

FORMAL AND INFORMAL DECISION-MAKING AT EU LEVEL

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Abstract: *The paper deals with the issue of decisional efficiency at European level, given EU's large bureaucracy and complex decision-making system. The functionality of institutions seems to be assured, to large extent, by the development of a parallel system of informal (or semi-formal) rules and procedures for negotiation and decision-making, which complements and sometimes replaces the formal procedures. Their role is highly visible in the elimination of decisional bottlenecks and mitigation of inter-institutional conflict.*

Keywords: *decisional efficiency, collective decisions, European institutions, informal rules.*

The analysis of EU decision making already has a history of several decades. However, the specificity of the system was slowly recognized, and the attempts to develop appropriate predictive and explanatory models is relatively recent. As expected, the first approach was to use or adjust already developed explanatory models to this new empirical field. Models aimed at explaining the functioning of governments and national administrations have been used to explain inter-institutional negotiations at EU level, the dynamics of power relations and the interaction between European institutions and Member States. These models assumed that the EU institutional system includes most of the characteristics of state-level institutional arrangements. Other approaches were based on analyzing EU decision-making from an inter-governmental perspective, with European institutions assuming the role of the management structures of international organizations like the UN. The decisions taken at EU level are, in this perspective, the result of negotiations conducted at several levels (governmental, ministerial, local and central government) between states that voluntarily participate in these collective arrangements¹.

However, it seems clear that the Union is not simply an extension of state-level administration and can not be reduced to inter-governmental cooperation procedures. Its tasks are differentiated by policy area and can range from exclusive responsibility (common commercial policy, customs union, monetary policy for the Euro area etc.) to "supporting competence" (in industry, education, culture etc.). Even if inter-institutional decisions are taken on the basis of formalized procedures (and specified as such in the Treaties or secondary legislation), the role of informal consultation, negotiation and exchange of expertise remains significant. Formal and informal interactions manifested horizontally (e.g. between several Directorates of the European Commission, which must collaborate in implementing a joint program with transversal relevance) or vertically (for example, between departments, Directorates, Directorates-General and Commissioners) are difficult to subsume to a state-centered analysis, in which decisions are the result of applying formalized, clearly defined procedures for each hierarchy level and between levels.

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¹ Cf. Marks et al 1996.

At institutional level, the explanatory models based on *rational choice theory* aim to answer the question "what ensures the effectiveness of some institutions in relation to others?". They take into account, for instance, *transaction costs* (those implied by intra-institutional interactions or networking with other organizations), the role of *leadership* in motivating organization members, but also the gradual development of a set of institutional arrangements that seem to ensure the "reasonableness" of collective action (in the sense of their adequacy to institutional objectives)². But trying to represent the complexity of institutional intra- and inter-relationships within this theoretic framework faces many problems. Treating institutions as collective rational agents, who pursue goals and preferences and systematically try to maximize their benefits, largely ignores the fact that the rationality of individual decision makers and aggregate institutional "rationality" are not the same thing. Moreover, the latter can not be simply reduced to the first, as shown by Arrow's impossibility theorem³. Also, we have to consider the unintended effects and the potential effects of composition of the participants' decisions, which may escalate due to "cascading" and unpredictable dynamics. They are not reducible to accidental failures, but rather illustrate the fundamental difficulty of ensuring an optimal representation of the participants' individual interests in the context of their interdependence.

"An institution is based on a dynamic set of negotiations between those players who set the rules, those who implement them and those who must obey. Their cooperation is mutually reinforcing; the successful fulfillment of one actor's institutional responsibilities depend on what the others will do"⁴. However, individual rationality and responsibility do not guarantee collective efficacy; institutions may fail despite the quality of their personnel or management. The question is whether the functionality and partial success (at political and administrative level) of Community institutions is the result of a systematic political project voluntarily undertaken - a "road map" followed by the main decision-makers - or is rather the changing result of ongoing negotiations, carried at different levels and involving a diversity of actors, which refer to a set of open-ended and partially overlapping projects.

