

Organisational learning in the EU's multilevel governance system

Adriaan Schout

Paper presented at:

EUSA Conference 2009 - Eleventh Biennial International Conference, Los Angeles, California

April 23-25, 2009

Session: 4G The European Commission of the 21st Century M

Chair: **Liesbet Hooghe** (University of North Carolina/Free University of Amsterdam)

Discussant: **Renaud Dehousse** (Sciences Po Paris)

Organisational learning in the EU's multilevel governance system

Adriaan Schout

The EU's governance reform does not match the expectations of its promoters; the 'new' instruments seem to under-perform. One explanation, explored here, is that governance has been discussed without much attention for capacities at the operational level. Analyses are needed of how instruments are used and designed within the EU's multilevel administrative system. To move from governance to capacities, three interrelated levels of learning are distinguished to examine whether changes in governance are supported by developments in organisational capacities: 'governance learning', 'instrument learning' and 'organisational learning'. One hypothesis is that these need to develop simultaneously. The second hypothesis is that, in the EU's multilevel administration, learning along these dimensions has to take place in parallel at EU and national levels. This article analyses the capacities which the Commission and the Netherlands have created to support the better regulation agenda. It concludes a match between the three levels of learning in the Commission but a mismatch between learning in the Commission and the Netherlands. This multilevel mismatch may help to explain the lack of success of the EU's better regulation agenda.

Key words: better regulation, EU governance, implementation, organisational learning.

1 Introduction

Essentially, the learning literature underlines that politics is more than a conflict and a struggle for power. Politics also involves dealing with uncertainty, gathering and processing information and building new structures (Bennett and Howlett 1992). The learning perspectives point towards the dynamic changes in the contexts in which the power struggles take place and underline that policy making can be more than zero-sum games.

The EU governance literature more or less assumes a 'governance turn' (Kohler-Koch and Rittberger 2006) and hence presumes that policy making in the EU has been lifted to a higher level by moving away from ('hierarchical') legislation towards networked governance. In the governance literature, hierarchical norm setting, which has been the EU's preferred mode of governance, is regarded as a zero-sum game in which sectors and Member States fight over static obligations (e.g. over the percentage of waste recycling). Instead, 'new' modes of governance based on communication and networks are hoped to offer win-win situations through interactive processes in which objectives are identified and problems solved (Kooiman 2003). But is this what has happened? Moreover, has the 'governance turn' delivered on its promises and if not, why not?

Current reviews of EU governance show, firstly, that there has not been so much of a shift from legislation to new instruments and, secondly, that the results of new instruments fall behind expectations (Citi and Rhodes 2007, TEP 2007, Kurpas et al. 2008, Eberlein and Newman 2008, Schout and Jordan 2008). However, equating the governance debate with a

shift to ‘new’ instruments does not do justice to the governance reforms and the attempt to upgrade quality of legislation. This article argues that to understand the state of play in the governance reforms and the disappointing evaluations, we have to take a much closer look at what has happened in terms of instruments. In order to understand governance, we need to look behind the instruments and examine the changes at the “shop floor” of the administrative systems (Hanf 1994).

To see how governance has changed and where things may have become stuck, we distinguish three levels in the governance debate: governance learning, instrument learning and organisational learning. In learning terms, the governance ‘turn’ suggests nothing less than a shift in paradigm in the EU’s preferred steering modes, i.e. in preferences for broad categories of governance instruments (Lascoumes and Legales 2007). This paradigm shift is referred to here in the context of the EU’s governance debate as ‘governance learning’ and is defined as learning about the major governance modes and how they can be employed effectively. It involves ‘instrument learning’, defined as the development in instruments and entailing lessons about the viability of the individual policy instruments (May 1992: 332). Accounting for the performance of particular instruments requires access to the operational details. It is at this level of organisational learning that we can see whether governance has changed and where we can find explanations for performance.

The organisational learning literature is rich, examining sociological aspects, information technology, leadership and processes (Easterby-Smith and Lyles 2003; Common 2004). The definition of organisational learning used here follows Common’s (2004): “making practical use of ... knowledge to achieve particular government objectives, usually accompanied by organisational change” (p. 36). This definition relates to the organisational science literature studying capacities for information gathering, lowering coordination costs, and steering the behaviour of individuals and groups (Cyert and March 1963). Organisational learning takes place when organisations develop structures and procedures (‘capacities’ as elaborated below) to upgrade information processing and improve problem solving (Olsen and Peters 1996).

Organisational learning supports the effectiveness and efficiency of policy making but there is not a one-to-one relation between organisational learning and policy making given the many intervening variables (personalities, political realities, values) which influence adaptation processes (Zito and Schout 2009). Moreover, not all organisational adaptation is learning. Some learning can even be damaging when capacities to solve problems and process information are in fact disrupted. For example, New Public Management reforms have been criticised for increasing fragmentation (Bouckaert and Pollitt 2004). Hence, interpretations of the adaptations will always be necessary.

Of the different learning approaches, organisational learning is probably the least developed. The different views on the usefulness of the ‘hard’ organisational aspects in relation to more political views on organisations partly explain this lacuna (Dawson 1992; Rhodes 1997). Quite typically, Easterby-Smith and Lyles (2003), who utilise organisational learning, emphasise ‘process’ and ‘power’. Important as these perspectives are, they need not deny the relevance of organisational capacities such as rule systems, resources and coordination mechanisms.

By distinguishing three layers of learning, this paper analyses the match between changes in governance and the redesign of administrations. For reasons discussed below, in the context of the EU’s multilevel administration this match has to be analysed in at least two ways. The

innovations in the use of instruments at EU level have to be matched by developments in administrative capacities in the EU institutions. Secondly, the capacities that are being built at the EU level require parallel adaptations in the national administrations. Organisational learning offers an approach to study the development of organisational capacities and to compare these between levels of administration.

As case study, we take impact assessments (IA). Being the key component in the EU's better regulation (BR) policy, IA should lead to better argued policies in terms of objectives such as consequences for the environment and for administrative costs, and to a careful selection of instruments (see Radaelli, this volume). Yet, after 15 years of experimenting with different types of assessments, the evaluations are still lukewarm (EVIA 2008). There are several explanations for this and the paper argues that multilevel organisational design issues are part of them. This case study is part of a wider research studying the administrative challenges of the governance debate (anonymous 2008).

