

THE EUROPEAN COMMISSION: A BALANCING ACT
BETWEEN AUTONOMY AND DEPENDENCE¹

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From the eighties onwards, the growing interest of political science for the move of policymaking from the national to the EU level has been an occasion to revisit the research on EU institutions in general and on the Commission in particular (Muller, 1994; Mény, Muller, Quermonne, 1995). This has taken place in a broader evolution of political science research on the EU in Europe -and to a lesser extent in the United States- from IR theory to political sociology and comparative politics (Sbragia, 1991, Hix, 1994).

A rich set of case studies now exists on formulation and implementation of Community public policies. A lot of material can be found on competition policy (Dumez, Jeunemaître, 1991; Cini, 1994), social policy (Majone, 1993), energy policy (Haaland Matlary, 1993), telecommunications policy (Schneider, Dang-Nguyen, Werle, 1994), economic and social cohesion (Smith, 1996; Hooghe, Keating, 1996), etc... A journal has even been set up in the United Kingdom (*The Journal of European Public Policy*) to publish policy-oriented studies on the EU. Most of these studies have two characteristics. First, they are monographic and empirical. Second, they go beyond a state-centric approach of European integration to take into consideration multilevel and network forms of *governance* in which Community, national as well as subnational actors (public and private) interact to formulate and implement EU public policies (Peterson, 1995). This paper is not the place to draw long and detailed critics on the theoretical deficiencies of most of these studies (Lequesne, Smith, forthcoming). Let us consider that among the new research-tracks they have opened there is a “revisiting” of the European Commission considered not more as an institutional monolith but as a complex “multi-organization” (Cram, 1994). In more concrete terms, public policy analysis (PPA) looks at (1) the Commission as a diversity of actors (commissioners, cabinet members, Dgs fonctionnaires, experts and consultants) who have different interests, ideas and social representations according to policy sectors and who are able to mobilize different

resources from one policy field to another to influence and to control the EU political agenda (Nugent, 1995). (2) PPA shows that different forms of organizational and administrative cultures exist among the Commission Dgs and that these cultures induce different styles of public action (Cini, 1997). (3) PPA gives the opportunity to revisit the assumptions put forward by the neofunctionalists in the 60s' on a EU space of interests representation in which the Commission is supposed to play the pivotal role (Mazey, Richardson, 1993). (4) Taking in details processes of *implementation*, PPA offers an occasion to study more carefully the reception and the translation by national and local actors of norms and principles promoted by the Commission Dgs in their proposals (partnership, additionality, evaluation,...) (Smith, 1996). (5) The fact that EU public policies are more oriented towards market regulation than distribution (or redistribution) of revenues has finally opened an interesting debate on the emergence of a "European regulatory state" from which the Commission could draw -as the regulatory agency- bureaucratic influence (Cram, 1993; Majone, 1996).

Taking into account these different works without developing any specific case-study and adding a more institutional approach to it, I will show how EU Commission agents can mobilize specific resources to behave as *policy entrepreneurs* in the EU policy making with a certain *autonomy* from national governments (1). I will then balance the argument of autonomy in arguing that policy entrepreneurship is limited by a series of endogeneous and exogeneous constraints which also make the Commission a *dependent* actor in the EU policy-making (2). The "balancing act" between autonomy and dependence is from our point of view the main characteristic of the European Commission.

1. Which resources at the disposal of the policy entrepreneur?

The Commission is composed of various actors (commissioners, cabinet members, Dgs fonctionnaires, consultants,...) who have at their disposal a range of resources to participate in the invention of public policies with a certain autonomy from the national governments as well as from the interests groups. I would like to stress four of these resources: the “constitutional power” to initiate public action (1.1), a capability to instrumentalize the loose notion of “Community interest” (1.2), an easiness to mobilize upstream ideas and expertise (1.3) and the specific use of regulation instruments for public action (1.4).

