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RECON
Reconstituting Democracy in Europe

Integrated Project
Priority: 7 - Citizens and Governance in a Knowledge-Based Society

Deliverable No. 59
Workshop on the co-evolution of majoritarian and non-majoritarian institutions

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Lead contractor for this deliverable:
Partner 1 ARENA – Centre for European Studies
University of Oslo, Norway

Final Version

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Dissemination Level		
PU	Public	
PP	Restricted to other programme participants (including the Commission Services)	
RE	Restricted to a group specified by the consortium (including the Commission Services)	X
CO	Confidential, only for members of the consortium (including the Commission Services)	

1. Introduction

RECON Deliverable No. 59 – *Workshop on the co-evolution of majoritarian and non-majoritarian institutions* is part of work package 3 – Representation and Institutional Make-Up. WP 3 analyses the contribution of formal structures of representation to the EU's 'capacity for democracy', seeking methodological and conceptual integration through the better integration of normative theories of democracy and representation with empirical findings from the EU arena. The overall objective of WP 3 is to assess the status of democracy in Europe, with emphasis on: clarifying the nature of the challenges facing systems of representation at the national and supranational levels in Europe; analysing interactions between these levels; establishing the direction of change (towards which of the three RECON models these systems develop); and evaluating the democratic quality of these arrangements. Such an assessment requires proper attention to the broader institutional settings within which patterns of representation are entrenched in the European multilevel setting.

In the months 37 to 54 of the project, WP 3 moves towards the completion of its projects and begins the dissemination of results. This involves a change of emphasis from data collection to data analysis as well as a series of initiatives by individual projects to engage the wider scholarly community in the discussion of preliminary findings, to make data available to other researchers, and to turn the high output of working papers from this work package into publications in leading journals, including the publication of the results of the democratic audit, and two book proposals on the democratic audit and on representation and the EU.

2. Presentation of the workshop

The rapid proliferation of EU agencies in the past decades marks a strikingly new institutional development in the EU's executive order. The creation of EU agencies is considered part and parcel of the formation and reform of 'executive satellites' in the EU, which have been created in the orbits of the Commission and the Council Secretariat. The purpose of this RECON workshop on 'Agency Governance in the EU and its Consequences', which took place at the Mannheim Centre for European Social Research (MZES), University of Mannheim on 16-17 September 2010, was to flag three important themes in the nascent literature on EU agency governance and to explore their linkages: the creation and design of EU agencies; the workings of EU 'agency governance' and how it is affected by agency design; and the implications of agency governance for questions about accountability and democratic legitimacy.

The workshop was organised by Berthold Rittberger and Arndt Wonka at the RECON-affiliated partner MZES. They invited distinguished scholars from nine universities, both RECON and non-RECON partner institutions, to discuss these themes, and eight papers were presented. After a brief introduction by the workshop convenors, presentations by Mark Thatcher (London School of Economics and Political Science) and David Levi-Faur (WZB Berlin/Hebrew University of Jerusalem) opened the first part of the workshop. In his presentation, Mark Thatcher focussed on the question why the creation of EU agencies is lagging behind in the area of 'economic regulation' in general and in areas dominated by (network) industries in particular. He attributed these patterns in agency establishment to national politicians' and national regulators' reluctance to delegate powers to EU agency in these areas given the perceived political salience, a high degree of politicization and the

dominant position of domestic regulatory institutions. Moreover, he suggested that in areas where the European Commission exercises considerable power, the Commission tends to oppose the creation of an EU agency. In his paper, David Levi-Faur started from the observation of a 'double movement toward a single market and a single European regulatory space' and went on to discuss the different (institutional) manifestations of the European regulatory space comprising a diverse set of agencies and agency-like institutions ranging from the European Central Bank to OLAF as well as regulatory networks such as ENISA. He interpreted the process through which the European regulatory space has evolved as 'administrative regulatory state building', actively spurred by the Commission and other supranational institutions to expand the formal authority of the EU in some cases as well as to consolidate and formalize their preferred policy preferences and interests for the years to come.