Section Two defines organisational learning and discusses the links between learning at governance, instrument and organisational levels. This leads to a model to operationalise and assess organisational learning. Placing this study in the context of EU governance as a multi-layered learning challenge, Section Three moves from the higher level of abstraction (the EU's governance debate) to a specific, relatively new instrument in the EU (impact assessments). The subsequent Sections explore the development of organisational capacities in the Commission (Four) and the Netherlands (Five). Given obvious difficulties of multilevel organisational studies, this article only discusses the Commission (the EU level) and the Netherlands (as a sample of the Council). This offers a reasonable flavour of EU organisational learning dilemmas. The Dutch government is an obvious candidate as it has invested heavily in BR and has been presented as a world leader (World Bank 2007). Moreover, the Dutch are acutely aware of the need for further EU steps to ensure better policies nationally. The case of the Netherlands, being a leader in assessments (Radaelli, this volume), raises the question of whether, if they have difficulty in matching capacities to policy innovations, IAs feasible in the EU? The conclusions follow in Section Six.

For the information on how IA systems are structured and used, this article draws on reports and on interviews with officials at the Commission (Directorate Generals (DGs) and Secretariat General (SG)), the European Parliament (administrators and MEPs) and the General Secretariat of the Council, as well as with officials at various Dutch ministries and at the independent watchdog for administrative burden (ACTAL). Two senior officials from the Dutch administration and the Commission have read earlier drafts and have confirmed the findings.

2 Levels of learning in the EU governance debate

Differentiating three levels of learning helps to position organisational learning in the EU governance debate (Table 1). The first level is governance learning. At the highest level of abstraction, governance is about broad steering modes originally summarized in the literature as 'markets and hierarchies' but developed into 'markets, networks and hierarchies' when networks became fashionable (Powell 1990). The governance debate marks a shift from government ('hierarchy' or legislation as understood in the EU governance debate, Héritier and Lehmkuhl 2008) to governance through interactions within networks ('processes', Kooiman 2003) and economic incentives ('markets'). Governance learning may involve

improvements in the existing mode or a ‘turn’ towards another mode. To be complete, governance learning includes increasing insights in instruments and their designs but the levels are treated separately for heuristic reasons.

>>>>Table 1<<<<

The second level relates to the instruments related to the governance modes. Moving from the higher level of abstraction of governance to instruments immediately points to some confusion as ‘markets’, ‘networks’ and ‘hierarchies’ are not broad categories but instruments. Knill and Lenschow (2005) therefore use the broader labels of competition, communication and coercion (Table 1).

Although the EU governance debate focuses on the broadening out of instruments from legislation towards network-based modes and incentive-based mechanisms such as tax measures (Jordan, Wurzel and Zito 2003), governance is mainly discussed in relation to networked-based instruments such as OMC, impact assessments (EVIA 2008), and agencies and their networks (Majone 1996; Monda *et al.* forthcoming). The EU has seized on networks to circumvent or complement legislation. ‘Networked governance’ is a system where governments are “dependent upon the cooperation and joint resource mobilization of policy actors outside their hierarchical control” (Börzel 1998: 260). Moreover, networks may nurture a greater sense of ownership for horizontal objectives such as subsidiarity, competitiveness, regulatory quality and sustainability and allow flexibility in the post-enlargement era (CEC2002a, 2002b; anonymous 2005).

Linking governance to instruments is however not straightforward. In reality, the modes are interconnected. OMC may not mean less legislation and legislation may be part of the move towards networked-governance (Héritier and Lehmkuhl 2008). Moreover, markets are complex systems which cannot be seen independently from hierarchical regulation or networks (Powell 1990). The modes need several or even all of the instruments but in different formats. Markets as well as soft coordination need laws but in specific forms and with different functions (laws as rules guiding market interactions or as sticks behind OMC processes). Impact assessments can be seen as ways to improve hierarchical governance but can also be employed as a network type of steering. Similarly, agencies can support hierarchical legislation by providing better information but it can also be part of networked governance. EU agencies are organised differently when supporting the Commission in law making, compared to EU agencies facilitating interactions between social partners (Monda *et al.* forthcoming). Confusion arises when agencies are presented as governance innovation in the form of independent authorities whereas their design offers the Commission tight controls on agencies with a view to supporting the traditional Community method (anonymous forthcoming). Hence, to understand shifts in governance it is essential to see how instruments are designed.

By the same token, the design has to be in accordance with the governance objectives. For example, if a network has to foster cooperation between energy regulators then we need to see whether it is granted sufficient powers and resources to do so (Coen and Thatcher 2008). Reviews are now emerging on the outcomes of new instruments which show mixed assessments of their achievements. While there are successes to report (e.g. Dehousse 2004; Knill and Lenschow 2005; Gornitzka 2006) many studies drawn critical conclusions (Citi and Rhodes 2007; anonymous 2008). New governance instruments do not seem to work as hoped

as underlined by the critical assessments of impact assessments (TEP 2007; EVIA 2008), networks (Eberlein and Newman 2008, Coen and Thatcher 2008) and agencies (CEC2008). Several explanations have been explored for the levelling off of performance including unrealistic expectations, the lack of leadership, the suitability of administrative cultures, the differentiation between the administrations and functional difficulties (OMC threatens harmonisation, Holzinger *et al.* 2006). Organisational learning has received hardly any attention (Bressers and Hanf 1995; Lascoumes and Le Gales 2007).

Unpacking organisational learning

Lascoumes and Le Gales (2007 p.2) conclude that instruments are generally seen in a functionalist way and treated as “natural” and as being “at our disposal” – suggesting that all that needs to be considered is what the best instruments are to meet objectives. These authors note that policy makers think that by changing the instruments they change the world (p. 6) but the results generated by the EU’s new instruments show that this has not been the case (Citi and Rhodes 2007). Hence, broadening the governance tools neither implies automatic changes in governance nor success. Exploring the details of how instruments are shaped and used in the EU is now beginning to be explored (Kassim and Le Gales 2009).

Studying organisational learning requires a model to operationalise administrative capacities. The basis of any organisation is the definition of the unit structure and of the coordination mechanisms that glue it together (‘differentiation and integration’, Lawrence and Lorsch 1967). The workload involved in designing and using EU instruments imposes a need for the coordination capacities in the Commission and national administrations to be efficient (for details: anonymous 2005).