1.1. The “constitutional power” to mobilize public action: if the EU policy making is much less uni-dimensional that was has been analysed by neorealist or intergovernmentalist theorists, it is neither a political market in which various policy networks coexist in parallel with no other form of regulation than rules their members have set-up to stabilize interactions. Inspired by neoinstitutionalist analysts like March and Olsen or Hall, Bulmer has shown in a very convincing way that the study of the EU policy-making needs to link sub-systems of actors with institutional variables which mediate (not determinate) actors’ choices, exchanges and outputs (Bulmer, 1994; 1995). For Bulmer, institutions have a broad sense. They mean “formal institutions, informal institutions and conventions, the norms and symbols embedded in them; and policy instruments and procedures” (Bulmer, 1995, 8).

From this institutional perspective, the EU treaties can be considered as a set of rules which gives the different actors a representation of their political capability as well as of the capabilities of other actors in the EU policymaking. The fact that, according to the EC treaty,

the Commission has the formal right to initiate a large part of public action is then a factor which is influencing the *posture* of its agents in the policymaking. Considering that the right of initiative is an original element of their task compared to officials from most IO secretariats, Commission agents propose rather than they manage (Ludlow, 1991) and use the “crucial power of the drafters of texts” to set up the basic norms for the negotiation of EU policies (Wallace, 1990). National ministers and officials who discover the Brussels arena for the first time are often struck with the fact that the formal right “to give the tune” is a resource in the hands of the Commission agents in Council negotiations. This is emphasized by the fact that, according to the EC treaty, any development of an EC policy for which a legal competence has not been established in a specific article is only possible on the basis of a Commission proposal (article 235 EC). When the Dgs fonctionnaires mention institutional reforms (like the IGC 1996), they establish then automatically a parallel between a sharing of the right of initiative (as it is already the case in the field of Foreign and security policy or of Justice and home affairs²) and the weakening of their policy entrepreneurship (Vibert, 1995). “If the right of initiative is more and more reduced, I do not really see what could motivate my administrative life” said a fonctionnaire of the Secretariat general (interview, november 1995). A colleague from Dg 14 (fisheries policy) adds: “It is in the interest of Europe that the Commission will not become a sort of OECD secretariat” (interview, november 1995).

1.2. Instrumentalization of the “Community interest”: recent anthropological works published in French have showed that a form of Community ideology, in the sense of a system of ideas and values, exists within the Commission. It is based on the *evocation* by its agents of a so-called Community or European interest (Abélès, 1994). A clear definition of the notion of Community interest does obviously not exist. We can only observe that the

values and ideas attached to it refer to the projection of a European common good in an in-built future. Our argument is that referring to Community interest constitutes a resource for the Commission agents because nobody is really able to contest a loose definition like this. Laura Cram has shown for instance how governments opposed to the proposal of Dg 13 to elaborate an IT policy were not able to contest the argument that this policy should improve in the future the competitiveness of EU firms vis à vis Japan and the United States on behalf of the "European interest" (Cram, 1994). In an other policy field, Andy Smith demonstrates that "the economic and social cohesion" doctrine built within Dg 16 before the 1988 reform of the structural funds refers to the image of a common good which it is difficult to contest, even for a British neo-liberal! (Smith, 1996). Nevertheless, the resource that represents the evocation of a Community interest for policy entrepreneurship should not be overestimated. It is one among others and it is never sufficient to influence a policy process in which inter-institutional negotiations remain the essential element of policy outputs.

1.3. Upstream mobilization of ideas: EU PPA frequently stress the upstream easiness of Commission agents to mobilize ideas and expertise. They refer to an ability for "inventiveness" (Metcalf, 1994) which is an important part of the policy entrepreneurship (Sandholz, Zysman, 1989). Several factors are then put forward to support the established fact.

