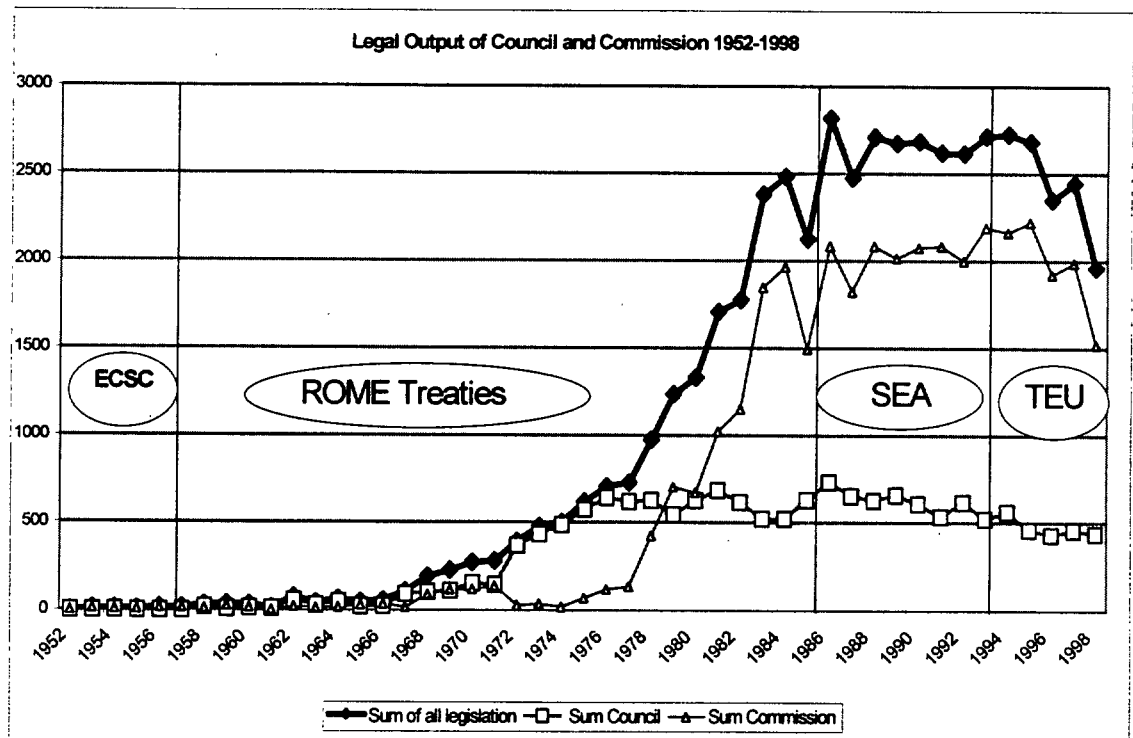
II. Descriptions of growth and differentiation

1. On the approach: looking at a triple C-C-C over time

Generally interagency processes in the EU's capitals can be seen as an essential part of a multilevel game (Putnam 1988) that is characterized by a triple C-C-C: an intensive *competition* among governmental actors for access and influence (to the Council, the Commission, the Parliament, Standing committees etc.), horizontal *co-operation* among administrative elites and some vertical *co-ordination* by political and administrative hierarchies. Needed is therefore a simultaneous look at both the existing – not always tangible – arenas and their mutual inter-penetration; that exercise should not be done in a one-moment-photography but in a film trying to identify the „path“ (Pierson 1998) of institutionalization with regard to the participation of and the evolution of power relations between national administrations (Wessels 1999).

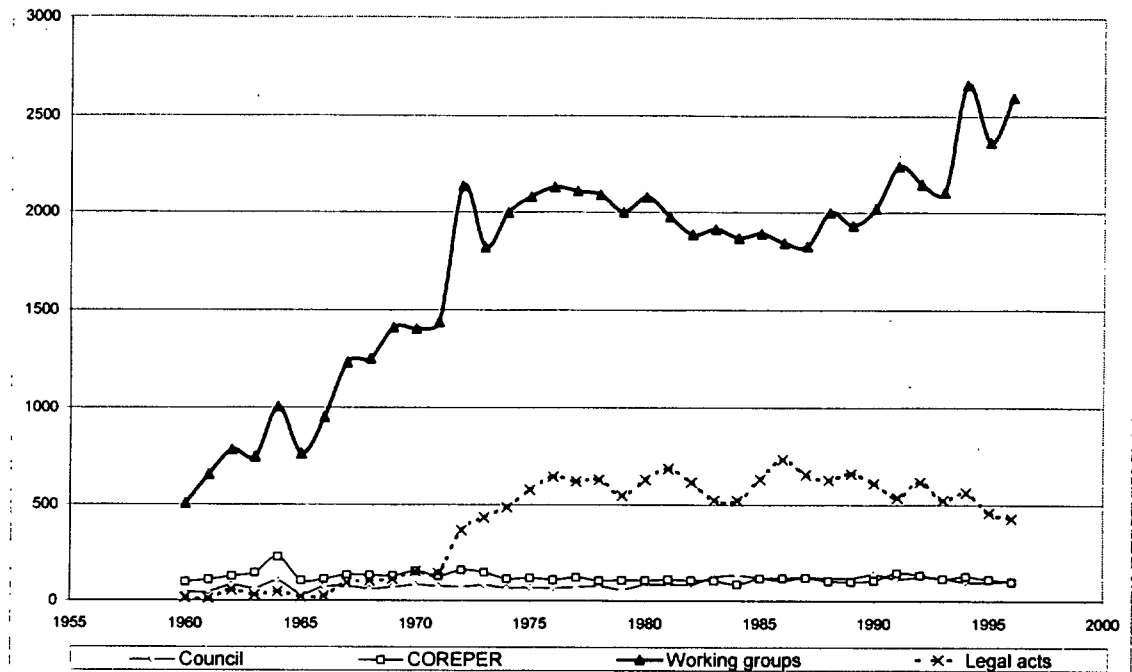
1.1. The Brussels arena: demands, opportunities and constraints

