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The Role of the Commission in the European Union

by

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Honoured members of the adjudicating committee; ladies and gentlemen;

The topic that the adjudicating committee has instructed me to discuss is the role of the Commission in the European Union. As the title of this lecture reads, there is scope for understanding the task in two ways: First, we may interpret it to mean that the role of the Commission is changing as the European Union comes into existence; that is, the Commission's role is different before and after the Treaty on Political Union (TPU). Second, an alternative interpretation is that the title asks for an analysis of the Commission's role, and specifies which Commission is meant. This interpretation implies that the reference to the European Union is a descriptive one.

My understanding of the task corresponds to this latter interpretation. I do not think that there are any major observable differences in the Commission's role stemming from the entering into force of the TPU at this early point. In the TPU itself one may find the basis for the argument that the treaty reinforces the roles of the states and by implication can be understood to 'diminish' the role of the Commission, but this is a very hypothetical argument at this stage, only 4 months after the TPU entered into force.

In this lecture I will therefore concentrate the attention on the role that the Commission can be argued to play in especially policy initiation and formulation; in particular in the post-85 period, arguing that its conditions for leadership are activated in this period. More specifically, I will ask in which sense the Commission can be argued to be an independent actor, in which issue areas it can be expected to be an independent actor, and if it is an independent actor, how this can be established.

The Commission has autonomous supranational powers in some areas, e.g. in

agricultural policy and in competition policy. In the latter area it can intervene whenever there is a suspicion of 'abuse of dominant position', or any other hindrance of free competition. It can use para. 90 of the Treaty of Rome to pass directives without Council approval; it can fine companies suspected of cartelization or price fixing, and can intervene as an antitrust actor (Montagnon, 1990; Jacobs and Stewart-Clark, 1990; Louis, 1990). These powers are clearly supra-national and autonomous, but they may be more able to be activated in some periods than in other periods.

A major concern in this lecture is how we can study the Commission's role in the policy sectors where it exercises delegated powers from the Council : "in such cases the nature of the policy-making can vary substantially from sector to sector" as Lodge notes (Lodge, 1989:41). It is the Commission's role in these areas that is much debated in the literature.

The key question in this lecture should be, as I understand the task, to assess the importance of the role that the Commission plays, not only to identify which roles it does or can play. What is of primary interest to the political scientist is, in my view, what the Commission's role is compared to that of the member states. The predominant theoretical paradigm in this field of study is intergovernmentalism, which allots no independent role to the Commission - 'measured' by the strength of oppositional interests between the states and the Commission. To claim that the Commission has an independent impact, as I will do in the following, therefore implies being able to say something about its importance relative to that of the member states. In turn this requires a decision on which criteria we should accept as constitutive of independent action, and a reasoned opinion on how the role of the Commission can be studied empirically in order to devise a way of determining such impact.

I am thus concerned with the formal roles and powers of the Commission as a descriptive starting-point only, and in particular its formal roles as they are expressed in mainly the policy initiation function - not in implementation and in the routine executive roles. I will also briefly address the Commission's roles in these two areas, but they are not of substantial importance in this lecture.

The synopsis of the following analysis is this:

In the first part I will describe the formal roles and the informal practises of the Commission and its main organizational features and argue that the political roles of the Commission need activation in terms of member state legitimacy for EU level activity.

Then I will ask what we know about its empirical role from the literature, especially with regard to the relationship with the member states. I am thus not concerned primarily with the external role of the Commission but with its role in policy-making in areas which are variously integrated in the EU. I will here pay especial attention to the recent empirical findings about the Commission's role in the post-85 period.

In the third part I will present two arguments about the role of the Commission: The first, upheld by intergovernmentalists and recently forcefully advocated by Moravcsik, holds that the Commission plays no independent role at all; it simply facilitates interest mediation between states and serves a technical function (Moravcik, 1993). The Commission is an arena, but the arena has no influence on policy outcomes. This may however not be so: also an arena may be important.