The first one is that commissioners and fonctionnaires can draw influence from a *policy cycle* which is longer at the Community level than at the national level (Smith, 1996). Appointed by common accord for five years by the national governments after a vote of approval by the European Parliament, commissioners are not coping with the same uncertainty than members of governments because their mandates are not subordinated to

the trust of a President “*primus inter-pares*” and because parliamentary censorship is theoretical in the absence of a bipolar or bipartisan EU political system. On the eight motions of censure addressed by the EP to the Commission from 1972 to 1997, six have been proposed for a vote and two have been withdrawn just after their registration. As Martin Donnelly and Ella Ritchie observe “a further element of stability derives from the distribution of portfolios which may be expected to remain in the same hands for the length of Commission [...] The only exception to this is when enlargement of EC membership has required new members to the Commission, which necessitates some redistribution of portfolios”(Donnelly, Ritchie, 1994, 34). The relation between the inventiveness of a commissioner and the policy cycle should be absolutely balanced. Inventiveness also depends very much on the priority the policy represents at a certain moment for the EU political agenda which is not set only by Commission actors. It also depends on the effectiveness of the *cabinet*, a private office of seven advisers recruited within Commission Dgs and national administrations to assist the Commissioner in his different tasks³. It depends finally on the working relations (conflictual/cooperative) the Commissioner has established with the directors general and the directors of the Dgs he is responsible with. It will be nevertheless useful to study more deeply all these elements in empirical studies. Except George Ross’s book on the President Delors’s cabinet, there is a lack of scientific knowledge on the college of commissioners and on the cabinet system in the Commission (Ross, 1995). Taking into consideration the Dgs level, Andy Smith has observed that the consequence of the weak intra-organizational mobility -more acute in some Dgs than in others- is that the *fonctionnaires* become sharp specialists of their policy sectors and are prepared to invent forms of action which emphasize the role of the Commission (Smith, 1996). This argument should also be moderate. A strong specialization together with a weak mobility can generate

the reverse effect of inventiveness which is routine and inability to make strategy. Like in all bureaucratic organizations, such a tendency exists in the EU Commission. On the other hand, the criteria of nationality which influences strongly careers at a certain level -from A3 (head of division) to A1 (director general)- is a specific factor which stimulates the creativeness of the fonctionnaires who need to attract attention from cabinets for their prospects. As an head of division told us: "if the support of the two cabinets from my nationality have helped my appointment at a A3 position, I have also been chosen because I did good job in the task force which was set up during the former enlargement" (interview, april 1996).

Second, upstream mobilization of ideas and inventiveness come also from the diversity of the fonctionnaires national and professional backgrounds which is higher than in national administrations and from their capability to look for outside expertise. The easy attraction of outside expertise is possible through the regular consultation by Dgs of about 500 advisory committees composed of independent experts, representatives of national administrations (in their personal capacity) and of interests groups. The latters come mostly from Eurogroups based in Brussels but also from national interests groups as for the "Advisory committee on fisheries". The contribution of these formal structures to expertise is not so important, especially because Eurogroups have weak organizational resources and weak legitimacy vis à vis their own national members which prevent them from answering efficiently to the demands of Dgs. It is more the flexibility which have the fonctionnaires to establish informal and case by case consultations with ^{national} interests groups and ~~national~~ experts which can be considered a resource for efficiency. In more concrete terms, it means two things. First, the capability to cast the net as wide as possible in the fifteen EU member states and to get then diversity of points of views. Second, the capability -due mostly to budget facilities- to recrute outside experts in the Dgs through temporary contracts. When outside

consultants become however too numerous in a Dg (as it is the case in some of them), the result can be reverse: a sprinkling of ideas and a lack of global coherence in the policies which are proposed.

1.4. A regulatory policy style: Majone has put forward two main variables to show that *regulatory policies*, ie those which enable a political organization to exert a continuous and specific control on activities generally considered beneficial for the society as a whole, are better adapted to the structure of the EU policymaking. First, there is the permanent need for the economic agents to limit obstacles to the completion of the single market. Second, there is the weak margin of manoeuvre offered by the Community budget to develop distributive or re-distributive policies if one considers that about 80% of this budget is devoted to agricultural market supports and the structural funds (Majone, 1996). Among the various EU institutions, the Commission gets probably the most influence from a large confinement of public policies in the field of regulation. Because they have the constitutional right to initiate legislation, cabinets and Dgs are tempted to propose regulation *supplies* to interests groups who, in parallel, address regulation *demands* to adjust the negative effects of divergent national regulations on their economic and social activities. Faced with the demands of interests groups, Commission agents are increasing their influence in the policymaking because they represent a “solution” to improve problems like technical standards, pollution, competitiveness, etc... Regulatory policies have nevertheless an other main characteristic: they externalize most of the implementation costs on the economic and social actors at the national level. Cram has called that “calling the tune without paying the piper” (Cram, 1993). When the EU decides that the installation of a catalytic converter should be obligatory on new cars to reduce toxic emanations, it externalizes not only the