The concept of integration behind the EU's complex institutional and legislative framework is based on the attempt to gradually develop a common space based on shared values, practices, policies and administrative structures, where people, products, services and ideas can circulate freely. It is a type of *soft* integration, which aims to develop a commitment to specific values, practices, attitudes and norms, in addition to developing a political and administrative infrastructure. In EU's case, this concept of integration can be illustrated by the diversity of decision-making procedures applicable (depending on the policy area concerned) and the diversity of stakeholders (including civil society). An example is the application of the so-called *open method of coordination* (OMC), whereby several Member States are trying to achieve, through voluntary intergovernmental cooperation, an agreement on policy areas where European institutions cannot act or have a very limited degree of intervention - for example, social policy and employment. OMC calls for coordination based on self-imposed performance standards, benchmarks, indicators and examples of good practice. While all Member States are bound by the EU primary legislation, some of them they may, through direct negotiations, agree to jointly pursue objectives beyond those set by the founding treaties.

² Cook și Levi, 1990, 13 și urm.

³ Arrow 1951.

⁴ Ibid, 14.

A more nuanced perspective on the EU's institutional system is provided by the multi-level governance (MLG) model⁵. It was developed as an alternative to the dominant approach (which considers trans-national institutions as essentially similar to state institutions, and the inter-institutional relations as being reducible to inter-governmental procedures). According to the MLG approach, political and institutional actors operating at EU level have multiple, partial and overlapping competences. As such, the main focus shifts from the study of intra-institutional relations and practices towards the analysis of inter-institutional mechanisms. The partial overlapping of roles and powers implies that decisions are the result of a negotiation process in which different interests and levels of authority faces confront and limit one another, causing mutual adjustments. Governments are just one category of actors involved in this multi-level interaction, which include local authorities, NGOs, trade unions and other forms of collective representation of interests. As such, "the state is no longer considered the exclusive channel through which the interests of domestic political actors are expressed /.../. Rather, the arenas are interconnected, with direct and indirect networks between the sub- and supranational levels, which "bypass" the state"⁶. The hierarchical nature of models which analyze transnational cooperation in terms of inter-governmental relations gives way to an approach whereby the unidirectional "instruction" (from state authorities to regional and local organizations) is replaced by dialogue and negotiation between participants. These participants have unequal political influence, but they are equal in terms of the basic rights and obligations assumed by the free participation in this negotiation. This "institutional mutual dependence" can not be properly analyzed in terms of an institutional zero-sum game, in which participants "fight" for maximising their share of a pre-determined benefit, but rather in terms of positive-sum interactions, in which negotiation can provide solutions that are unavailable to outside the interaction and, therefore, can extend the overall benefit of the participants⁷.

At the core of most positions expressed by both Euro-optimists and Euro-skeptics lies, somehow paradoxically, an idealistic approach regarding EU's role and the functioning of the European institutional system. It assumes the existence of a *predefined project* which guides the behavior of the main decisional actors. Although they strongly disagree on the usefulness of the project, they agree on its important influence in EU policy decisions and action. However, the *common project hypothesis* does not find a lot of supporting evidence in real EU decisional practice.

The fact that EU institutions manage to function and support reform (including their own reform), despite the immense bureaucratic inertia, has to take into account the informal decisional mechanisms developed to simplify decision-making and make it more efficient. While the EU system could hardly be characterized as adaptable, efficient and effective, we have to notice that EU-level decisions are not reducible to the impersonal (and sometimes dysfunctional) application of bureaucratic procedures. Sometimes, the informal or semi-formal decision mechanisms have a bigger influence of the final result than the explicit rules set out in the legislation. They may act to supplement and facilitate the exercise of formal procedures or, in some cases, they temporarily replace formal procedures, in order to solve decisional bottlenecks or take into account contextual constraints and priorities. In time, these mechanisms may acquire a semi-formal official validation or may remain exclusively a matter of decisional practice. Some are simply inter-governmental gentlemen's agreements, while others are to a certain extend integrated in the *acquis* (for instance, the open method of

⁵ Awesti 2007.

⁶ Ibid, 4.

⁷ Ibid, 5.

coordination applied, among others, in the social and employment policy). However, the compliance is not compulsory and there are no sanctions for non-compliance.