Administrations tend to be at the central sites where binding decisions are prepared, made, implemented, and controlled. Given the considerable amount of legal acts of the EC (see graph 1) national governments and administrations institutionalize a bureaucratic access and influence in all four phases of the EU/EC policy cycle).



The favorite form of these interventions are working groups or committees of civil servants (Pedler/Schäfer 1997, van Schendelen 1998, Wessels 1998, Maurer/Mittag/Wessels 1999) in which national civil servants and EC 'fonctionnaires' share responsibilities though to different degrees. Overall, around 800 expert groups at the Commission, 300 working groups of the Council and 400 comitology committees can be identified (Wessels 1999). The frequency of interactions vary between once per week to twice per year.

Evolution of Council, COREPER and Council working groups meetings



These voice opportunities of member states in the Council, but also with view to the European Parliament (Maurer 1999) demand an intensive and increasing involvement of national administrations. This assumption takes into account two possibilities: that more than one person can participate at a meeting - up to six at a formal Council session - and that one civil servant serves more than one working group.

EU Presidencies serve as an indicator for the administrative workload. We compare the last two German presidencies with the ongoing one. Both the presidencies of the Council and the speakers of the German delegation in the Council show a sharp increase of engagement. To get a relative picture: if we assume a one to one representation and include the participation at around 80 Council sessions per year than roughly one quarter of the 6000 or so Bonn based civil servants (Ministerialbeamte or A level in the EC terminology) is demanded to serve in the Brussels arena on a regular basis.

Table 2: Evolution of German personal in the Permanent Representation in comparison to the Number of days spent in the Council and its preparatory bodies

	1958	1960	1969	1975	1988	1995	1998
Germany's Permanent Representation staff	5	19	28	39	42	59	87
Council meetings	21	44	69	76,5	117,5	98	94
Meetings per civil servant	4,2	2,3	2,5	1,9	2,8	1,7	1,1
COREPER meetings	39	97	129	118	104	112	
Meetings per civil servant	7,8	5,1	4,6	3,02	2,5	1,9	
Working group meetings	302	505	1412,5	2079,5	2000,5	2364,5	
Meetings per civil servant	60,4	26,6	50,4	53,3	47,6	40,1	

Sources: For 1960, 1975: Wessels/Rometsch 1996; for 1958, 1968, 1988-1995: Hayes-Renshaw/Wallace 1997: 223; for 1998: European Union - Interinstitutional directory, Luxembourg (OOPEC) March 1998, Web-Site of the Council, March 1999; Council: 43rd Review of the Council's Work, Brussels 1995; European Commission: General Report of Activities of the EU 1998, Brussels/Luxembourg 1999.

In view of administrative incentives the desk officers in the national ministries are, of course, interested to participate at those bodies in order to make their point known in all fora relevant for their policy area and respective networks; but they need to play their multi-level game also in order to keep their informal influence in the national circles.

The horizontal and vertical competition is considerable: from the Länder level roughly 500 'colleagues' are also involved on a regular basis in EC matters.¹ The staff of the Commission counts roughly 5000 A-grade civil servants. Interest groups of all kinds have established more than 2600 offices (Falke 1997) and last not least also the political parties, their heads and leading substructures have increased their participation. EC matters are thus high politics affairs.

Taking these complex and cross-cutting network structures together, it seems that the German civil servants could not manage to develop a closed mega-bureaucracy of their own as expected by contributions from the economic theory of bureaucracies (Niskanen 1991, Bach 1992, Frey 1983) nor are they able to develop into some kind of benevolent mega-technocracy in a functionalist sense (Mitrany 1966).

1.2. The focus on the Bonn-Berlin level

The German Federal Government is based on the Chancellor, the ministers, the ministers of state and the ministerial bureaucracy. Ministers, Ministers of State, State Secretaries and ministerial administrators are directly involved in the Council of Ministers, its subordinate working mechanisms, but also in the Commission's comitology committees. The Chancellor disposes of a so-called „Richtlinienkompetenz“, which can be defined as a competence to *set the strategic guidelines* of the Federal Government in general, with regard to the principle of ministerial autonomy and thus the potential of conflict between ministries – to *resolve inter-ministerial disputes* (decisions of the Chancellor in this regard are binding for the Ministers), and to *determine the final governmental approach* on a given issue.²

Ministers of the Cabinet and the ministerial bureaucracy are highly involved in the preparatory drafting of EC legislation within the working groups of the Council and the European Commission as well as with regard to the upper decision making centers of the Council (COREPER I and II). The principle of ministerial autonomy would suggest that all Ministers are equal in front of the EC/EU. However, some are more equal than others. This is due to the evolution of EC/EU policy fields, but also due to the historical evolution of the ministries in the Federal Republic.