The second argument posits the Commission as a political actor that is independently important. This view is maintained by the students of issue-area policy where the Commission was found to play various important roles, including myself. This section will examine the claims made for an independent impact on the Commission's part, and ask which criteria are reasonable to employ for independent actor impact, and under which conditions the Commission may have optimal acting possibilities.

1. What is the Commission; What are its Formal and Informal Roles?

It has been said that the work of the Commission can be likened to the mating of elephants - there is a lot of noise and it takes a long time before there are any results. This does however not imply that the results that obtain are insignificant. The Commission is a complex institution with a plethora of activities. Before we can assess the role of this institution we need to arrive at an understanding of it and of its environment.

The Commission is legally speaking only the collegium of 17 commissioners, but in practise one uses the term to refer to the entire staff as well. The bureaucratic level

counts some 13.000 people in 23 DGs, many of whom are experts in their respective fields. Merit is the official criterium for recruitment, but there are unofficial national quotas. The President of the Commission is primus inter pares - no more formally. He however has the exclusive right to attend the European Council meetings, and has since 1987 participated in the World Economic Summits. He also has the largest cabinet, which is a staff of personal advisors. Individual commissioners have cabinets as well, which in sum consist of several hundred people. These staffs are important policy-makers in the coordination of policy and in the development of e.g. the President's policy initiative. The Delors cabinet has been singled out as being especially powerful and efficient, and whose work stands in stark contrast to the ordinary work of the DGs, which largely resent the cabinet system (Peterson, 1994).

The commissioners are evolving in 4 year terms, and they are appointed according to different national quotas, not by the Commission president. Portfolios are fought over, and once assigned, the commissioner is responsible only to himself - there is no procedure for a 'vote of no confidence' for the individual commissioner, but only for the entire collegium, but this has never happened.

Metcalf notes that "for an organization dedicated to integration, the Commission is not itself well integrated" (Metcalf, 1992:119). There is an 'unofficial' ranking of importance between DGs - like national ministries - and there are many cases of a lack of efficient coordination between DGs. The various DGs do not correspond sharply to functional areas, and in terms of bureaucratic culture there seems to be agreement that hierarchical management predominates along with a traditional legalistic culture. Metcalf, who is not concerned with the political role of the Commission, but with how efficient it is in terms of management, has severe reservations about its ability to perform its tasks in the 1992-process: he argues that the Commission is "under-resourced, under-staffed in many areas, over-stretched and inadequately managed" (ibid,121). But this is not the only problem, argues he: if we look at implementation, there is infinite possibility for the member states to sabotage the latter. These conclusions are subscribed to by Peter Ludlow, perhaps the keenest long-term observer of the Commission (Ludlow, 1991).

The decision-making process is open, access for interest groups is easy, and national bureaucrats are increasingly interrelated with the Commission officials in

formal and informal working groups. This phenomenon, called engrenage, includes as much as about 25% of e.g. German civil servants. These are mainly interrelated with Commission officials at the regional, viz. Länder level. One can thus talk about networks of issue-specific decision-makers that are operating in close-knit and long-term units. There are about 500 expert groups of a certain permanence, where "nationale und Kommissionsbeamte wirken intensiv zusammen" (Wessels, 1992:46). There are innumerable working groups (Commission plus national bureaucrats), advisory committees (Commission plus outside experts), the formal COREPER committees (Commission plus national bureaucrats). In this partly informal, partly formal process the Commission experts deal with the same national experts time and again. The policy 'language' is professional, cast in expert terms, not in interest terms. This does of course not preclude the advocacy of national or industry interest under a professional, expert-term guise - quite the contrary - but demands that participants in the process command the professional aspects of the quite often very technical problem.

Likewise, the Commission is dependent on a close and cooperative working relationship with the Council of Ministers and the European Parliament. Ludlow never tires of pointing to this interrelatedness: "A conflictual model of Commission-Council relations is ..totally misleading" (Ludlow, 1991:103). After the Single European Act (SEA), the mutual interdependence between the Commission and the European Parliament (EP) is much stronger. The Commission is thus part of the Community structure in a unique way - this structure does not resemble a parliamentary governmental political ordering - and it functions in an interrelationship with the other Community institutions. Policy-making takes place in many fora before a proposal is launched. Proposals are cleared with other DGs. The whole Commission must approve them. Only routine matters are delegated to individual commissioners. Weekly meetings only take care of the politically sensitive issues.