The organisational literature discusses mechanisms through which information is gathered, shared and problems are solved. Borrowing from Mintzberg’s synthesis (1979), different types of coordination mechanisms can be distinguished. These capacities influence the coordination costs and cooperation in the organisation. As with all governance mechanisms, these are mutually reinforcing (Rhodes 1997):

- *Hierarchical coordination* – defined here as the supervision by the political apex. In practice, there is only so much the hierarchy can supervise so that contributions from the hierarchy often take the form of mission statements (e.g. “ensure early coordination” of impact assessments (CEC2009)). The starting point of any administrative study is the political commitment but amidst other objectives and dynamics this can, in practice, be more symbolic than real (DiMaggio and Powell, 1983).
- *Bureaucratic capacities* (roles, rules, procedures, guidelines and resources) reduce transaction costs by making information exchanges cheap and reliable and by defining the margins of manoeuvre. They help define who has the right to information and take decisions.
- *Standardisation of objectives* involves setting clear and measurable objectives to allow decentralisation. Management by objectives is an essential new public management technique but has proven to be hard to apply in the public sector (Bouckaert and Pollitt 2004). This form of standardisation is closely linked to divisionalisation as it makes divisions (‘DGs’ in public sector terminology) responsible for reaching targets. In terms of organisational capacities it implies that DGs have their own units not just for implementing the policies but also for monitoring the achievements. In terms of the BR discussion below, if DGs are made responsible for impact assessments they would need to set up units in which IA expertise is combined and where assessments are monitored. In addition, the apex has to have a unit to

monitor whether targets are being met also with a view to creating commitment to these targets.

- Training (*professionalisation*) influences working methods, culture or objectives. Training – e.g. on how to use IAs - is probably most used in reform programmes as it fairly straightforward to apply.

- *Horizontal coordination mechanisms* unload hierarchical structures and allow richer and more flexible communications. They include informal contacts, task forces at the operating core, teams and integrating managers. Teams are committees at a higher level with a broad overview and able to resolve conflicts. Integrators are the chairs of the teams and have potentially weaker (mediating) or stronger (decision taking) powers. Using the IA example, assessments will require task forces combining information from different fields as well as teams to solve problem and take decisions.

This model makes it possible to assess and compare organisational learning in the EU's multilevel administrative system (Table 1, third column). As a hypothesis, the introduction of new instruments requires careful attention for each of these capacities. Moreover, if we know how instruments are designed and whether there is a match between instrumental learning and organisational learning, then we know whether governance learning has taken place and in which direction (reinforcement of existing governance mechanisms or a shift in mode of governance).

Evidently, there is no automatic link between changes in the use of instruments and organisational redesign. Explanations for incongruencies are many and include the resilience of organisations (Zito and Schout 2009). Moreover, not all reforms in relation to new instruments will be an improvement. The Commission interviews show that officials are not necessarily experienced in thinking through how changes in instruments should be complemented with organisational changes and they may fear design questions particularly when it involves obligations on other DGs. Hence, organisational learning should not be simply assumed. With this model we can at least analyse change in capacities and discuss their effects.

3 Better Regulation as governance learning and instrument learning

Has there been a governance turn? Apparently the direction of governance learning was undecided for some time. While academic literature focused on open coordination, the Commission's official line favoured clearer legislation (CEC2001a). Yet, the EU was increasingly active in, often Council driven, OMC projects such as 'Lisbon'. Current reviews show that the Commission's output has not really changed. Legislative output hardly diminished and soft instruments have not really increased (Kurpas *et al.* 2008). Nevertheless, a more complementary use of instruments have can be concluded as result of a broadened instrumental toolkit with agencies, networks and OMCs (Treib *et al.* 2007).

Although no paradigm shift, there has been governance learning in particularly as a result of the BR agenda (Radaelli, this volume). BR, particularly due to the IA system, has resulted in better argued Commission proposals and a "change in culture" (according to several interviews) from DGs working independently towards cooperation. What started out as a variety of objectives cherished by different DGs (sustainable development, reduction of administrative costs, gender equality), a series of unrelated IA systems developed by different

DGs and a search for ‘good governance’ by the SG (related to among others exploring new instruments) has resulted in IA system in which these objectives are integrated (Allio 2008).

Radaelli (2007 191) defines better regulation as “a type of meta-regulation because of its emphasis on standards and rules which, instead of governing specific sectors or economic actors, steer the process of rule formulation, adoption, enforcement, and evaluation”. An interviewee referred to it simply as a “policy policy”. With the integrated impact assessment as a core instrument, the lines between governance and BR faded. The BR agenda now comprise a range of objectives including subsidiarity, proportionality, providing empirical proof for policies, sustainability, reducing administrative burdens by 25%, priority setting and using the least disruptive instruments (such as OMCs and voluntary agreements). These are now well founded in the Commission’s IA system (CEC2002b, 2009) and resulted in a Common Approach with the European Parliament and the Council on better law-making (CEC2006) with which the EU Institutions committed “themselves to take the IAs of the Commission into full account” and to carry out assessments of substantial amendments.

BR is a political spearhead on the EU agenda equal to the ‘1992’ programme or the Lisbon processes. With the ‘completion’ of the internal market, BR has emerged as the priority in the post-Delors era of ‘less but better’ (Peterson 2008). Having figured on top of the Commission and Council agendas for some time (Radaelli and De Francesco 2007), the hierarchical commitment is beyond doubt. Underscoring the political commitment, assessment systems are now increasingly organised in units closely connected to the political apex of the Commission and national administrations (EVIA 2008).

Superficially, one can see the IA as a tool to arrive at better legislation but, more fundamentally, BR can be seen as part of a process of depoliticisation or scientification of politics (Everson and Vos 2008). The elaboration of instruments, such as agencies, consultation of independent experts and IAs, increasingly bind the hands of politicians. The use of regular independent evaluations of policies and sunset clauses also underlines this trend. Hence, BR alters the nature of EU governance more fundamentally than the stability in use of instruments suggests. Hence, some form of paradigmatic shift has taken place in the sense of better argumentation of policies and instruments.

