

EU-friendliness: a Point in the Checklist of Reforms

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Abstract

Organizational processes are often described as being “top-down” or “bottom-up”. At the level of EU integration relations between EU and member-state institutions can also be conceptualized in these terms. European integration is based on decisions made by representatives of its member-states and member-states have a large degree of discretion in the implementation of EU policies. This gives off an appearance of a “bottom-up” quality to pan-European policy. But when it comes to part and parcel of public administration many national government agencies can only perceive this process “top-down”. The complexity of policy design process and absence of co-ordination of how national agencies go about their business means that policy adoption is seldom straightforward across member-states. Once policies are set in motion, there are limited possibilities of review stemming from the “bottom”. In some sense, this is the story of the road to Brexit. The paper claims that current challenges to European integration may in part be attributed to this institutional setup. This paper revisits the concept of European Administrative Space to see if it can be framed in terms of “bottom-up” integration, whereby essentially member states would be encouraged to test their proposed national reforms from the point of view of EU-friendliness. Proliferation of such a practice would not require any major legal change or governance process standardization. With proper monitoring the practice could augment the existing international co-operation between government agencies by opening venues for cost sharing, and streamlining the “top-down” policy decisions once political will becomes available.

KEY WORDS: *European Administrative Space, Convergence of Administrative Practice, Interoperability*

1. Introduction

2000s were a period of asserting and redefining the EU. Initiatives such as the Constitution for Europe, or the Treaty of Lisbon constructed a perspective of EU that went beyond being just a mere peace project. Rather EU was supposed to become the continent's vehicle for adaptation to globalization. EU leadership perceived United States and China as having economic dynamism to which EU had nothing to match. EU's fragmented and complex governance was and continues to be blamed for this lag. The 2010s economic problems in the Union have led many to believe that EU is a barrier, not a means for the adaptation to globalization. The most notable examples of EU decline of legitimacy are the “Brexit”, and proliferation of Eurosceptic-led governments of the likes of Poland and Hungary. In many ways, EU's legitimacy now depends on finding a new mission more than in the 2000s. It is also true that EU now has less capacity to pursue that mission than a decade ago.

Until recently there has been optimism that EU has the resilience and capacity to adapt to new challenges, and many precedents do show that. Convergence in administrative practices among EU member-states (MS) has occurred as common goals and benchmarks necessitated (Cioclea, 2010). However, “Brexit” showed that no immutable law states that integration is a one-way street. In post-Eurozone crisis Europe policymaking as usual has lost the support of the public, and even the retention of status quo seems to be an achievement on its own. So much so, in fact, that integration concepts such as the European administrative space (EAS) have become seldom used in academia.

EAS literature has pondered the pursuit of common principles of public administration and the application of uniform rules in public administration (Torma, 2011). National administrations of EU MSs remain among the least-affected institutions by EU integration. And this is a problem, because the capacities to implement policy lie primarily with MS. A Europeanized administration on the other hand does not necessarily need to mean a breach of the Treaty or an infringement of sovereignty. It can mean better compatibility of administrative practices among MS, which would create possibilities for quicker and less burdensome adoption of EU regulation when such regulation is passed.

And the process of Europeanization of administration itself can be imagined in more ways than one. One venue we would like to entertain is measuring national reforms from the point of view of EU-friendliness in addition to measuring their effectiveness in achieving stated policy goals. EU-friendliness for the purposes of this analysis is best defined as the intended reforms' compatibility with similar recent reforms across Europe, stated policy agendas of the Commission, and adopted pan-European strategic documents. Application of such a test in the evaluation of reforms may yield better data on the benefits and costs of EU integration not only at the macro-economic level of analysis, but at the organizational level of public agencies. Reforms that appear to be suboptimal at one level of analysis may demonstrate a net-positive impact at the level of MS. And if proven otherwise – EU institutions might focus their policy measures to address these specific issues and thus regain its lost legitimacy and reinforce its relevance vis-à-vis globalization.