It is perhaps often overlooked that the Commission represents the 'Community interest' - in the treaties it is charged with promoting this interest, which could be called 'integration'. It thus is not surprising that the Commission develops strategies that aim at integrative outcomes. We do not have to assume a 'bureaucratic politics'

intention of consolidating and enhancing own institutional powers - the task given the Commission is to enhance integration. This is a political aim, set out in the Rome Treaty. The way towards this may be through economic or technical means.

The formal and informal powers of the Commission:

The formal powers of the Commission are laid out in the Rome Treaty: It is the guardian of the treaties - it can intervene in cases of non-compliance with e.g. competition legislation, and indeed does this increasingly in the post 85-period. It can use the Court or intervene alone.

It has the exclusive right - and obligation - to initiate and formulate policy within the terms of the treaty, and importantly, in order to 'further integration'.

Finally, it is the executive branch of the Council and obliged to implement its policies. Here much is left to the member states themselves. The issue of implementation is relatively understudied in the literature on the states-EU relationship, but is a very important in assessing the importance of the Commission.

However, in this role as well as in its general role, the emphasis has been on cooperation with member states, not on confrontation. This is very clearly spelt out in the informal 'rules of the game' that obtain between the states and the Commission. Lindberg and Scheingold provided the most extensive inventory of such practises in their work from 1970 (Lindberg and Scheingold, 1970:96). Based on their own in-depth study of the Commission's first years up to the crises wrought by de Gaulle, they state that the 'rules of the game' regulating the interaction between the states and the Commission strongly emphasize cooperative behaviour.

"The Commission can exercise a good deal of discretion that it can use to expand the scope of integration" notes Lodge. (Lodge, 1989: 40). The exclusive right of policy initiation is therefore in this analysis of substantial interest. This includes the goal setting for the longer term - the key role of the Commission's leader. Both Hallstein and Delors - the two Commission presidents that are generally considered to be the most able leadership figures - have been able to combine political vision with practical types of strategy. This is also possible because of the President's place in the European Council. But lofty goals may be easily disclosed as empty rhetoric unless they are tied to a practical programme of policy. This was the ingenious combination

that Delors and Cockfield produced - the internal market slogan coupled with a concrete set of proposals for its realisation. I will return to the role of leadership in the Commission - only here point out that the right to develop policy goals with a general European interest as the only limitation allows for a strong potential leadership role for the president of the Commission.

But policy initiation can occur at many levels below the president, and does. Ludlow reports that "the function of animateur permeates the whole structure and ethos of the institution" (Ludlow, 1991:97). The Commission, notes he, was formed with the Commissariat du plan as the model - the point was to produce policy ideas on a large scale. Once a vision has been agreed upon, there is the great opportunity of formulating issue-specific policy under this aegis that still conforms to it, but which is highly technical and specific, involving experts in the many working groups and fora.

The point here is that when the Commission provides a general goal to which member states agree, then this goal is the reference point and legitimation for the development of issue-specific policy, which also can be interpreted quite freely. This means that issue-specific policy makers in the various DGs may be very important actors. When there is conflict with interest groups, the Commission invokes the general mandate of this goal as a legitimation for issue-specific policy. This is a very powerful tool because the policy style in the Commission is as stated earlier, one that is not based on interest argumentation but on legal-technical arguments.

Summing up, I have argued that the Commission has important formal functions and we have also seen that it depends on the cooperation with both the states and other Community institutions. It is not a major force in implementing policy or supervising the treaty obligations within the member states, and is in many ways small, often ill-coordinated, and unable to monitor the competition policy in the member states because it lacks the resources. This would also be politically controversial. The role of leadership and member state legitimacy appear to be major factors in explaining when the Commission's policy-initiating role is activated.