Nevertheless, the implementation of the assessment systems has remained problematic. The Commission’s efforts to create an IA system offer an example of more than 15 years of trials and errors, evaluations and reformulations. The latest ‘integrated impact assessment’ system has already also gone through several reviews and modifications (TEP 2007, CEC2009). Comparisons to earlier evaluations of European IA systems reveal persistent problems (Wilkinson 1995; Kraemer *et al.* 2002) such as:

- Postponement of assessments until proposals are nearly finalised.
- Lack of assessments of alternatives.
- Difficulty in gathering data.
- Lack of political commitment (MEPs and ministers in the Council) to actually pursue the assessment methodology throughout the negotiations.
- Lack of horizontal and vertical coordination mechanisms needed for integrated assessments.

Yet, Commission officials were positive about the influence of the assessments on policy making because there is now more internal cooperation. Also MEPs underlined in interviews that they consider Commission proposals as being better argued and offering better

information why one alternative was chosen compared to others. On the whole, the interviews underline changes in the Commission proposals but also expressed doubts as to whether the assessments make a difference in the final outcomes. Summarising, there are major instrumental developments but their performance has continued to be mediocre (EVIA 2008).

4 Organisational learning in the Commission

Integrated BR ambitions assume that the Commission is able to coordinate in order to deliver proposals that are sustainable, respect ambitions of minimum administrative burdens etc. This contrasts sharply with the Commission's reputation for being internally fragmented (Mandelkern 2001: 64). Policy making was an informal process where officials – often in cooperation with the Cabinets – worked in relative isolation from other Commission units. The Commission work programme as such was long and rather noncommittal. Programme items could easily be ignored while proposals not in the programme were pursued. An interviewee suggested that sometimes items were left outside the programme to shield them from colleagues. Acknowledging that large organisations will be hard to reform, BR may not have been much more than symbolic politics.

However, the BR agenda coincided almost by accident with the Kinnock reforms which resulted in a rather successful reform of the Commission (Peterson 2008). The Commission introduced a system of Activity Based Management together with the Strategic Planning and Programming Cycle (SPP) to focus activities and resources (Table 2). With a view to reinforcing the BR agenda in its work planning, the Legal Service was involved at an earlier stage. Moreover, IAs became an obligatory step in the legislative process (CEC2006). To include a legislative proposal in the work programme, it had to be complemented by at least an initial assessment ('roadmap'), and all legislation going to the College for a decision has to include a full IA. Hence, the Kinnock reforms resulted in an overhaul of policy planning in which the IA - and the objectives it embodies on better regulation – was incorporated. In addition, DGs have reserved resources in their work plans for the use of consultants to carry out IAs and the use of consultants is regulated by guidelines incorporated in the IA system. Consultants can gather information but should not write the proposal and DGs must have to give them clear questions. These measures have resulted in new rules and organisational roles and therefore implied a much-needed bureaucratisation (Table 2).

This bureaucratisation – in the positive sense - of planning has been reinforced by the elaboration of the position of the SG. Originally, the SG was never as powerful as the nationally appointed Commissioners who exercised strong control over 'their' DGs. It operated more as a post box for the College. The SG's horizontal authority has been greatly upgraded with Barroso's more presidential style (Peterson 2008), the formalisation of the SG role in work planning and IAs, and its staff expansion.

The Commission also established an impact assessment board (IAB) in 2006. The IAB is high level team to cement horizontal coordination. It monitors the development of the IAs of the DGs and checks the assessments when the proposal is sent to the College. The IAB comments are presented on the Commission website - a remarkably high level of transparency as this means that the Commission has opened up its internal deliberations. The Deputy-SG chairs the IAB, which consists of directors from: DG Employment, Social Affairs and Equal Opportunities; DG Economic and Financial Affairs; DG Enterprise and Industry; DG

Environment. The chair sees to it that the directors participate themselves to ensure the necessary strategic level and commitment.

The IAB scrutinized about 200 proposals in 2008. The interviews indicate that the Deputy SG spends about 40 hours on the IAB per month on the IAs (reading the IAs and notes from his staff, participating in IAB meetings and when necessary meeting with the lead DGs to follow up the IAB report). Interviews present him as a driving force behind the IAB and its “critical” and “rigorous” reviews. This suggests that he is not just a mere committee chair but more of a forceful integrating manager. The way this position is designed close to the apex of the Commission and resourced contributes to the success of the IAB. The IAB’s verdict can take the form of approval, conditional approval, no agreement or a suspended agreement. In the latter case the proposal will not go to the College (unless Barroso decides otherwise). This, together with the openness of its comments, underlines the IAB’s procedural power (Peterson 2008).

The SG has committed approximately 8 officials for the IA related tasks: to write the guidelines, and be involved in the work planning and controlling of the IAs before IAB examination. In addition, other officials from the SG who are involved in internal policy coordination – approximately 40 officials - also work on assessments one way or other the other. They participate in the early inter-service consultations where they support the use of the IA guidelines and monitor the search for alternative options and instruments. Moreover, they ensure that the consultants are used in appropriate ways and that the final IAs adhere to the guidelines.

The BR agenda also resulted in an external monitoring body (the Stoiber group), created in September 2007. Its objective is to add external political pressure and to help set priorities for cost reduction. This group of experts from business, environment and social organisations scrutinises EU policies now from an integrated perspective. It is too early to establish this group’s influence. Other support facilities include an internal Impact Assessment Working Group and an intra-Commission internet portal with practical information on conducting an IA (TEP 2007).

The support mechanisms for the IA system include the guidelines (a bureaucratic rule system) which specify standards and operational procedures. Second, the Commission organises internal and external training seminars to broaden and professionalize the use of the IA system. Third, the DGs are expected to have support functions for the IAs (divisionalisation). Each DG has a unit or one or two experts for support and to ensure the first line of quality control on IAs. The TEP (2007) evaluation found that 18 out of the 21 DGs did not feel able to conduct or follow all relevant IAs in sufficient detail. However, this evaluation was done early in the establishment of the IA system. More recent interviews show that the DGs have continued to invest in the necessary IA structures and training.

>>>>>Table 2<<<<<<

In terms of organisational capacities, these measures amount to fundamental changes from fragmentation towards a mature bureaucracy, a reinforcement of the Commission’s divisionalised form and stronger horizontal coordination. These are not mere quantitative (‘more of the same’) but actual qualitative organisational changes.