With the exception of the Ministry for Defense, every German Ministry disposes of at least one special division for European Affairs. Within the Chancellery, a division within the department on foreign relations deals exclusively with European Affairs and bilateral relationships with the EU Member States and Turkey. The function of this administrative substructure is to consult and to co-ordinate with the different ministries and to brief the

¹ 90 are in regional offices in Brussels, 350 are being nominated for working groups of Council and Commission; 60 work other in Bonn or at the regional capitals on European affairs.

² The rules of procedure of the Federal Government (of 11 May 1951, last amendment of 17 July 1987) define the Chancellor's Richtlinienkompetenz in § 1: „Der Bundeskanzler bestimmt die Richtlinien der inneren und äußeren Politik. Diese sind für die Bundesminister verbindlich und von ihnen in ihrem Geschäftsbereich selbständig und unter eigener Verantwortung zu verwirklichen. In Zweifelsfällen ist die Entscheidung des Bundeskanzlers einzuholen.“; and §2: „Neben der Bestimmung der Richtlinien hat der Bundeskanzler auch auf die Einheitlichkeit der Geschäftsführung in der Bundesregierung hinzuwirken“.

Chancellor before meetings of the European Council. Moreover, the Chancellery's division on European Affairs has a strong input in shaping bilateral relations between the Chancellor and the Heads of State and Presidents in the other EU countries.

Table 3: The Chancellery, the Ministries and their European Affairs units (as at June 1998)

CHANCELLORY	DEPARTMENT 2 DEPARTMENT 4	GROUP 21 (Foreign Affairs) GROUP 41 (Economic affairs)	DIVISION 211 DIVISIONS 411 AND 412
MINISTRY	EU RELATED DEPARTMENTS	EU RELATED DIRECTORATES	EU RELATED DIVISIONS
FOREIGN AFFAIRS Provides chairman of the committee of state secretaries for European affairs	Department E Political Department (CFSP-COREU)	2 Directorates	4 divisions each and Task Force (1995-1997) on the IGC and (since 1997) on Enlargement. In July 1998, the Political affairs department's divisions dealing with EU Member States shifted towards the E department. Since 10/1998 the E department also provides for the Secretariat of the Committee of State Secretaries on EC Affairs.
INTERIOR	Department V Department P (Police) Department A (Asylum and Foreign Nationals)	-----	Working group V I 4 (EC law), Division V I 5 (EP election law), Division V II 4 (German Internal Affairs unit to the Permanent Representative) Division P 6 (Police co-operation) Division A 6 (EC-Harmonization of Treatment of Foreign Nationals)
JUSTICE	Department E	2 Directorates	6 divisions each
FINANCE Provides deputy chairman of the committee of state secretaries on European affairs since 10/1998	Department IX	2 Directorates	10 divisions
ECONOMICS Provided deputy chairman of the committee of state secretaries on European affairs until 10/1998	Department E	2 Directorates	13 divisions and Task Force on Enlargement including Representative of the FRG towards the ECJ and – until 10/1998 the Secretariat of the Committee of State Secretaries on EC Affairs.
AGRICULTURE	Department 6	2 Directorates	13 divisions and Project Group 33 (BSE)
LABOUR AND SOCIAL AFFAIRS	Department VII	1 Directorate	5 divisions
FAMILY AFFAIRS, SENIOR CITIZENS, WOMEN AND YOUTH	-----	-----	Divisions for International Women Affairs, European and International Family Affairs, European and International Politics for Senior Citizens, and Youth Policy and EC
HEALTH	-----	1 Directorate	
TRANSPORT	-----	-----	1 Division on EU, OECD, Council of Europe, ECE and OSCE
ENVIRONMENT	-----	-----	1 Division on EU, Council of Europe, OSCE, Bilateral co-operation with EC Member States
EDUCATION, SCIENCE AND TECHNOLOGY	-----	Directorate 12 Directorate 31 Directorate 42	5 divisions dealing with EC affairs 1 division on Higher Education and EC affairs 1 division dealing with European Science co-operation
ECONOMIC CO-OPERATION	Department 4	Directorate 40	2 divisions
REGIONAL PLANNING, BUILDING AND URBAN DEVELOPMENT	-----	-----	Division on Harmonization of technical norms and Working Group on European co-operation

Sources: Maurer 2000, based on organization plans of the Federal ministries and the Federal Chancellery, December 1997-June 1998

Thus, similarly to one of the main characteristics of the EC/EU integration process over time – namely the incremental amplification of the substantive scope of policy-making - the German ministerial involvement in European Affairs can be recapitulated as a process of horizontal differentiation and sectorisation. This process becomes perceptible in comparing the division of workload among the national ministries in times of an EC/EU presidency. Table 4 indicates that the number of working group meetings involving Federal Ministries outside the club of the four “Musketiers” has considerably increased over time. Neither the Ministry for Foreign Affairs nor the Ministry of Economics or – since October 1998 the Ministry of Finance - have a monopoly in giving Germany a voice in the Brussels arena.