Arena and actor roles of the Commission:

Provisionally we may distinguish analytically between arena and actor roles. An actor influences the output of policy in an independent way, as a standard understanding of the concept goes (Sjøstedt, 1977; Underdal, 1992). The criteria for defining someone to be an actor must as a minimum include that there exists an ability to act at the outset - some degree of autonomy, some independent resources, etc. But also arenas may be politically important. Underdal argues that they may be important for different reasons, and not necessarily in less ways than actors (Underdal, 1992).

The Commission's arena roles include its agenda setting power and the ability to regulate access of participants to a considerable degree. By setting the agenda the Commission may shape the states' own agenda. The states will take into account the EU level activity and likely strategy when they make their own strategies on the logic of the 'two-level metaphor', as I have argued in the former lecture. The Commission may on this logic shape states agendas and consequently, interest formation.

States are interested in their reputation, and will want to be constructive participants in international problem-solving. Rittberger et al. found the reputational factor to be very important in the political calculus of Russia and Germany in their study of East-West regimes (Rittberger et al., 1993). In the EU case, we can expect there to be a high value attached to reputation in the sense that no member state will want to be seen as one that obstructs the policy-making process. This is particularly important in the post-85 period where qualified majority voting (QMV) ensures that states can eventually be outvoted. The general record on fulfilling expectations is important. After the introduction of QMV the laggards are visible - it is much more important to be active and cooperative, not try to stop new policies.

Further, by defining new problems and new solutions to them, by making widespread use of experts, the Commission may define solutions to new problems and induce learning on the part of the states. Ernst Haas has discussed the notion that 'knowledge is power' in his book by the same title (Haas, 1990). The Commission may thus be an important framework for learning, and in some types of policy it may even be warranted to speak of 'epistemic communities' (P. Haas, 1993). Its policy language is essentially technical-legal, about the 'objective' solutions to problems; that is, issues are always de-politized.

Turning to the actor roles of the Commission, there exists a formal autonomous power to act in certain policy areas. In competition policy the Commission has the formal autonomy to act in a way that has also has a direct applicability and thus effect in member states and on members states. DGIV does intervene very forcefully in cases of hindrances to competition, even in suspected cases. The ECJ has been found to very often support Commission moves against companies and member states. Together these two institutions act autonomously. Like a state, the Commission has formal autonomous acting powers in selected policy areas.

However, the degrees of formal-legal powers - competences - varies with issue areas. Sometimes a weak or almost non-existing power to act in one issue area may successfully be coupled with competition policy by defining the policy issues in competition terms - e.g. energy company structures in member states - often monopolies - were the subject of interventions from DGIV when energy policy became a sub-set of internal market issues. The Commission may thus redefine issue areas in ways that bend them towards the areas where it itself yields powers. We have shown that this happened in the post-85 period.

Formal-legal powers in one issue area may thus enable the Commission to extend its action in this area to new issues that are being defined in terms of the remit of competition policy. This boldness with which this can be done is dependent on the general degree of legitimacy, I will argue in the next section.

Before I can discuss the conditions for Commission action, however, I wish to consider the evidence of the Commission's role in three issue areas in the post-85 period: telecommunication policy, energy policy, and structural policy. As stated, my intention in this lecture is to analyse the Commission's role in policy areas where there is no clear-cut Commission competence (as there is in competition) but where the states and the Commission may have various influence.

2. Empirical evidence about the Commission's role in the recent literature

What do we know about the empirical role that the Commission plays in various issue-areas in the post 85-period? To date there is little theoretical work that has been done on the Commission's role in the present period, but there are some recent empirical studies that yield the following conclusions about the Commission's role:

Sandholz' (Sandholz, 1993) empirical findings are highly interesting: Arguing that the Commission played the leading role in creating an internal telecommunications market, he found that it initiated a tough deregulatory approach against the interests of the states in basing a controversial directive in 1988 on paragraph 90, which does not require Council approval. This directive, creating an open market in terminals and services, was based on paragraph 86, arguing that monopolies in the sector abused their dominant position. It was feared that in using paragraph 100a, the directive would be delayed by ca. two years and watered down considerably in the Council negotiations. The interesting issue here is that every member state agreed with the policy objective of the directive, but they strongly disagreed about the use of paragraph 90 which would "set a precedent for Community activism" (Ibid.,263). Nonetheless DGIV proceeded, and issued the directive. France filed a case with the ECJ immediately, challenging the Commission's use of paragraph 90. Germany, Italy, and Belgium supported the French case in the Court. But the Court ruled in favour of the Commission's use of paragraph 90, as could be expected.