Summarising, the developments of the Commission's IA system is mixed. On the one hand, there is considerable instrument and organisational learning to report and MEPs have indicated that they think that the quality of Commission proposals has gone up as a result. On the other hand, there is still considerable reservation in the DGs to really apply the logic of the IAs. As the evaluations and interviews indicate, IAs have an element of window dressing by reserving them to the final stages and using them for clarification rather than as a tool to "think outside the box". Part of the explanation can be found in the functioning of the Council.

5 BR in NL – instrument and organisational learning

In a multilevel system, success also depends on the capacities of 'the' Council. Even if the Commission offers an integrated proposal, the inherently fragmented Council – and EP – can still focus on sectoral interests without considerations to, for example, administrative costs, sustainability or proportionality. Moreover, if the Council does not signal to the Commission a desire for integrated proposals, then the Commission has fewer incentives to invest in horizontal BR objectives. This may offer an important explanation for the limited actual impact of IAs. Hence, the EU's multilevel context requires examination of instrument and organisational learning in the Commission and Council as well as of the design of the interplay between the levels.

The Netherlands has been one of the frontrunners in the EU's BR debate, together with the UK and other member states (Radaelli and De Francesco 2007). This section asks whether it has aligned its policy and structures to those of the Commission or whether its efforts have been aimed mainly at uploading national objectives without considering the implications for its own policy and EU policy coordination?

In terms of governance learning, the Dutch BR agenda has not developed in parallel with the EU agenda and focused heavily on deregulation (more market less hierarchy). Against the background of the Dutch consociational welfare state, the reform processes have concentrated from the early 80s onwards on reducing the size of government and market liberalisation. Although concerns were expressed at regular intervals to not ignore quality, BR has been mainly related to quantity (i.e. deregulation and assessing costs of legislation, Van Gestel and Hertogh 2006). The first Cabinet of Wim Kok in 1994 formulated the 10% cost reduction ambition. This ambition was raised to 25% (1998) and continued by the successive Balkenende Cabinets from 2002 onwards.

The government created a structure based on a number of organisational features to support the 25% reduction. The World Bank (2007) presented it as "world leader" because of its clear and simple structure. The Dutch success stems from:

- Standardisation of objectives through the objective of 25% net reduction. This objective is distributed over the ministries so that each has a specific reduction target. Each ministry has set up internal contact points for burden reduction, monitoring progress and support.
- Bureaucratic rules in the form of a simple quantitative tool – the standard cost method – to measure the administrative burden of new proposals and independent procedural

control by a supervisory body (ACTAL) which reviews all legislation before it goes to Cabinet and parliament. Its comments are published.

- Political commitment and leadership of the Ministry of Finance of is created through integration of the 25% objective in the budget cycle.
- As regards capacities related to the professional organisation, ACTAL organises training sessions and workshops for the ministries on the application of the standard cost model.

These features imply strong hierarchical steering within Cabinet, a strong bureaucratic procedural framework, an independent agency controlling performance, and a reinforcement of the divisional structure by giving ministries individual objectives (Table 3).

Despite discussions on whether business actually feels any reductions and on the dangers of ignoring the benefits of regulation, the assessment of costs in 2002 (16,4 billion Euro) compared to the administrative costs in 2007 (approximately 13 billion Euro) shows that the 25% target was almost reached. This amounts to a benefit of 3,6% of GDP (Tweede Kamer 2006-2007, 30 800, nr. 1, 19 September). Moreover, the BR policy has contributed to a culture that is more conscious of the costs policies impose on business (Tweede Kamer 2006-2007, 29515 2002; Linschoten *et al.* 2008).

The focus on cost reduction of administrative costs and deregulation should not suggest that there have been no policies related to administrative quality, but this administrative burden programme has been the only one with a real impact. The traditionally highly fragmented Dutch administration (Andeweg 1988) has seen many different kinds of BR-type policies. The Department for Home Affairs has a programme concerning administrative burden on citizens. The Economic Affairs Ministry has been responsible for projects dealing with contradictory regulations, simplification of permits and ‘gold plating’ (adding requirements when implementing EU policy). The Ministry of Justice launched a framework-project aimed at various goals, including stimulating the use of alternative instruments. The Environment Ministry has been active in promoting sustainable developments tests. These programmes have been (much) less visible for different reasons – including lack of political backing.

This system is currently being changed into an integrated system. The progress with the 25% operations implied that, with cost reduction on its way, new targets had to be found to keep the BR agenda alive. This resulted in an assessment of approaches in the various departments and a debate on moving towards integrated assessments. An overview of departmental efforts uncovered 110 tests that the departments have created. Many of these are unknown or of little consequence. This figure underlines the high level of administrative fragmentation of the Dutch BR agenda.

The developments towards an integrated assessment are not very promising. An interministerial meeting originally set up to discuss cost reductions is trying to broaden the assessment system but the ministries have difficulties agreeing on an integrated system. Typically, the IA model now on the table assumes that departments adhere to it on a voluntary basis, and therefore seems to erode hierarchical coordination (Table 3). In addition, it will be more qualitative (eroding the management by objectives). Furthermore, it is unclear how the external watchdog - ACTAL – can be remodelled into an integrated set of objectives (eroding the bureaucratic capacities of the previous system). Hence, the design features that made the 25% programme successful will probably cease to exist. It is too early to evaluate the newly emerging system, but this may be an example of learning leading to the breakdown of a rather successful – although one-dimensional - system.

With the move towards integrated assessments, the Dutch and the EU's BR agendas become more alike. However, instrument learning in the Netherlands does not match organisational learning. Capacities for burden reduction were successful but designing a system for integrated assessments appears to be much harder.