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2. What is the Endgame of Integration and EAS

EAS was gaining academic attention in 2000s, as some predicted further and deeper EU integration in the wake of its flagship policies of eastern enlargements, Schengen and the Eurozone. Despite the failure of some political documents, most notably the Constitution for Europe in mid-2000s, there was a belief that EU law is sufficiently harmonized in a sufficiently large number of policy areas for best practices in public administration to begin spreading (Hoffman, 2008). This, it was assumed, could lead to administrative isomorphism, which would allow claiming that EU will become a globally-relevant polity (Olsen, 2003). But more recent research suggests that European administrative space for all of its achievements is still a long way off to allowing EU achieve a status of an integrated polity (Trondal & Peters, 2013). One of the reasons for this maybe that some forms of isomorphism may not apply to member states due to internal institutional fragmentation. That is, if Europeanization occurs in one policy area, it may be far from certain that others will follow within that member-state. This is evidenced by some studies suggesting that public administration reforms based on the New Public Management model in the 1990s did not create convergence of administrative practices, rather – fragmentation occurred (Pollitt, 2001 & 2007). Agencification and policy inertia in the largest member states, where national governance traditions remain strong means that the “deep Europeanizers” are often the new and smaller member-states (Versluis, 2004). In other words, what the Council and the Commission hand down is not enforced in ways that are similar between MS.

However, institutionalist literature suggests that isomorphism can occur by means other than “top-down” policy of a nation state (DiMaggio and Powell, 1992). Research into institutions over the past two decades suggests that a carefully managed process may lead to the adoption of best administrative practices across policy areas and national boundaries, and through that, a commonality of governance may be built. In this case, the focus needs to be shifted away from policy issues and towards the process of public administration. National administrations very often act on behalf of EU in their jurisdiction – this is where capacity to follow through with policies lies. Therefore, effective civil services with sufficiently compatible governance processes is a key element for a successful development of EU integration. And the opposite maybe true – ineffective administration hinder Europeanization not only in the given MS, but may slow down the integration process. Essentially, national administrations impact the overall state of the EAS in multiple ways (Cardona, 2009). A positive view of Europeanized administrations may be extended to notions of capacity sharing, whereby officials from one country could help improve administration in another. Examples of this maybe found in places like the Frontex mission in the Mediterranean.

The formation of EAS was seen simultaneously as a cause and effect of convergence, creating a feedback-loop whereby previous decisions for integration necessitate future decisions. Eventually this could’ve led to a redistribution of capacities and competencies between national public administrations in favor of a unified European administration, with reduction of Member States’ sovereignty (Torma, 2011; Cioclea 2010). Hoffman (2008) saw EAS as a process resulting in a common European governance model. EAS may also be framed as a collection of values, social expectations, certain management principles and statutory administrative standards, based on appropriate procedures and reporting mechanisms (Koprič, Musa, Lalić Novak, 2011). From this perspective EAS is the European emanation of “good governance”. Descriptions of what EAS vary widely, from a structure indistinguishable from a European state, to a highly fragmented pool of shared values by government officials. A variation on theme of hard EAS versus soft EAS. The hard vision is, potentially, what makes integration politically problematic, while the soft version is hard to pin down in terms of what it may mean in practice.

3. The Criticisms: has the Animal Grown too Big?

EAS as is currently defined, it seems is unable to be a bases for further integration, as the principles of good administration can be enforced only on countries acceding to the EU. Once in the Union administrative reforms primarily follow the logic dictated by national political considerations (Kovač, Bileišis 2017). The implementation of these principles of good administration is one of the most important trends in the reform of public services in the candidate countries seeking accession to the EU. The White Paper (2001) issued by the EC states that the basic principles of the EAS are: the rule of law, openness, participation, accountability, efficiency, coherence, proportionality and subsidiarity. These principles are codified in many documents, from legally binding to less stringent policy, institutional and professional documents (Koprič, Musa, Lalić Novak, 2011). But it seems that EAS cannot advance beyond this point, because there is a realization among member states that reviewing specific institutional setups within EU is too difficult. While the example of “Brexit” demonstrates the “nuclear” option of countering unsatisfactory status quo by an MS, other less extreme examples are plentiful as well.

One objection to EAS suggests that constant harmonization of legal systems between MS does not mean that overall administrative convergence will be achieved (Skora, Mlynarkiewicz 2003). At points of adopting and implementing EU legislation member states have a lot of discretion for interpretation and leniency. Therefore, some believe that EAS, if to be successful should include differentiated administrative reforms, and a reassessment of implementation model (Heidbreder 2009). Existing institutional diversity complicates inter-institutional cooperation within countries, not to speak of pan-European ideas. Overall, events of the past decade such as the Eurozone crisis, Brexit, and the coming of Eurosceptic governments means that a resurrection of EAS is only possible in a new guise, which would recognize the reality of highly fragmented and complex nature of MS administrative practices and regulations. The alternative seems to be conceding that the European animal has grown too complex for Europe’s institutional ecosystem, and risk failing at the expense of all involved.