Table 4: Division of labor among Presidents and representatives of the FRG in the working groups of the Council during German presidencies, first half of 1988, second half of 1994 and first half of 1999

Ministry	1988		1994		1999 (draft of 8/1998)		1999 (final draft of 12/1998)	
	PRE	SGD	PRE	SGD	PRE	SGD	PRE	SGD
Foreign Affairs	2	1	22 (+20)	22 (+21)	40 (+18)	35 (+13)	30 (+8)	25 (+3)
Economics	29	48	23 (-6)	49 (-1)	32 (+9)	33 (-16)	38 (+15)	46 (-3)
Agriculture	18	23	42 (+24)	51 (+28)	61 (+19)	63 (+12)	63 (+21)	64 (+13)
Finance	13	30	2 (-11)	30 (-)	10 (+8)	35 (+5)	19 (+17)	48 (+18)
Justice	24	25	20 (-4)	22 (-3)	37 (+17)	40 (+18)	33 (+13)	31 (+9)
Interior	3	3	18 (+15)	21 (+18)	35 (+17)	35 (+14)	33 (+15)	33 (+12)
Labor	3	4	4 (+1)	5 (+1)	4 (-)	5 (-)	1 (-3)	1 (-4)
Transport	4	4	3 (-1)	8 (+4)	2 (-1)	1 (-7)	1 (-2)	6 (-2)
Youth, Family and Health	3	13	23 (+20)	28 (+15)	34 (+11)	26 (-2)	35 (+12)	28 (-)
Education, Science, Technology	1	2	4 (+3)	6 (+4)	1 (-3)	0 (-6)	2 (-2)	0 (-6)
Environment	2	3	2 (-)	6 (+3)	5 (+3)	5 (-1)	8 (+6)	8 (+2)
Economic Co-operation	0	5	0 (-)	4 (-1)	0 (-)	2 (-2)	1 (+1)	1 (-3)
Regional Planning	2	4	1 (-1)	2 (+2)	2 (+1)	1 (-1)	1 (-)	2 (-)
Permanent Representation	91	26	96 (+5)	30 (+4)	79 (+17)	56 (+26)	84 (-8)	49 (+19)
Others	2	3	4 (+2)	13 (+10)	2 (-2)	1 (-12)	2 (-2)	1 (-12)
Sum	197	194	264	297	344	338	351	343

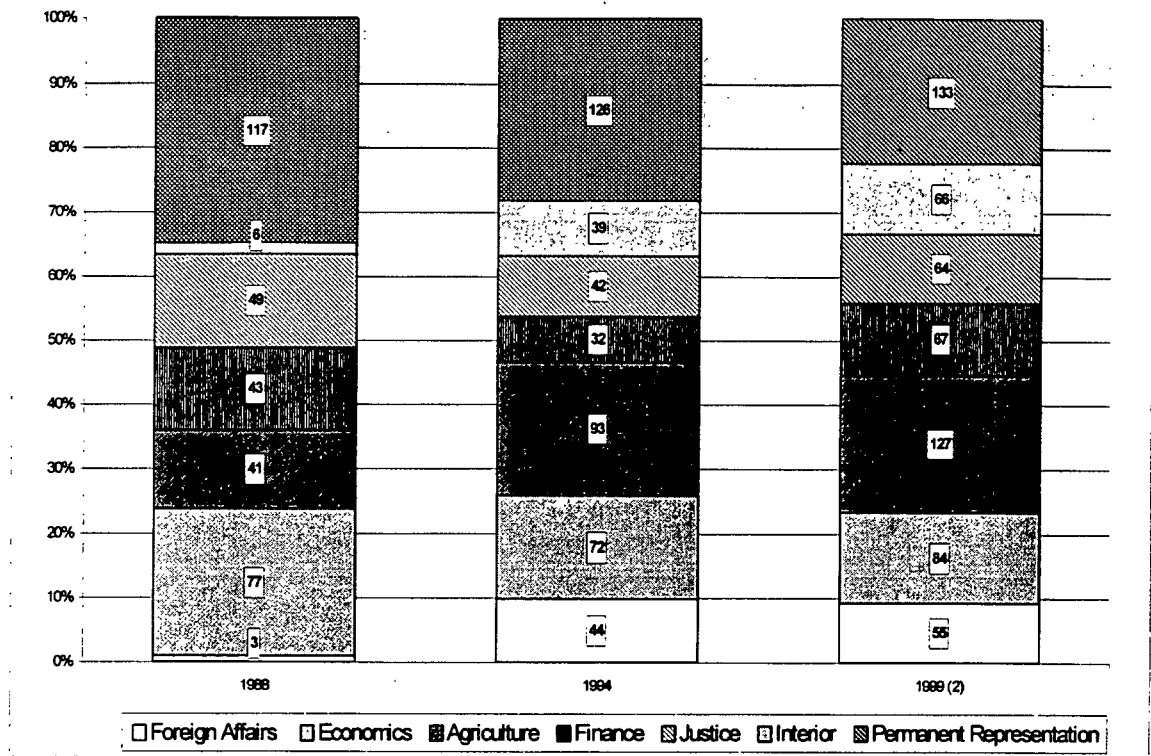
Source: Maurer 2000, Definitions: PRE: Presidency of the Council SGD: Speaker of the German delegation in the Council