>>>>>Table 3<<<<<

The Dutch BR agenda and EU policy making

Moving beyond the EU and Dutch BR agendas separately, we need to address whether the Dutch BR ambitions have also altered Dutch EU policy coordination. What organisational learning has taken place in this interface between EU policies and the definition of the national position at the various phases of EU policy making? Building on [Anonymous 2006], the administrative demands of a multilevel IA system require that the Member States incorporate the IA logic in the negotiations in the Council. Otherwise the Commission will get few incentives from the Council to perform assessments or to guard a variety of objectives requiring (painful) coordination between DGs. Moreover, it would be a waste of time and resources for the Commission if their carefully assessed proposals, in which sustainability, administrative costs *etc.* are incorporated, are watered down by the rather fragmented sectoral Councils. These Councils tend to focus on traditional sectoral interests without much interest in the broader BR agenda. Therefore, whether the BR succeeds depends also on whether the Councils incorporate the IA logic. This will depend on whether the Member States have incorporated this logic in the preparations of their national positions so that the BR logic incorporated in the Commission's proposal is not ignored by the Council (and EP, see anonymous 2006).

Moreover, the Commission will need information from Member States to produce IAs. In the ideal situation, national officials follow the Commission agenda and early drafting of proposals and IAs so that they can create impressions of how policies will affect the national situation in terms of subsidiarity, conditions of the environment, administrative costs, *etc.* This will also help the Commission in determining how proposals affect the Member States. Moreover, they should consider the consequences of the national negotiating positions in relation to the integrated objectives and they should ensure with their colleagues in the Council that major changes proposed by the Council are assessed. In other words, the logic of the IAs should be part of the formulation of the national position and of the input in the Council.

Dutch EU policy coordination has been structured on the basis of three interdepartmental coordination committees: BNC (committee to assess new Commission proposals), Coreper Instruction Meeting, and CoCo (senior coordinating committee for EU and international affairs more generally). The Ministry of Foreign Affairs chairs these but can only assume weak coordinating and arbitrating roles. In between these committees, departments cooperate informally or operate rather independently. The latter two committees finalise the formal Dutch instructions and solve problems. The BNC sets out the major lines by defining who is involved in the coordination and the initial perspective on a proposal (politically, financially and legally). It is a junior committee and located early in the Council process (when the Commission sends the proposal to the Council). This Committee has to present a *fiche* within 6 weeks to the government summarising the proposal and the initial perspective. It has been the long-held objective that this committee would make Dutch EU policy coordination less

reactive, but given its junior nature, it has remained mainly an information exchanging body and with that hardly threatens the independence of departments (ROB 2004). It is quite telling that the BNC – which has been the Dutch hope for a more proactive and strategic EU policy coordination - has never been evaluated by independent experts. This compares sharply to the Commission's organisational learning culture characterised by frequent evaluations.

Responding to the increasing importance of BR, the *fiche* has been revised after drawn-out discussions (2007). This debate was difficult as it concerns the question about which tests merit the attention of the interministerial meeting. It relates to a recurring debate on questions in the *fiche* on gender equality, impact on development cooperation, sustainable development, etc. Ministries have developed a reflex of preventing additional questions. Nevertheless, discussions on the Commission's assessment regarding information obligations and consequences for subsidiarity and proportionality are now incorporated in the *fiche*. What is subsequently done with the information in the *fiches* is difficult to determine as it only aims at exchanging information. Moreover, as one interviewee pointed out, the wording is often along the lines of 'we took note of the Commission's IA'. The interviews indicate that the discussion on assessments can sometime be serious but more often remains a box-ticking exercise (compare also EVIA 2008).

This does not mean that the Commission's IAs are totally uncoordinated. Some ministries, such as Environment and Transport, have started to take an interest in the Commission work programme and to create task forces (sometimes interdepartmental and with representatives from regional governments and NGOs) to see whether and how Commission IAs need to be anticipated and influenced. These developments are however still rare and very new. As far as the analysis allowed, only Environment has already arranged for a proactive assessment on a Commission proposal and is now regularly discussing with stake holders which issues on the Commission agenda may need particular attention.

The Ministry of Finance monitors the attention for burden reduction in the preparations of the Dutch EU positions and can involve ACTAL to assess the costs of Commission proposals. Finance officials will also try to monitor the subsequent developments on the dossiers but the interviewees show that this ministry operates at a junior level when monitoring EU dossiers and that the influence is otherwise limited due to the workload involved and the knowledge required.

This shows that the Commission's IAs may be taken more seriously in the future and may lead to more and earlier interdepartmental teams to assess upcoming Commission proposals. But, for the time being, the actions of the Netherlands to steer the EU's administrative burden policy is not matched with a strategy to also incorporate this more strongly in the day-to-day preparations of the negotiating positions. Neither does the value system (brain frame) seem to have changed. Whereas the Commission is now very concerned with proofing and evaluations up to the point that there are too many and too early evaluations (interviews), this quality control or search for proof is much less developed in the Netherlands where it concerns EU policies. The preparation of the Dutch positions is still oriented towards finding interdepartmental consensus.

Confronted with the challenge of how to reinforce BR objectives in Dutch EU policy coordination, one interviewee commented along the lines of 'we are optimistic that some pragmatic solutions will be found in the years to come'. This underlines the difference

between stressing integrated objectives politically and having a clue what multilevel organisational learning this requires.

6 Conclusions

The EU has made great strides in governance learning but has there been a governance turn and has this turn been successful? At a superficial level, the EU has witnessed a governance turn but this requires two qualifications. There has been considerable stability in the use of instruments and the results of the governance experiments have not been successful across the board. To place organisational learning in the context of governance learning, this article distinguished governance learning, instrument learning and organisational learning and assumed that these types of learning have to develop in parallel. Moreover, in the EU's multilevel context and depending on the instrument, organisational learning at the national level has to match the EU's capacity building.

The first conclusion is that the Commission has shown considerable governance learning but not so much in terms of a paradigm shift towards new instruments but by making progress particularly with improving legislation. Secondly, in terms of instrument learning, the shares of networked-governance and legislation have remained stable. However, remarkable instrument learning has taken place through better planning and arguing new proposals.

Thirdly, the case of better regulation, and focusing particularly on impact assessments, shows that instrument learning at EU level has been matched by considerable organisational learning in the form of additional bureaucratic, divisionalised, professional and horizontal coordination capacities.

Fourthly, despite the country being a great supporter of better regulation, the Netherlands case reveals that similar organisational learning may not have taken place in the Council. The organisational learning tends towards a breakdown of the existing system.