Further, in the telecommunications sector, the Commission created a new policy to which the states responded. Sandholz shows that all policy ideas and proposals consistently emanated from the Commission itself, and that even those states that had a national deregulatory policy in the sector, like the UK, were rather passive in the policy process. There was in most instances however no national policy in the issue area before the Commission proposed policy. This has the important methodological implication that we cannot at the outset assume that state interests are formulated prior to the policy-making process itself. I will return to this below.

Sandholz's findings concur with my own. In energy policy, an issue area which like telecommunications, had been characterized by state monopolies, it was the Commission and not the member states that formulated policy. There were no policy ideas on e.g. the internal energy market that came from the states, and in the case of the UK, which had already deregulated its energy sector, there was only reactive, not proactive policy behaviour (Matlary, 1993).

The Commission clearly took the lead in formulating new policy regimes for these two sectors. Immediately we must pose the question of the importance of this. As Moravcsik reminds me in a correspondence we have on this topic, it is the task of the

Commission to provide policy ideas - that they are accepted probably only means that they are in states' interests. Thus this says nothing about whether the Commission plays an independent role. In order to do this, we must either pose the historical counterfactual or show that Commission interests prevailed over opposing interests, he argues (personal correspondence, 1994).

Do we have any evidence of opposing interests between the states and the Commission in which the Commission's view prevailed? In the above case of the terminals directive, states opposed the use of paragraph 90, but the Commission won the case in the ECJ. This was a clear case of opposing interests between the states and the Commission, but in this case the Commission commanded unquestioned supra-national and autonomous formal powers to act. It is thus not surprising that its interests prevailed.

In my own study I also found that there were cases of clear opposition between state and Commission views where the Commission's view prevailed - helped by the QMV procedure of the SEA. In a highly controversial directive of open access for gas transmitters the opposition from Germany was attempted accommodated by continuous negotiations over a two year period. In the end the directive was voted on in the Council of Energy Ministers, and adopted against the votes of Germany and the Netherlands. In the case of a conflict over coal subsidies under the Jahrhundertvertrag the Commission's demands for reductions led to the coal companies and the employer's organizations taking the Commission to the ECJ. The outcome of the case is as far as I know still pending, but this shows that the Commission does use its powers of intervention against the member states. Another case is a DGIV intervention against monopoly companies in the energy sector - so far the national governments have been asked to justify the monopoly status of these companies.

Also in the electricity sector the Commission clearly intensified the application of the competition legislation in the post-85 period. McGowan has studied the Commission's role in the deregulation of the electricity market and concluded that "It was only in the mid-1980s that the Commission demonstrated both the willingness and the competence to challenge the national utilities which had previously been effectively protected from Community purview by member states. The new developments occurred in the context of ...the internal energy market. The

Commission launched this initiative on the back of the revival of its authority following the SEA...and the Commission's increased readiness to apply competition law. This increased activism of antitrust affected public enterprises and public utilities in particular. In cases concerning the telecommunications and transport industries, the Commission effectively established precedents for action in the energy industry" (Ibid., 44).

There was thus an intelligent use of 'spill-over' here: since the Commission has no competence in energy policy, it first used the competition legislation in obvious areas where it applied, like transportation and telecommunications, in order to set a precedent for defining energy policy - especially in terms of gas and electricity - as essentially being about deregulation of regulated markets.

So far let us only agree that it is easier to evaluate a case of opposing interests than the opposite, and that the C's competition powers play an unquestioned role. The hard part is to find a way to both evaluate and study the policy where there is neither clear-cut interest opposition nor necessarily any prior state 'interests' before the policy-making starts (Keohane, 1990).