If we turn to the ongoing 1999 presidency, we observe that the share of “technical” presidencies has increased to 33 per cent whereas their share in regard to the German delegation speaker decreased towards 32 per cent which is even below the 1988 rate.³

These figures not only reflect the policy preferences of the European Commission and the Council of Ministers at a given time (the working groups are both a reaction to the Commission's policy in initiating new legislation and a mirror of the Council's activity with regard to the post-initiative stages in European decision making), but they also indicate a shift in the competencies of the ministries within the German government. Comparing the 1994 and 1999 presidency plans, we discover a stable share of involvement of the Ministries for Foreign Affairs (about 10 per cent), an increase from 5 to 10 per cent of the share of the Ministries for Finance and for the Interior, and a slight decrease of the share of the Permanent representation in Brussels and of the Ministry of Economics.

³ The main “winners” are the Ministry of Finance (+ 17 presidencies / + 18 speakers of delegation), the Ministry of Agriculture (+ 21 presidencies / + 13 speakers), the Ministry of the Interior (+ 15 presidencies / + 12 speakers) and the Ministry of Justice (+ 13 presidencies / + 9 speakers). The “losers” are all within the camp of the “technical” ministries. Only the Ministries for Youth and Family, for Health and for Environment affairs have increased their overall proportion.

German Presidencies 1988-1994-1999: The "Musketeers"



With view to the Ministry of the Interior, the growth can be clearly explained by the creation of a wide range of new Council working groups in the field of Home Affairs (35 new groups in 1999 in relation to 1994). Interestingly, the comparison between the Presidencies draft plans of August 1998 (Kohl government) and of December 1998 (Schröder government) does not reflect the shift in the relative importance of the Ministry of Finance at the expense of the Ministry of Economics. The organizational changes of the Schröder government which concerned the reallocation of European affairs co-ordination and instruction competencies between the Ministries of Economics, Finance and Foreign affairs did not spill over into their activity with regard to the Council's working groups.

The ups and downs in the activity of some ministries are not only owing to the policy preferences of the German government but also due to the policy agenda of the Union, i.e. the Commission and the Council. Hence, the role of the Ministry for Labor confirms this argument, since the Council General Secretariat and the German Government foresee only one working group dealing with social affairs: Both the working group chair and the speaker of the German delegation are provided by the PR in Brussels. The Ministry of Labor is involved only in one working group dealing with economics in combination with dangerous goods and substances. Thus, the policy priority of the Schröder government with regard to employment policy and its plans for an European Employment Pact (EEP) are not reflected by a strengthened role for the specialist ministry. In the contrary: The EEP is, together with the whole policy agenda on employment one of the areas which Chancellor Schröder reserved for

himself, the Chancellery and therefore, with regard to the EU levels of decision-making, for the European Council.⁴

Roles and functions of the different levels within the Federal government vary according to the phases in the EC policy cycle. During the preparation phase, the bulk of activities is concentrated on the Heads of Department, which are involved in the long-term policy planning and co-ordination, and on the Heads of Division, which focus on technical details of EC/EU legislation. In this phase, the Ministers of State and the Parliamentary State Secretaries are trading political issues but in general the Ministers do not intervene. As far as the decision-taking phase is concerned, it is up to the latter to decide on a given issue although the Council of Ministers working group representatives of the different ministries have the task to close as much dossiers as possible before transferring them to COREPER and to the Council of Ministers level (Hayes-Renshaw/Wallace 1997, Hayes-Renshaw 1990, Wessels 1991, Westlake 1995).

The principle of ministerial responsibility is accountable for the fact that the Ministry of Foreign Affairs does not play a preponderant role in EC affairs. However, as far as participation in CFSP is concerned, it is the Foreign Ministry's European Affairs division which together with the Political division shapes Germany's position. In addition, as regards policy co-ordination within the EC, one of the two Parliamentary State Secretaries of the Foreign Affairs Ministry acts as the Chairman of the Committee of State Secretaries on European Affairs and as the main interlocutor towards the Cabinet of the Federal Government. For historical reasons – the Ministry for Foreign Affairs has been established only in 1955⁵, after the Ministry of Economics⁶ (Andreae/Kaiser 1998) – and owing to the fact, that the main focus of European integration until 1993 was of an economic than political nature, the co-ordination function of the Foreign Minister has always been seconded by the Minister of Economics. Until the end of the term of the Kohl government, it was this Ministry which was responsible for representing the Federal Republic at the European Court of Justice as well as for the distribution of EC/EU documents to the other ministries and to the Bundestag, the Bundesrat and the Observer of the Länder to the German delegation in the Council of Ministers. More important in relation to the co-ordination of German European policy making is the fact, that the European Department in the Ministry of Economics chaired the inter-departmental committees on EC affairs, formulated and transmitted the negotiation instructions to the diplomats in the Permanent representation of Germany in Brussels, and finally disposed of the Secretariat of the Committee of State Secretaries on European Affairs.