Finally, the Dutch BR agenda and related organisational learning have concentrated on Dutch policy making. The BR principles are not structurally incorporated into the Dutch positions defended in the Council. Hence, there are two incongruities: a mismatch between instrument learning and organisational learning, and a separation between national BR policy and the national EU policy coordination. If this can be generalised to the Council, this would explain lacking political attention for BR and lacking national input into Commission impact assessments. Hence, the Commission has a dilemma. It has made the necessary organisational adaptations but may now have to put on the agenda the - sensitive - question of how Member States prepare their negotiating positions. Insufficient connection between EU and national IA systems may explain the limited progress with EU IA systems. With these findings, the organisational model presented above proves to be useful to assess and compare organisational learning in the EU's multilevel administrative system.

END

8526 words (without tables)

Bibliography

- Andeweg, R.B. (1988) 'Centrifugal forces and collective decision-making; the case of the Dutch Cabinet', *European Journal of Political Research* 16: 125-151.
- Bennett, C. and Howlett, M. (1992) 'The lessons of learning: reconciling theories of policy learning and policy change', *Policy Sciences* 25: 275-294.
- Börzel, T. (1998) 'Organizing Babylon: on different conceptions of policy networks', *Public Administration* 76(2): 253-273.
- Bouckaert, G. and Pollitt, C. (2004) *Public Management Reform*, Oxford: Oxford University Press.
- Bressers, H. and Hanf, K. (1995) "Instruments, Institutions and the Strategy of Sustainable Development: The Experiences of Environmental Policy." In W. Kickert and Van Vught, F., *Public Policy and administrative Science in the Netherlands*, Hamptead: Harvester Wheatcheaf.
- CEC (Commission of the European Communities) (2001a) *European Governance: A White Paper*, COM(2001)428, Brussels.
- CEC (Commission of the European Communities) (2002a) *European Governance: Better Lawmaking*, COM(2002)275, Brussels.
- CEC (Commission of the European Communities) (2002b) *Communication from the Commission on impact assessment*, COM(2002)276, Brussels.
- CEC (Commission of the European Communities) (2006) *Better lawmaking 2005*, COM(2006)289, Brussels.
- CEC (Commission of the European Communities) (2008) *European agencies – The way forward*. Brussels: Commission of the European Communities, 11 March, COM(2008) 135.
- CEC (Commission of the European Communities) (2009) *Impact Assessment Guidelines*, SEC(2009)92, Brussels.
- Citi, M. and Rhodes, M. (2007) 'New modes of governance in the EU: a critical survey and analysis', in K.E. Jørgensen, M. Pollack and B. Rosamund (eds.), *Handbook of European Union Politics*, London: Sage, pp. 463-82.
- Coen, D. and Thatcher, M. (2008) 'Network Governance and Multi-level Delegation: European Networks of Regulatory Agencies', *Journal of Public Policy*, 28, 49-71.
- Common, R. (2004) 'Organisational learning in a political environment: improving policy-making in UK government', *Policy Studies* 25 (1): 35-49.
- Cyert, R. and March, J.G. (1963) *A Behavioural Theory of the Firm*, Englewood Cliffs NJ: Prentice Hall.
- Dawson, S. (1992) *Analysing Organizations*, London: University of London.
- Dehousse, R. (2004) *L'Europe sans Bruxelles? Une Analyse de la Méthode Ouverte de Coordination*, Paris: L'Harmattan.
- DiMaggio, P.J. and Powell, W.W. (1991) 'Introduction', in W.W. Powell and P.J. DiMaggio (eds.), *The New Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press, pp. 1-38.
- Easterby-Smith, M. and Lyles, M. (2003) 'Organizational learning and knowledge management: agendas for future research', in M. Easterby-Smith and M. Lyles (eds.) *The Blackwell Handbook of Organizational Learning and Knowledge Management*, Oxford: Blackwell, pp. 639-653.
- Eberlein, B. and Newman, A. (2008) 'Escaping the international governance dilemma? Incorporated transgovernmental networks in the European Union', *Governance* 21 (1): 25-52.

- EVIA (Evaluating Integrated Impact Assessments) (2008) *Improving the practice of impact assessment*, http://web.fu-berlin.de/ffu/evia/EVIA_Policy_Paper.pdf.
- Everson, M. and Vos, E. (2008) "The Scientification of Politics and the Politicisation of Science" in: Everson, M. and Vos, E. (eds) *Uncertain risk regulated*, London: Routledge.
- Gestel, van, R.A.J. and Hertogh, M. (2006) *What Is Regulatory Pressure? An Exploratory Study of the International Literature*, Tilburg/Groningen: Ministry of Justice.
- Gornitzka, A. (2006) *The OMC as Practice: A Watershed in European Education Policy?*, Oslo: Arena Working Paper 16.
- Hanf, K., (1994) *The International Context of Environmental Management from the Negotiating Table to the Shop Floor*, Den Haag: Cip-Data.
- Héritier, A. and Lehmkuhl, D. (2008), 'The shadow of hierarchy and new modes of governance', *Journal of Public Policy* 8 (1): 1-17.
- Holzinger, K., Knill CH., Schafer, A. (2006) 'Rhetoric or reality? 'New governance' in EU environmental policy', *European Law Journal*, 12(3): 403-420.
- Jachtenfuchs, M. (2001) 'The governance approach to European integration', *Journal of Common Market Studies* 39 (2): 245-264.
- Jordan, A., Wurzel, R., and Zito, A. (eds.) (2003) *New Instruments of Environmental Governance? National Experiences and Prospects*, London: Frank Cass.
- Jordan, A. and Lenschow, A. 'Introduction', In Jordan, A., A. Lenschow (eds). *Environmental policy integration: Defining and developing the state of the art*, Edward Elgar.
- Kassim, H. and Le Gales, P. (2009) 'Governing the EU: Policy Instruments in a Multi-Level Polity', *West European Politics* (forthcoming).
- Knill, Ch. and A. Lenschow (2005) 'Compliance, Competition and Communication: Different Approaches of European Governance and their Impact on National Institutions', *Journal of Common Market Studies* 43(3): 583-606.
- Kohler-Koch, B. and Rittberger, B. (2006) 'Review article: the 'governance turn' in EU studies', *Journal of Common Market Studies* 44: 27-49.
- Kooiman, J. (2003) *Governing as Governance*, London: Sage.
- Kraemer, R., Klassing, A., Wilkinson, D. and Homeyer, von, I. (2002) *EU Environmental Governance: A Benchmark of Policy Instruments, Final Report*, Berlin: Ecologic.
- Kurpas, S., Grøn, C., Kaczyński P. (2008) *The European Commission after Enlargement: Does More Add Up to Less?* Brussels: CEPS Special Report.
- Lascoumes, P. Le Gales, P. (2007) 'Introduction: understanding public Policy through its instruments', *Governance*, 20, 1, 1-21.
- Lawrence, P.R. and Lorsch, J.W. (1967) *Organization and Environment; Managing Differentiation and Integration*, Boston: Harvard Business School Press.
- Linschoten, R. and Sleifer, J. (forthcoming) 'Institutions for better regulation: the example of the Netherlands 2002-2007', in A. Nijsen, J. Hudson, C. Muller, K. van Paridon and R. Thurik (eds.), *Business Regulation and Public Policy*, New York: Springer.
- Majone, G. (1996) *Regulating Europe*, London: Routledge.
- Mandelkern Group on Better Regulation (2001) *Final Report*, http://ec.europa.eu/governance/better_regulation/documents/mandelkern_report.pdf.
- May, P. (1992) 'Policy learning and failure', *Journal of Public Policy*, 12(4): 331-354.
- Mintzberg, H. (1979) *The Structuring of Organizations: A Synthesis of the Research*, Englewood Cliffs NJ: Prentice-Hall.
- Olsen, J., G. Peters (1996) 'Learning from experience' in J. Olsen and G. Peters *Lessons from experience*, Oslo: Scandinavian University Press.
- Peterson, J. (2008) 'Enlargement, reform and the European Commission. Weathering a perfect storm?', *Journal of European Public Policy* 15 (5): 761-780.