The second part of the workshop addressed the theme of 'agency governance', which encompasses research on, inter alia, patterns of policy-making and policy effectiveness of EU agencies and regulatory networks. Martino Maggetti (University of Lausanne/University of Zurich) and Fabrizio Gilardi (University of Zurich) presented a paper on a specific European Regulatory Network (ERN), the Committee of European Securities Regulators and sought for explanations regarding the structural make-up of the network as well as the effectiveness of the Committee of European Securities Regulators in harmonizing domestic standards and facilitating domestic implementation. They found that the regulators of countries with larger financial industries tend to occupy more central positions in the network, and that this relationship is stronger among newer member states. Moreover, network centrality is associated with a swifter domestic implementation of standards.

Morten Egeberg (ARENA, University of Oslo) and Jarle Trondal (Agder University/ARENA) presented their research on the role which EU agencies play in as the process of 'executive centre formation' at the EU level. Their presentation highlighted that the intensity of interactions between EU agencies and national and supranational actors is strongly affected by the degree to which the policies EU agencies are addressing are politicized. National ministries and the Council, in turn, tend to strengthen their position, however, not necessarily to the detriment of the Commission. Moreover, national agencies constitute the closest interlocutors in the daily life of EU agencies. Egeberg and Trondal see these results as support for their thesis that EU-level agencies are integral building blocks of a multilevel *Union* administration, partly by-passing national ministries.

Madalina Busuioc (University of Amsterdam) and Martijn Groenleer (Delft University) presented a paper co-authored with Deirdre Curtin (University of Amsterdam) in which they empirically explored the autonomy and accountability of the European Police Office (Europol). One of the findings produced by their research posits that despite a subsequent increase in the agency's formal-institutional powers to act more autonomously, the lack of cooperation by its national counterparts prevents Europol from exercising these formal powers effectively. Moreover, they observed that with the increase of the European Parliament's powers, parliament has, over the years, employed its role in holding Europol to account much more actively, thus leading to what might be called a move towards a 'parliamentarization' of Europol's accountability.

In the last thematic section of the workshop, three papers dealt with the implications of agency governance for questions of accountability and democratic legitimacy in EU regulatory policy making. Wonka and Rittberger (MZES) presented a paper in which they

investigated the political attitudes of EU agency staff along the dimensions of accountability/legitimacy, economic governance and institutional centralization. One of their main findings was that while EU agency professionals strongly and almost uniformly approve of 'professional' accountability, forms of 'social' accountability and public approval more generally are also considered important by agency professionals. They interpreted these findings as an indication that the self-understanding of EU agency professionals is rooted in a strong sense of professionalism with, at the same time, an acute awareness of the political character (and impact) of their work. This self-understanding might result from agency professionals' principled skepticism towards a purely 'technocratic' notion of legitimation and accountability. Moreover, it may also reflect the conviction that efficient regulation in the heterogeneous EU context relies on the general approval of the public and of political elites.

In his paper, Christopher Lord (ARENA) focused on the 'paradoxical parliamentarization' of EU agencies. The 'paradox' stems from the EP's strong skepticism vis-à-vis EU agencies on the one hand, and the legislative efforts on behalf of parliament to increase the powers and autonomy of EU agencies on the other. He reported that legislative decisions on EU agencies are supported by parliament with overwhelming majorities, anti-integration minority parties being an exception. Yet, the EP is regularly divided along left-right partisan lines in individual votes on agencies' competencies. The interpretation offered by Lord stipulates that MEPs fight hard to bring proposals for agencification closer to their individual policy preferences. After this has been done MEPs cohere around solutions that are only unacceptable to those party delegations which question either the legitimacy either of the polity itself or of any transfers of further competence to it that may follow from agencification. Moreover, the European Parliament was reported to be much more likely to secure its amendments where the Commission and Council feel that they are justified by shared legitimation beliefs rather than the pursuit of specific policy preferences.