The Ministry of Economics developed its role as the central interface between Brussels and Bonn from the founding European Treaties onwards to the Single European Act. Economic liberalization and agriculture were at the core of European integration. The SEA then gave a fresh impetus for the realization of a common market for goods, capital and services and for technical harmonization. Consequently, European *Economic* Integration served the

⁴ The co-ordinated strategy for employment (Articles 125-130 ECT) is the first policy area of the EC Treaty which recognises the central role for the European Council in the legal sphere of the European Community. Hence, the European Council considers each year the employment situation in the EC. Conclusions of the European Council are based on a joint annual report of the Council of Ministers and the Commission and not, as it was the general rule in EC prior to Amsterdam, on a proposal of the Commission. In fact, the Council of Ministers plays only a minor role, since it is placed between the Commission and the European Council.

⁵ From 1951 to 1955 it was Chancellor Adenauer who acted also as Minister for Foreign Affairs.

⁶ On the initiative of Chancellor Adenauer, the first FRG Minister for Foreign Affairs and the Minister for Economics concluded an agreement in 1958 on the repartition of competencies in European Affairs: Accordingly, the Foreign Ministry only provided the speaker for the General Affairs Council. See: Organisationserlaß des Bundeskanzlers, in: Bulletin des Presse- und Informationsamtes der Bundesregierung, No. 203, 30 October 1957, p. 1864.

institutional dominance of two ministries: Economics and Agriculture. This changed when the Maastricht Treaty came on the floor of German politics. The new policy agenda of the Union included many issues which were not exclusively related to the traditional role of the Ministry for Economics: CFSP, Social policy, Environment policy, Home and Justice Affairs. Consequently, not only the Ministry for Foreign Affairs, but also other ministries restructured their administrations according to their new tasks in the field of European policy-making. As a result, the trend of "sectorised policy making" (Bulmer/Paterson 1987) in German European affairs increased considerably.

The ongoing dynamics of sectorisation, institutional pluralism and administrative competition suggest that co-ordination mechanisms and institutions across the different phases of the Brussels policy-cycle are highly important. Seen from a French perspective which features a rather centralized and hierarchical design in European policy-making, the lack of a central agency which regularly co-ordinates "the" German European policy may be interpreted as one of the strongest weaknesses in the political system. In 1984 Regelsberger and Wessels described the then existing co-ordination mechanisms in Germany as indicators for a "negative co-ordination" in the sense of a "one-dimensional zero sum game" in which each ministerial actor tries to protect its sphere of competence instead of looking for an empathy-guided approach aimed at adopting coherent German policy preferences across the different EC/EU policy fields.

1.3. The Länder

Within the federal state the sixteen Länder occupy a quality of "autonomous statehood" (*Eigenstaatlichkeit*). They are not simply regarded as administrative units of the "whole state" (*Gesamtstaat*) which have to rubberstamp and implement decisions of the Federal Government without being able to participate in the decision making process. Autonomous statehood is characterized by the fact that the Länder possess their own competencies and are thus able to structure politics and policies autonomously within their territory. Secondly, they participate in the legislative and administrative process of the federation and thus play an important role in the decision-making system of the "whole state" including the latter's role in EU affairs (Hrbek 1999).

Considering the complex structure that characterizes European policy-making at the "Brussels" as well as at the "Bonn" level, it came as no surprise that the Länder established some kind of co-ordination mechanism both with regard to the Federal State level as well as to the wider arena of policy-making in Brussels. Apart from the different collective participation procedures in EC/EU affairs (executed via the Bundesrat), the Länder developed various activities in order to entrench their rights and to generate an independent capacity in the making of European law and politics.

Firstly the Länder established a dense network between Bonn and their respective capitals in order to manage the growing input from the Brussels arena. The most important hinges are to be found on the ministerial level: *European policy divisions* were established within the ministries responsible for the internal management of the ERDF, i.e. agriculture, regional planning and social affairs. The SEA and the Maastricht Treaty induced a new momentum in this development in so far as not only State Ministries or State Chancelleries, but also the Ministries for the Interior (oriented towards Schengen and the TREVI network), Culture, Education, Science, Labor, Social Affairs and Agriculture created their own divisions or desks exclusively dealing with European Affairs. Following the SEA ministries started to nominate *desk officers for European affairs* (*Europareferent*) in order to manage the *intra-ministerial*

promotion of the necessary European input within their ministry – provided either by the Bundesrat’s administration or by the Liaison offices of the Länder in Brussels. *Inter-ministerial co-ordination* is ensured by the desk officers which meet on an irregular basis in order to settle disputes and to prepare the draft positions of their Land Government at the upper decision-making levels.