implementation procedures but also the effective costs on firms and consumers (Meny, 1995). Interest groups which consider themselves as “losers” will then have the tendency to look first towards the Commission and to make it responsible for the negative effects of policies which have however been approved by governments in the EU Council of ministers (even if majority voting means that not all of them always agree with the decision) and by the EP. It is precisely to limit these “scapegoat effects” that the Commission President Delors insisted in 1991 on the introduction of the principle of subsidiarity (article 3B) in the treaty of Maastricht. Drawn from federalism (Millon Delsol, 1993), subsidiarity is a principle of “self-restraint” which says that “in areas which do not fall within its exclusive competence, the Community shall take action [...] only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by member states”. In spite of the implementing measures taken by the Commission since 1993 to “quiet down” governments (limitation in the number of propositions, growing use of “green books”, ...), the optimal implementation of the principle of subsidiarity has always been very difficult. Fritz Scharpf got an explanation. The primacy of market-building induces an increasing process of regulation at the EU level from which the institution controlling the right of initiative is necessarily beneficial in terms of bureaucratic influence (Scharpf, 1992).

2. Some obvious limits to autonomy:

The Commission is coping with a number of endogenous and exogenous factors which limit its autonomous position of policy entrepreneur in the EU policymaking. Three factors will be underlined: a strong organizational segmentation (2.1), the interference of national governments in the appointments of agents (2.2), and a weak perception by citizens

that Commission actions are under political control (2.3).

2.1 A strong organizational segmentation: Like most bureaucratic organizations, the Commission is highly segmented in terms of responsibilities and authority. This can be a source of diversity and of invention but also a source of conflict which proves to be negative for the policy entrepreneurship. Empirical studies have shown that each Dg is characterised with its own organizational identity (Abelès, Bellier, 1996) or “administrative culture” (Cini, 1997) linked to its historical background and to the policy sector. French anthropologist Irène Bellier writes for instance that “l’efficacité réglementaire et le ruralisme de la direction générale de l’agriculture contrastent avec l’obsession du marché intérieur qui qualifie la direction du même nom, et de l’ouverture au monde qui prévaut dans les directions en charge des relations extérieures, qu’elles traitent de diplomatie ou d’aide technique...” (Bellier, 1995). The close identification of each fonctionnaire to his or her Dg is not very original if we compare it to the identification of a French civil servant to his/her ministry or his/her administrative corps. Moreover, strong identification of fonctionnaires to Dg does not mean that exchanges of ideas and informations with colleagues of other Dgs are totally out of question. The small team of fonctionnaires of Dg 1 who was in charge to devise in a hurry the PHARE economic programme towards Eastern Europe in 1989 had for instance narrow consultations with colleagues from Dg 8 working on financial aid towards African-Caribbean and Pacific countries for forty years (Deloche, Lequesne, 1996). In the perspective of special dates like new memberships or a reform of the treaties, *ad hoc* structures called *task forces* are working with fonctionnaires coming from different Dgs. “Interservices groups”, “networks of directors general” also exist in the Commission. They are very close from the interministerial structures and procedures that the national administrations set up to reach