4. “Multi-speed“ Failure of “top-down” Integration

EU has encountered many crises over its history, but has managed to retain its core of four freedoms. However, innovations that build on these freedoms causes serious challenges. One key challenge is that flagship initiatives such as Schengen area or Eurozone do not cover the entire Union. The notion of a multi-speed Europe occurs at specifically that point. Getting an agreement across the board on anything beyond the four freedoms proves illusive. While an institutional solution of incorporating only part of MS seems like a practical way forward, there is a risk of creating a byzantine system where an ever-smaller group of MS gets ever more integrated, until there is only one left. Therefore, a non-one-size-fits-all model must entail a certain institutional integration that would bare markers of a state. And solutions such as fiscal union risk leaving EU only with a tiny group of believer-states that would lack power to maintain other, more-widely adopted policies in the Union. It seems the current state of the Union is one of limbo. MS chose policy opt-outs creating core-peripheral regions within the Union. And this “multi-speed” reality is undesired as it sets a precedent for future fragmentation. However, not adopting it leaves pro-integration member states hostage to the ones lagging behind.

E. Macron’s vision of fiscal federalization in one of retrenched “top-down” approach to integration of the Union. E. Macron wants the EU to become an economic powerhouse that will play a crucial role in a multipolar world order (Tiersky, 2018). The problem, he shows, is that the member states are too weak on their own to enjoy effective sovereignty in various fields: finance, economy, immigration, foreign policy, defense and in its current form, is unable to remedy these deficiencies (Simms, Shade, 2018). Macron’s plan would create a much clearer two-speed EU than currently exists, with the 19 Eurozone countries on one track and the other EU member states on a second (Tiersky, 2018). It is one policy that could create a powerful center that could maintain the achievement of EU integration in the periphery. But the likelihood of implementing this decision seems low, and that is its weakest spot. Policies of this perspective may be effective in order to channel resources to the most socio-economically deprived areas. However, more prosperous MS will not accept such a solution without proper administration of funding. We believe that if in the long term new flagship integration policies are to be adopted a stop-gap measure is necessary in the meantime, one of “bottom-up” integration of administrative processes, and an accompanying collection of data at MS government agency levels of how EU policies can be made more responsive to national considerations. We propose to devise an EU-friendliness test for all national reforms, including the adoption of EU regulation.

Data gathered through the adoption of such tests may indicate to MS publics of the benefits and costs of not having a Europeanized administration. E.g. the Eurozone crisis has showed that decisions leading were critical for how MS fared during the crisis. And the reforms imposed on countries that found themselves being bailed out hardly focused on the Europeanization of their administrations. The crisis experience left the publics in these countries resentful of EU integrations (Vidmar Horvat, 2014). Although EU’s ability to maintain peripheral areas aligned with its agenda is an important marker of the capacity and resilience of institutions, without a vision for the periphery and its development, EU risks losing the loyalty of some of the states if another similar crisis occurs (Dobrescu, Palada, 2012). A test of EU-friendliness may act as a means for all stakeholders to debate EU integration policy from an evidence-based position, and would allow EU institutions regain much of its lost standing with MS and their publics, and possibly build preconditions for new integrations policies whatever they may be.

Conclusions

Multi-speed Europe beyond Schengen and the Eurozone seems to necessitate a measure of federalization of core MS. We believe this is unfeasible at present. However, current EU institutions have lost much of their legitimacy in past decade and measures need to be taken to remedy this. Currently Europeanization is conceptualized as the process of adopting EU directives, regulations and institutional structures to the internal level and it is understood as the top-down influence of the EU on its Member States. “Multi-speed” Europe means an ever more complex governance at a time when rapid decisions are high on demand by businesses and citizens. In the context where decades of reforms have hollowed-out states, fragmented their hierarchies’ addition public servant corps this can spell doom to the Union. In our analysis we suggest that the current level of debates of integration are unproductive because they only address the vision of integration and its political acceptability or otherwise. Whereas shining a light on the administrative mechanics that underpins any integration effort is necessary for any meaningful debate about what policies are feasible and what outcomes they are likely to achieve. This is a gap in both the academic and political discourse, which leads to conflicts among the multitude of EU and MS institutions. Our proposed EU-friendliness test needs to be well theorized, and grounded in the existing knowledge of EU and MS administration and policymaking, but it could serve to enhance the quality of integration politics.

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