Secondly, the Länder entered into the Brussels based arenas of policy making. In 1956, thus during the negotiations on the Rome Treaties, the Länder and the Federal Government agreed on the institution of an “Länder-Observier” (Länderbeobachter) - located in Bonn as well as in Brussels (at the Permanent Representation with however, a separate entry – symbolism matters) - to provide information for the Bundesrat and the Länder (Hrbek 1986, Dette-Koch 1997). The Länder-Observier is entitled to participate at each meeting of the Council of Ministers and to report on the latter’s proceedings to the Länder and the Bundesrat (Jaspert 1982). With a rather modest administrative support of two full time and one part time civil servants (Stöger 1987) the Länder-Observier did not become a key figure in the decision-making process between Brussels and the Länder Governments. As a result and a reaction to the growing amount of EC legislation after the entry into force of the SEA, the Länder opened between 1985 and 1987 information offices in Brussels. To date every Land has its own representation or liaison office in Brussels. Initially being criticized by the Federal Government as instruments of an “auxiliary foreign policy” (Nebenaußenpolitik, Hahn 1986), they became quickly a useful tool for the Länder to secure and pass information of the European Commission and the German Permanent Representative during the decision-preparation phase as well as to advance the specific interests of each individual Land vis-à-vis the European Commission – especially with regard to the management of the Structural and Regional Funds and to the settlement of disputes on state aid and the grant of subsidies with the European Commission’s Directorate General IV for Competition. Moreover, local government administrations and private industries consider the Länder offices also as an additional tool for the economic promotion of their territory and for providing legal and practical assistance in the drafting of EC/EU related projects. The Länder offices have by far more administrative staff than the Observier: In autumn 1997, there were 141 civil servants working on the offices, out of which 90 belonged to the higher service (von Ploetz 1998).

As far as the participation of Länder civil servants in the Council’s and the Commission’s working groups is concerned, Weber reported that in April 1994 250 Länder civil servants were nominated for the Brussels based working groups. This number steadily grew up from 354 in 1995 (Rometsch 1996) towards 450 in 1996. Since then, the internal workload of the Länder has lead to a reduction in the number of Länder representatives (Knodt 1998). Hence, for the 1999 presidency, the Länder appointed officials for 314 working groups, out of which 189 are attached to the Commission and its Comitology network, and the remaining 125 to the Council’s working groups. Accordingly, the Länder are present in 38 % of the Council’s working groups (the German presidency lists a 327 operating working groups for the first half of 1999).

Table 5: Participation of Länder representatives in Council and Commission working groups (first half 1999)

Policy fields	Commission's working groups	Council's working groups
Internal Market	22	15
Employment / Social Affairs	30	7
Agriculture	48	39
Transport	2	2
Environmental Affairs	38	3
RTD	27	2
Telecom.	8	4
Regional affairs	5	2
Energy	1	2
Home and Judicial Affairs	-	27
Tax harmonization	3	13
Financial Affairs	-	2
Sum	184	118

Source: Bundesrat: Vertreter der Länder in Beratungsgremien der EU, January 1999.

2. Multi-actor and Multi-level governance: The German approach

Both the constitutional patterns and the evolution of Germany's institutions dealing with European policy are increasingly complex. We observe an ongoing trend towards institutional pluralism and polyphony in policy-making: Based on the constitutional constraints against institutional centralization, various ministries including the Länder as well as other institutions like the Bundesbank and the Chancellery are competing for involvement at the different stages of EC/EU policy making. Each ministry – both on the Federal and the Länder level - shapes European dossiers in its own way and on its own account. Various means of intergovernmental, inter- and intra-ministerial co-ordination mechanisms perform without a central agency to give the two levels of governance a single voice in Brussels.

The majority of ministries and ministerial bodies adopt a single issue based and technical approach on a given subject instead of adopting long-term based and strategic policy planning, –projection and –making. Contrasting some of the above mentioned characteristics, we also observe – since Maastricht - a slight trend towards a style of policy-making which can be characterized as a recovery of the “Kanzlerdemokratie” marked by a high political and strategic planning input of the Chancellery in European Affairs. Especially during the period of ongoing IGC's the power of the Chancellor to determine the policy guidelines prevails the principle of ministerial autonomy. The term of office of Helmut Kohl coincided with three subsequent IGC's: the SEA from 1985 to 1986, the Maastricht reform from 1991 to 1992 and the Amsterdam revision from 1996 to 1997. Although the SEA's internal market program was considered internally by the Ministry of Economics, the Chancellor inspired and lead the process towards intergovernmental co-operation in Home and Judicial Affairs. During the Maastricht process again, both the move towards EMU and Political Union was strongly influenced by the Chancellor – acting closely together with the President of the French Republic – and by the Ministry for Foreign Affairs.

In addition to these developments which have lead to a certain re-balance and adjustment of the roles of the ministries and the Chancellery, party-politics and coalition-dynamics

exacerbate the different characteristics of the style in German European policy since the Maastricht process. Taking into account these dynamics, especially the trend of “institutional pluralism” can also be explained by the fact, that coalition governments do not adopt a coherent approach in policy making for the day to day life of their term of office. Instead, coalition-agreements are aimed at defining broad guidelines for the envisaged period. However during this period, ministers have to achieve a balance between the objectives of their political party on the one hand and the need to find compromise positions with their coalition partner. Thus in the daily life of EC/EU legislation, a minister may prefer to adopt sometimes a policy approach which corresponds to its party position and which may differ from the one of the coalition partner. In this regard, especially the treatment of Home and Judicial Affairs (HJA) during the 13th electoral term of the Bundestag (1994-1998) became a hotly debated issue between the CDU-lead Ministry of the Interior and the FDP-lead Ministry for Justice. Conflict occurred on HJA matters concerning transparency, asylum law, the respect of fundamental rights and – in the context of the IGC leading to the Amsterdam Treaty – concerning the question which matters of the HJA pillar should be transferred from the EU Treaty into the EC Treaty and if HJA should become subject to qualified majority voting in the Council of Ministers.