bureaucratic compromises. In spite of that, conflicts of interests frequently occur between Dgs during the formulation of proposals. But again, this is not very original compared to what can be observed in national administrations. The methods of conflict resolution within the Commission are the interesting point. Final decisions are never following from an *arbitration*, ie the intervention of an authority like the President deciding among several conflictual positions which one should prevail. It is much more an incremental process of compromises which are working out successively and sometimes in parallel in various places of decision: first, among the desk officers of the Dgs, then among the “specialists” of the cabinets, then among the heads of cabinets and so on until the college of commissioners itself (Lamy, 1991). A main reason explaining this consensual policy style is the weak *leadership* of the President compared to most European Prime ministers, even when an influential politician like Jacques Delors is holding the post (Ross, 1995). We should never forget that according to the principle of collegiality, the President of the Commission has one vote like the other commissioners when decisions are taken with a single majority at the weekly college meeting. More importantly, some commissioners have always a large autonomy vis à vis their colleagues and the President when they are in charge of a main policy like competition and commerce and/or when they remain close, as former ministers or politicians, from national political arenas. From this lack of leadership at the college-level (which has been a point discussed in the IGC/1996) is resulting the need for a consensus at every level of the organization. An other consequence of that is a policymaking made of slowness and “lourdeur” from which fonctionnaires of the Dgs as well as their outside interlocutors lose sometimes motivation. Even if for the latter, especially national officials, slowness could also be a mean to adjust and to refine negotiating strategies.

2.2 Interference of national governments in the appointments of agents

Intergovernmentalist theorists overestimate the instrumentalization of supranational institutions in general and of the Commission in particular by the national governments (Haggard, Moravscik, 1993). Nevertheless, it is true that the Commission remains dependent from national governments when we consider the interferences in the appointments of high ranking staff. Although the Maastricht Treaty provides a formal approval of the college of commissioners by the EP, heads of State and governments appoint by a common accord in the European Council the President and the other 19 commissioners previously nominated by each government for purely domestic reasons (Darnoux, 1995). The appointment of the President is an interstate bargaining which can be very conflictual. In the Corfu European Council of June 1994, British Prime minister Major vetoed the application of Belgian Prime minister Jean-Luc Dehaene to replace Jacques Delors, considering that he was too much in favour of a federalization of the European institutional system. After this episode, the Luxemburg Prime minister Jacques Santer was chosen as a low profile candidate. The distribution of portfolios among commissioners is also subject to intense interstate bargainings. For the Santer college taking up its duties in January 1995, the coveted dossier of external relations has been disputed and finally split in five different portfolios.

Affirming that in spite of the legal independence stipulated in the treaties, each commissioner is subject to "his/her" State would be however oversimplistic. The relationship of commissioners with the national context is perfectly revealing the autonomy/dependence duality which is characteristic of the whole organization. On the one hand, commissioners' legitimacy inside the Commission but also in the various member states depends from their ability to defend EU norms and rules against their own governments. And that happens

regularly. During the Maastricht negotiations, Jacques Delors did not agree with the position of the French government on a pillared structure for the treaty (Lequesne, 1997). The Belgian commissioner Karel Van Miert, in charge of competition policy, threatened in February 1996 the Belgian government with proceedings if it did not stop illegal subsidies on exports to national companies (interview, February 1996). On the other hand, commissioners are also pleading regularly with the college the interests of “their” State. Keith Middlemas has noted for example that “Padraig Flynn, the Irish Commissioner, spoke out in favour of his government’s refusal to settle for a lesser allocation that had allegedly been promised from the structural fund’s budget, against Bruce Millan, the Commissioner responsible for regions, DG16” (Middlemas, 1995, 234). This example is not a marginal one. It occurs especially when competition rules against national enterprises or subsidies from the Community budget are concerned.

Appointments of high ranking fonctionnaires -from head of division (A3) to director general (A1)- are also subject to interstate bargainings between the cabinets and the permanent representations of the member states (Lequesne, 1993). The unofficial principle of “geographic balance” represents the basis for negotiation among cabinet members and government officials. Behind it stands out the fact that governments try to keep a hand on a EU policymaking they are not able to control fully anymore. If the interference of nationality in the appointment of high ranking staff (which represent a minority of the 15 000 fonctionnaires) can push some fonctionnaires to be creative, it can also be highly frustrating for others. The preference which the cabinets give sometimes to outside candidates in order to maintain a “geographic balance” can give the impression to some “inside” fonctionnaires that they are victims of a career-system based on the criteria of multinational compromise rather than bureaucratic competence. Commission fonctionnaires have even contested

appointments of “outside” candidates in the Tribunal of First Instance which is competent for the disputes between the EU institutions and their agents. An example is the Boos and Fisher case against Commission (T 58/91) concerning appointments of directors (A2) recruited from “outside” at Dg 14 (fisheries policy).