I submit that the first step here is to look into the contents of the policy-making process away from the focus on interests. In telecommunications, there was a general state interest in the formulation of a European-wide policy that would meet technological changes and competition from the US and Japan. This demand was met by the Commission. In energy, there was a general state interest in cheaper energy supplies from a deregulated market, but strongly entrenched national, structural interests. The latter clearly limited the scope of Commission action in getting proposals accepted in the Council, and there was less scope for using the competition legislation. I would argue that it was easier to provide an internal telecommunications market than an internal energy market for these reasons. The Commission consistently formulated an internal market programme in these areas, despite varying degrees of state opposition, and it reformulated the same proposals in the cases where one directive was so much 'watered down', in the energy case, that the policy goal could benefit from reformulation. It tried, slowly, but patiently, to achieve its internal market goals in these issue areas, invoking the competition legislation whenever there

was a chance, also in the energy sector; applying pressure through the competition legislation while going slowly in the negotiations on controversial points. Working with partly opposing state interests, it tried to achieve its goals of an internal market in the issue area.

But it also used this opportunity to try to create a competence for itself in the issue areas. In energy, it bargained with the 'cohesion countries' in the south for support of the IEM against infrastructural and other aid; it attempted to create a common energy policy with itself in a leading role, and it created new fora with itself in the leading role, like the secretariat of the European Energy Charter, situated in DGXVII.

In telecommunications, "the Commission played the leading role in promoting collective action. It launched the RACE program (R and D in Advanced Communications Technology in Europe), initiated preparations for a European-wide next-generation infrastructure, pushed for open markets in equipment and services, and led the way in the creation of new institutional arrangements in the joint management of standardization and planning" (Sandholz, 1993:242). He found that the Commission's proposals led to 'the redefinition of national interests' (Ibid., 244).

Further, there is evidence of the Commission building coalitions with interest groups and regional organizations: Lindberg in 1963 found that the DG for Agriculture developed regional and national ties (Lindberg, 1963:71) and that this resulted in a very close-knit network. Wessels finds that "Die Kommission..legt Ihre Zuständigkeiten expansiv aus und treten mit einzelnen nationalen Regierungen und Verwaltungen in Koalitionen, um andere Akteure zu einer Ausweitung der Aufgabenwahrnehmung der EG zu bewegen" (Wessels, 1992:49). Also Schmitter argues that this is a typical political strategy on the part of the Commission (Schmitter, 1992). Peters points out that the Commission is conscious of the need to build coalitions with affected parties (Peters, 1992:89)

An important study of the Commission's role in coalition-building is Marks' study of structural policy (Marks, 1992). In connection with the TPU negotiations the Council doubled the structural funds and reformed their administration, giving the Commission and the regions themselves a much larger say in their allocation. This signals a possibility on the part of the Commission to 'outflank' the state: Marks finds

that "despite the entrenched position of national governments within the EC, the development of structural policy at the Community level has given subnational governments a new arena for pressing their demands (Ibid.,218). This is a strategy of coalition-building that fits both the Commission and the regions.

Here the Commission is instrumental in building regional networks of policy-makers that look to the EU as the center. This is yet another example of a political action that does not fit the traditional question that we pose when we want to determine whether the Commission has had an independent impact: did it prevail over state interest? This question makes no sense in this context. Perhaps this means that the question is wrongly posed, as I shall discuss in the next part.

In sum, the empirical evidence here presented yields the following conclusions: First, the Commission uses the competition policy as an aid in policy areas where it can interpret policy content as falling under the scope of this legislation. It is particularly powerful in its use of this basis for direct intervention, and there are indications that this power of intervention is only used when conditions for EU-level policy in general favour an active Commission. Further, the Commission tries to formulate new policies in such a way that it acquires informal 'competences' - by creating new institutions where it plays a leading role; by building coalitions with regional actors and the 'cohesion' countries, and by carefully justifying new policies on old ones. The internal market umbrella has been particularly useful in this regard.