- Powell, W. (1990) 'Neither market nor hierarchy: network forms of organization', *Research in Organizational Behaviour* 12: 295-336.
- Radaelli, C. (2007) 'Whither better regulation for the Lisbon agenda?', *Journal of European Public Policy* 14: 190-207.
- Radaelli, C. and Francesco, de, F. (2007) *Regulatory Quality in Europe*, Manchester: Manchester University Press.
- Rhodes, R. (1997) *Understanding Governance*, Buckingham: Open University Press.
- ROB (Raad voor het Openbaar Bestuur) (2004) *Nationale Coördinatie van EU-beleid: een Politiek en Proactief Proces*, Den Haag: Raad voor het Openbaar Bestuur.
- TEP (The Evaluation Partnership) (2007) *Evaluation of the Commission's Impact Assessment System*, Brussels: Commission of the European Communities, April.
- Treib, O., Bähr, H. and Falkner, G. (2007) 'Modes of governance: towards a conceptual clarification', *Journal of European Public Policy* 14 (1): 1-20.
- Wilkinson, D. (1995) *Approaches to Integrating the Environment into other Sectoral Policies: An Interim Evaluation of Experience in the European Commission and Parliament*, London: Institute for European Environmental Policy.
- World Bank (2007) *Review of the Dutch Administrative Burden Reduction Programme*, Washington: World Bank.
- Zito, A., Schout A. (2009 - forthcoming) 'The European Union as a learning organization? Theoretical premise versus realism', *Journal of European Public Policy*.

Table 1 – Organisational learning in the context of governance learning

<i>Governance learning</i>	<i>Instrument learning (without being exhaustive)</i>	<i>Organisational learning</i>
<p>A deepening of each of the governance modes or an upgrade of these modes individually:</p> <ul style="list-style-type: none"> - Markets (competition) - Networked-governance (communication) - Hierarchies (coercion or legislation) 	<p>Law</p> <ul style="list-style-type: none"> - Regulation as hierarchical steering - Law as stick to support soft coordination - Development of horizontal requirements for EU law as specified by the BR agenda (proofing, subsidiarity, 25% reduction of administrative costs, impact assessments, etc.) - Planning, priority setting and budgeting <p>Soft coordination</p> <ul style="list-style-type: none"> - OMC - Steering through information <p>Tax incentives, fiscal policy and budgets</p> <p>Agencies</p> <ul style="list-style-type: none"> - as independent regulatory authorities (e.g. the trade mark agency) - as network organisations (e.g. the European Environment Agency) 	<p>Hierarchy</p> <p>Bureaucratic capacities</p> <p>Standardisation of objectives</p> <p>Training</p> <p>Horizontal coordination mechanisms (informal relations, task forces, teams, integrating managers (with limited arbitration powers or with strong decision taking powers))</p>

Table 2 – the Commission’s BR-related organisational learning

Hierarchy	Bureaucracy	Management by objective (divisionalisation)	Professional organisation	Horizontal coordination
Strong commitment and leadership from Barroso, the SG as well as from sector DGs	<p>SPP cycle</p> <p>Guidelines on IAs and how they are connected to the policy process (‘roadmaps’ etc)</p> <p>Regular evaluations</p> <p>SG: Elaboration of staff and powers</p> <p>Budgets for IAs</p> <p>Internet portal</p>	Obligation of DGs to carry out IAs and to create in-house expertise	Major training programmes	<p>Participation of the SG and Legal Service in interservice consultation (‘task forces’)</p> <p>Impact Assessment Board (a team chaired by the deputy SG as powerful integrating manager)</p> <p>IA working group</p> <p>Stoiber group</p>

Table 3 – NL BR-related organisational learning (the weakening of the system in italics)

Hierarchy	Bureaucracy	Divisionalised organisation	Professional organisation	Horizontal coordination
<p>Strong political commitment for cost reduction (Cabinet level)</p> <p>Strong political leadership (Ministry of Finance). <i>After 2008 leadership seems to become more diffuse and cooperation to become voluntary</i></p>	<p>ACTAL monitors administrative costs before legislation goes to parliament. <i>The position of ACTAL is unclear in relation to integrated assessments</i></p> <p>Zero-base measurement as basis for the overall evaluation of achievements</p> <p>Elaboration of rules for integrated assessments</p>	<p>25% reduction target with specification of targets per ministry. <i>With the move towards integrated assessments, targets diversify and become more qualitative</i></p>	<p>Training sessions on cost reduction</p>	<p>Interministerial meeting coordinators for cost reduction (now also discussing developments towards IAs)</p>