The patterns of vertical and horizontal decentralization have lead scholars to characterize the German system as highly fragmented and as one of the main sources for a relatively weak German positions in the Council of Ministers. Some academics suggested therefore to create a Ministry for European affairs or to delegate a Minister or State Minister for European affairs within the Chancellery. However, any attempt to concentrate European policy planning and making within the Federal Government and/or between the Government and its interlocutors (parliament, Länder etc.) would interfere the basic feature of the German politico-institutional system, namely its federal and decentralized structure.

Moreover, given the flourishing network-building on European affairs – across Brussels and Bonn/Berlin, it is only hardly conceivable that a “central” policy-planning and policy-making agency would automatically lead to more consistent European strategies. The new SPD/GREEN government has refined the organization structure of European politics to a very limited extend. The shift of substantive competencies from the Ministry of Economics to the Ministry of Finance must be seen in the light of the shift of co-ordination functions from the Ministry of Economics towards the Ministry of Foreign Affairs. Certainly, the Ministry of Economics becomes less important than in previous times. Hence, this development reflects the change of the political agenda at the Brussels level: Directives on the internal market program are less important than original legislation in the fields of environmental affairs, RTD policy, financial policy and regional or structural policy. With the implementation of the Amsterdam Treaty and the fusion of the Schengen acquis into the EU and/or EC Treaties, both the Ministry of Justice and the Ministry of the Interior will become more important.

German EU politics faces persistent patterns of *interdependence* – politically as well as economically – which suggest that the institutional penetration of the German political system by European integration is considerably high. In this perspective, Simon Bulmer (1994, 1997) accounts several indicators for an evolving congruency between the EU and Germany. Reviewing the interaction between Germany and the European Union until 1995/1996, he observes a large measure of congruence between the constitutional (institutions, inter-

institutional relations, basic principles of “co-operative federalism” in European and German governance structures), the normative (rules underlying the decision making processes such as consensual package-dealing, decentralized decision-making, coalition-building practices), the policy program (segmented, sectorised and sometimes even fragmented policy processes) and the substantive level (high ranking policies and policy contexts) of the two governance structures.

These patterns of congruency developed over time. In other words, Germany’s institutions reacted and adapted to the multi-hierarchical and multi-centered structure in a rather effective way.

III. Conclusions

1. Trends towards horizontal and vertical fusion

Looking at the patterns of participation and the channels for power and influence on both levels simultaneously and over time we would stress the trend of pooling competencies (Keohane/Hoffmann 1991) towards some kind of merging policy instruments and sharing of responsibilities over an ever increasing scope of public policies with an ever increasing procedural complexity and bureaucratic “bycantinisme”.

The Brussels arena is not a political space for an exclusive club of diplomatic experts nor has it replaced national political systems: national administrations have shaped and conquered the Brussels arena in a highly extensive and intensive network of formalized and informal interactions. However, this process does not document a „rescue of the nation state“ (Milward) or a re-establishment of traditional ‘Weberian’ types of bureaucracies; instead they have had to transform themselves in this process of Europeanisation - they had to open their *domaine réservée* both to their European colleagues be they other national civil servants or Commission fonctionnaires as well as to other agencies and actors.

One of the astonishing facts of these changes is the smoothness of the process: no dramatic institutional reforms were undertaken on the national level; no new central body was installed; the central horizontal coordination mechanism functioned in an apparently sufficiently and acceptable performance - especially by leaving a high degree of leeway to decentralized policy making in each ministry.

Both observations - the high routine participation and the lack of fundamental institutional reforms points at the deep roots of fundamental behavioral changes and the broad shift of the German system into that of the EU.

2. Reforms: no easy solutions - the CCC formula revisited

If we accept that kind of analysis some of the conventional proposals have to be revisited. A new body wherever located would be torn between two directions:

One would be the improving of mutual information and of horizontal co-operation without any ambitions for shaping German position into one and only coherent strategy: like in all organizations internal communication could always be improved, but the competition among the actors of German administration will set clear limits at least in most policy areas.

Moreover, a clear national interest overarching sector and single policy ambitions is in most cases not obvious; even more, transnational sector specific networks are competing for limited resources.

The alternative role of a central EU-agency would be that of a stronger vertical co-ordination backed by the highest political authority - the chancellery. Such an approach would open a new way of how to deal EU affairs. It would directly lead to inter-bureaucratic fights – between and within ministries - which would also spill over into the political realm of coalition governments. The battles are likely to reduce the mobilization of civil servants and the day to day effectiveness. Competition in political and administrative terms would become endemic - the minister for European affairs with that kind of authority becoming a ‘threat’ to the key ministries. Consequently, the specific legitimizing power of the Chancellor would be needed in the every day life and not only at specific occasions and according to his own will.

To give such a dominating role to even another already powerful minister like that of Finance (like both Waigel and Lafontaine were keen to have) would even more affect the balance of power within German governments.

Besides the issue of the internal power games any permanent hierarchy will not be more successful in the complexity of the EU system. The simplicity of a part in a complex system might just not fit.

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