3. Criteria for independent actor role and conditions for its activation

For the rest of this lecture I will concentrate on the two questions of first, under which conditions the Commission is most able to act, and two, which criteria we should we employ for calling the Commission an independent actor. I am of course aware that the Commission always does something - the Commission's output has contineously been growing, and the largest part of the work is the routine tasks of implementing policy - the type of 'secondary' legislation that many national ministries is charged with.

However, I am interested in the Commission's ability to achieve its own policy goals - these be in opposition to or in concord with those of the member states. I

think the general evidence strongly indicates that the Commission is able to act under optimal conditions only when there is a major political task - a vision like 1992 - to which the member states agree. In the literature there is agreement that there essentially are two periods of Commission activity - the period until the 'accords de Luxembourg' and the period post-85. If we accept that general state legitimacy is necessary for innovative policy, then the interesting question becomes one of the Commission's ability to utilize this opportunity.

Under which conditions can the Commission act?

The Commission possesses formal actor powers, as indicated above. But these are 'activated' under certain conditions. There is a literature on leadership as it applies to the Commission (Rosenthal, 1975; Sandholz, 1993; Vahl, 1992).

A number of leadership functions do not depend on the wielding of power. Sandholz (1993) uses the concept of entrepreneurial leadership, following inter alia Young who argues that IOs can exercise leadership in especially this manner (Young, 1991). The entrepreneurial leader can promote collective action through such leadership, which in the case of the Commission consists in proposing policy, mobilizing support, shaping the agenda, building consensus, and brokering compromises (Sandholz, 1993:250). In addition, there are according to Sandholz, four conditions under which such leadership will be effective: that the institution's bureaucracy is expert, that leaders are charismatic, that the initial grant of authority to the institution is large, and that there is a 'policy need' in the part of the states.

These conditions can all very well be argued to have existed in the post-85 period: the internal market filled a 'policy need' on the part of the states, the person of Delors provided personal leadership, the Commission is both an expert civil service and the initial grant of formal-legal powers was very extensive, e.g. the competition legislation.

These are suggested conditions for effective leadership, but note that Sandholz adds that "even the presence of all four in a specific situation, however, does not ensure that IO leadership will be effective" (Sandholz, 1993:251). This I suppose means that even if leadership is exercised, the claim is not that the IO has an independent impact of policy outcomes. Presumably only effective leadership can have such an impact,

and even then, it is not clear from the leadership literature applied to the Commission what the theoretical claim is: does effective leadership mean that the Commission has an independent impact on policy outcomes?

As mentioned above, Moravcsik keeps asking me "how can you show that the Commission has an independent impact?" (personal correspondence, 1994). Sandholz's implicit criterion for allotting an independent role to the Commission is less rigid than that of Moravcsik. The former uses the time aspect as a central indication that the Commission played an independent role: since Commission proposals were consistently ahead of what the states had developed by way of policy, the Commission is deemed to have had an independent impact on policy (Sandholz, 1993:269).

But does an actor role for the Commission always imply that there must be evidence of independent impact on outcomes? It may very well be that the states accept the policy definition and derive their interests from the latter, and there may be consonant interests between the states and the Commission. This is a different issue than the point that in order to establish that the Commission has an independent impact we need, for methodological reasons, to have a case of opposing interests between the states and the Commission or be able to establish the historical counterfactual. The problem of establishing the historical counterfactual is formidable (Biersteker, 1993) - would there e.g. have been an internal energy market (IEM) without the Commission's initiative? I think not, but I cannot prove this. When we choose opposing interests between the states and the Commission as the criterion for assessing whether the Commission has an independent impact, we assume that the interests of the two actors is first, formed prior to policy-making, and second, oppositional.

In the energy charter case which I studied, a new institution for the political management of energy production and sale in Europe, the states did not form their interests prior to the Commission's definition of the policy content, and once formed, the interests were in accord with those of the Commission. Does this allow us to deduct that the Commission did not have an independent impact?