Second, national ministers and officials are very influential in the interinstitutional negotiations which follow the formal sending of the Commission proposal to the member states as well as the other EU institutions and organs. With the MEPs, they decide annually the budget for the EU public policies on the basis of a five years framework programming. Budgetary negotiations are often conflictual between governments because they oppose “net contributors” to “net beneficiaries” but also because the margin of manoeuvre to finance other policies than the CAP and the structural funds is very narrow. If the legislative powers of MEPs have increased significantly since the Single European Act (Quermonne, 1994), national ministers and officials have still most of their say in the Council and substructures like COREPER and working-groups. There is always a representative of the Commission (commissioner or fonctionnaire) at every level of the Council negotiations to defend the proposal (Rometsch, Wessels, 1994). If some of them are very skilful to act in collusion with the national ministers or officials in charge of the presidency, their influence is nevertheless very fluctuating from one dossier to another. Moreover, agents of the Commission suffer of being poorly inserted in the networks which are responsible for the implementation of EU policies at the national and local levels (Mc Aleavey, 1994; Smith, 1996).

2.3 A weak perception by citizens that the Commission is controlled: EU “democratic deficit” is a recurrent debate in the national political debates since the Single European Act.

In these debates, the focus is frequently oriented towards the Commission whose actions are considered weakly *accountable* because the Commissioners are not elected by direct universal suffrage and because the parliamentary scrutiny (at the Community as well as national level) of their actions is not sufficient. What can we say about these critics which are perceived by the Commission fonctionnaires as an obvious limit to their policy entrepreneurship? From empirical observations, we cannot admit that policies prepared by commissioners and Dgs fonctionnaires are not politically controlled. Controls are however done through a series of monitoring procedures which are diffuse and weakly transparent. Amendments from national ministers and officials, opinions and amendments from MEPs, jurisprudence from the Court of Justice, yearly and ad hoc reports from the Court of Auditors, interest representation from non-governmental actors constitute all together regular forms of control of the Commission proposals (Majone, 1995). Although the same *specialized* forms of control are applied to the public activities of national governments, a large majority of citizens do not perceive the system of *checks and balances* which works at the EU level. The main reason is the very fact that, in the member states, specialized forms of control still *coexist* with the classical instruments of representative democracy: elections, political parties, contradictory debates majority vs. opposition. But this second type of instruments is precisely weak at the EU level. Except a minority of citizens who are inserted in the policy networks, citizens cannot perceive the political controls which are daily applied to Commission. This is an important limit to the legitimacy and policy entrepreneurship of the organization.

Conclusion

The EU policymaking is a good illustration of what Alberta Sbragia has called a

“balancing act” between actors, interests and public policies which are sometimes “deterritorialized” and sometimes remain strongly embedded in territories (national as well as subnational) (Sbragia, 1993). Different levels of agregation can be considered to analyse the political dynamics induced by this permanent balancing act. More than thirty years ago, neofunctionalists emphasized the shifts of interests and loyalties of national elites from their national governments to the new EC institutions. More recently, institutionalist works have studied functional interactions and “fusion” between EU and national institutions (Wessels, 1992). In this paper devoted to the Commission, we have tried showing that the internal functioning of a supranational institution (but it could also be a national or a local one), of the resources and constraints of its *various* agents in the EU policymaking is an other level of agregation that should not be neglected.

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Notes

- 1 . This paper is mostly drawn from an article I have published in French in a special issue of the Revue Française de Science Politique devoted to the European Commission (June 1996, 46/3).
- 2 .In the domain of Justice and home affairs, the Commission has no right of initiative according to the Maastricht treaty for policies like judicial cooperations in criminal matters, customs cooperation, or police cooperation.
- 3 .One among the seven cabinet advisers should have a nationality different from that of the commissioner; he is then called the "foreign member".