The concluding paper by Johannes Pollak (Webster University) focused on the structure and function of 'accountability regimes' currently in place to supervise EU agencies' work. The main criticism raised in the presentation was that the institutional provisions to hold agencies to account are not tailored specifically to agencies' competencies and their substantive area of work. He argued that accountability regimes need to be tailored more specifically to the functions and tasks carried out by agencies. Moreover, he advocated a more formal and active involvement of the European Parliament in holding EU agencies to account.

The contributions of this workshop will be considered for publication in a Special Issue on EU Agency Governance in the *Journal of European Public Policy*, edited by Rittberger and Wonka, scheduled to appear in 2011.

3. Participants

Michael Buess	University of Lucerne
Madalina Busuioc	University of Amsterdam
Morten Egeberg	ARENA, University of Oslo
Fabrizio Gilardi	University of Zurich
Martijn Groenleer	Delft University of Technology
David Levi-Faur	Hebrew University of Jerusalem/WZB Berlin
Christopher Lord	ARENA, University of Oslo

Martino Magetti	University of Zurich
Johannes Pollak	Webster
Berthold Rittberger	MZES, University of Mannheim
Mark Thatcher	London School of Economics/European University Institute
Jarle Trondal	ARENA, University of Oslo
Arndt Wonka	MZES, University of Mannheim

4. Programme

See attachment.

Workshop on “Agency Governance in the EU and its Consequences”

Thursday 16 and Friday 17 September 2010

University of Mannheim, Mannheim Centre for European Social Research (MZES)

Programme

Thursday 16 September 2010 (meeting room: A5/MZES B230/31)

- 08:45-09:00 **Introduction to workshop**
Berthold Rittberger and Arndt Wonka
MZES, University of Mannheim/University of Bremen
- 09:00-11:00 **The creation and design of EU agencies**
The creation of European regulatory agencies and its limits: a cross-domain analysis of EC delegation
Mark Thatcher
London School of Economics and European University Institute

Varieties of agency governance: social and economic regulation in the EU
David Levi-Faur
Hebrew University of Jerusalem and WZB Berlin

Discussants: **Fabrizio Gilardi**, University of Zurich (Thatcher) and **Jarle Trondal**, ARENA, University of Oslo (Levi-Faur)
- 11:00-11:30 *Coffee break*
- 11:30-12:30 **Exploring agency governance and its consequences, part I**
The structure of EU regulatory networks and its consequences for regulatory policy making
Fabrizio Gilardi and Maurizio Maggetti
University of Zurich

Discussant: **Morten Egeberg**, ARENA, University of Oslo
- 12:30-14:30 *Lunch*
- 14:30-16:30 **Exploring agency governance and its consequences, part II**
EU-level agencies: new executive centre formation or vehicles for national control?
Morten Egeberg and Jarle Trondal
ARENA, University of Oslo

Europol: between autonomy and accountability
Madalina Busuioc, Deirdre Curtin and Martijn Groenleer
University of Amsterdam/University of Amsterdam/Delft University of Technology

Discussants: **Johannes Pollak**, Webster (Busuioc et al.) and **Arndt Wonka**, MZES, University of Bremen (Egeberg & Trondal)

- 16:30-17:00 *Coffee break*
- 17:00-18:00 **The legitimacy of agency governance, part I**
Technocratic or democratic? Role orientations of EU agency personnel
Berthold Rittberger and Arndt Wonka
MZES, University of Mannheim/University of Bremen
Discussant: David Levi-Faur, Hebrew University of Jerusalem and WZB Berlin
- 19:30 *Dinner at Rheinterassen*

Friday 17 September 2010 (meeting room: A5 B316)

- 09:00-11:00 **The legitimacy of agency governance, part II**
Do EU agencies satisfy a 'right to justification'?
Chris Lord
ARENA, University of Oslo
The proliferation of accountability: vice or virtue?
Johannes Pollak
Webster
Discussants: Berthold Rittberger, *MZES, University of Mannheim* (Lord) and
Madalina Busuioc, *University of Amsterdam* (Pollak)
- 11:00-11:30 *Coffee break*
- 11:30-12:30 **Next steps – preparation and timetable for JEPP Special Issue**
Lunch and end of workshop