As we have seen above, the Commission's setting of the agenda included a definition of a policy problem or a new policy. In the energy charter case, the

Commission defined the issue in its entirety, and this was also largely the case in the IEM cases as well as in the new telecommunications policy. In the charter case, there were no prior state interests; in the other cases, there were general domestic preferences, or at least one could assume that there were such. However, when the Commission's definition of the policy problem happened prior to state interests formation, should we not count this as a political activity that is independent?

The difficulty here is that criteria for what counts as independent political action is tied to our assumptions about the locus of interest formation and theory of interest change. This in turn depends on our epistemological assumptions.

As a start, we ought to operate with what I term a 'pluralistic' notion of interest-types and loci of interest-formation. We must ask whether we can expect there to be structural/power-based interests in the issue area, or whether learning, knowledge, and/or leadership may matter.

It has for some time been discussed in IR theory to what extent interests are zweckrational and to what extent they are influenced by contextual factors. This is a complex debate that directly bears on the question of which epistemological foundations are appropriate for the field. I cannot go into this here, but insist that we must operate with several types of interests as the basis for the formulation of hypotheses.

A logical problem is that different interest types often are thought of as competing rather than complementary hypotheses., as in e.g, the work of Peter Haas: he identifies three schools of thought - neorealism, institutionalism, cognitive approaches, that lead to power-based, interest-based and knowledge-based explanations of regime formation. But do not these hypotheses focus on different stages of the policy-making process and/or different types of policy instead of being arguments about alternative explanatory perspectives? This is one major question that has to be addressed. Here I will simply assume that it makes sense to look for the stages of policy-making as well as the types of issue-areas within the EU: I submit that we should try to formulate hypotheses about when e.g. the definition of new policy becomes important - in which issue areas - and in what stages of the policy-making process this is most important. The Commission can be assumed to be more important in e.g. the early stage of policy-making dealing with a 'new' policy issue

than in an issue area where there clearly are structurally determined state interests. This type of thinking holds in issue-areas where there is no clear EU competence and where the competition legislation cannot easily be invoked.

In this connection I would like to point to some recently completed studies investigating regime formation. Rittberger et al. found that in East-West regimes, the regime definition of policy had an impact, and that structural state interests had the least impact (Rittberger et al, 1993). Likewise, Young et al. found that personal leadership was very important, and that structural interests provided the least useful explanation for policy outcomes (Young and Osherenko, 1993).

The specification of hypotheses along similar lines can in my view yield important knowledge about the Commission's role. We would then be able to leave the assumption that Commission impact must be established in a comparison with state interests specified prior to policy-making. If we accept that there may be different types of political impact according to policy content and stages in the policy-making process, then it is possible to theorize about the Commission's role in these terms instead of 'measuring' it against state interests at the outset of policy-making - thereby having to assume that a state interest exists - and at the outcome of policy-making, where states can in most cases veto all EU policy.

Further, we may use the 'two-level' analytical framework for studying how the Commission's strategy towards e.g. regional actors impact on the state's capacity to act in the issue area. Keohane argues that "scholars have shown that international regimes can affect both the capabilities and the interests of states" (Keohane, 1990: 736). But not only can the EU regime rules be invoked and used by a given state and thus enhance its capability at the domestic level, but the Commission itself may impose such rules, and thereby constrain state behaviour; and it may do so also by coalition-building with sub-national actors, as we have seen above. The empirical impact of such moves remains to be established, and this can be done through a 'process-tracing' of the decision-making process (George, A. and McKeown, 1985). This is a more useful approach for establishing 'independent impact' than either the historical counterfactual or opposition between prior state interests and policy outcomes, I submit.

I thus argue that we need to differentiate our concept of policy content, but agree with the criticism that we still lack a good method for assessing not only independent Commission impact, but also the conditions for such impact to result. We know that it depends on certain 'necessary conditions', but nothing systematic beyond that. Using the terminology of regime theory, the Commission's role is very probably much greater in the regime formation phase than in terms of regime impact - as we have pointed out at the outset: implementation is the Achilles heel of the Commission.

Thank you for your attention.

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