For the purposes of our analysis, we can define institutions as "sets of rules of operation used to determine who is qualified to make decisions in a certain "arena", which actions are allowed or prohibited, the grouping rules should be used, what procedures must followed, what information should or should not be provided, and the rewards to be distributed to individuals based on their actions"⁸. The "arenas" are different types of decision contexts (different levels of authority, separate areas for the exercise of official powers, different categories of stakeholders, etc.). Characteristic for EU is the way official "arenas" (represented by regulatory authorities and formal procedures, which require mandatory compliance) interact with informal (or semi-formal) "arenas" (at the level of civic associations, trade associations or lobby groups in their dealings with European institutions, together with the set of informal rules developed over time, whose role is to facilitate, supplement - and sometimes even replace - the official decision-making mechanisms). Also, we have to take into account the delimitation of decisional "units of analysis". In some cases, government action could be considered, by and large, analogous to individual action, in the sense that governments can be assumed to show consistent preferences and opinions, and to act consistently to achieve set objectives and maximize utility. Undoubtedly, the assumption provides an attractive way of simplifying complex decisional contexts, in which the *intra*-institutional mechanisms for forming and "validating" collective preferences are deliberately ignored, in favor of *inter*-institutional decision-making. However, in the case of multi-leveled bureaucratic systems involving a large number of decision makers with different roles and degrees of autonomy, collective decisions are not simply the result of a "calculating decision-maker", but rather of a "conglomerate of extended organizations and political actors"⁹, with distinct and sometimes diverging preferences, interests and objectives.

There are several features of the European institutional system which, detached from the *pro* or *anti* rhetoric and from the ideological assumptions adopted by one camp or another, seem to suggest a dynamic system that, in time, adjusts not only its operating rules and structure, but also its objectives. The adaptation capacity of the institutional system seems hardly visible, unless placed against a more extended temporal background. Things need to be put into perspective: if we take into account the last five or six decades, we notice a constant adjustment to a changing situation, from the early failure of attempts to create a European Defense Community (1954) or a political union based on inter-governmental cooperation (the so-called 'Fouchet Plan " proposed in the early 1960's) and up to the entry into force of the Treaty of Lisbon (2009). Unfavorable political contexts, changing national political priorities and, not lastly, the lack of civil interest and involvement - all point out to the necessity of developing flexible and contextually-sensitive solutions, rather than ready-made detailed plans.

The European "project", insofar as it can be defined as a project, is the result of a largely unpredictable development, marked by failures, unintended consequences and on-the-go adjustments. For instance, the reform of the Common Agricultural Policy, a policy area that was traditionally resistant to change, was facilitated by the need to reform the EU's foreign trade policy and strengthen the Union's common negotiating position in the World Trade Organization. Persistent efforts to make the agricultural policy more market-oriented and cost-effective met with the strong opposition of some Member States (mainly France) with a large and powerful state-subsidized agricultural sector. However, the need to strengthen the EU's trading position on the global market

⁸ Ostrom 2007, 64-65.

⁹ Graham Allison, *The essence of decision*, în McGrew și Wilson, 1982, 36.

gave an additional incentive for reform, without having been (at least initially) part of a commonly-agreed plan.

Surprisingly, decisional flexibility was maintained despite the increasing legislative and procedural complexity brought along with each new treaty. The failure of Member States to reach an agreement on a radical reform of the institutional system or of strategic common policies has led to compromises and partial solutions, based on the introduction of reform elements in some areas in exchange for maintaining the status quo in others. Integrated and comprehensive approaches have been often replaced by negotiations focused on *fixing* specific issues rather than *solving* a systemic problem.

To argue that a decisional system constantly blamed for its bureaucratic inertia and unresponsiveness manifests flexibility may seem out of place. However, there is a certain type of flexibility that developed despite the institutional and procedural rigidity of the European bodies. Moreover, it has developed directly as a result of increased decisional complexity, as a practical alternative to strictly following formal procedures. It represents the informal counterpart of formal procedures that are, in some cases, difficult to follow, outdated or outright irrelevant. The example of EU *opt-outs* is relevant. To avoid an indeterminate blocking of specific legislative projects, due to the constant opposition of some Member States, the EU accepted the possibility of specific exemptions to the full application of Community law in all Member States. During the negotiations which preceded the adoption of the Maastricht Treaty, Britain and Denmark have managed to secure an exception to the application of provisions concerning the Economic and Monetary Union – specifically the adoption of Euro. Although the Treaty contains a generic provision on the adoption of Euro by all Member States once they fulfill a set of convergence criteria¹⁰, the two states are not required to comply. Also, Britain and Ireland have received a similar exemption on the implementation of the Schengen Agreement (adopted in 1985), which abolished border controls between the signatory countries. An even more interesting case is that of Sweden, which deliberately delayed *ad infinitum* the achievement of Euro convergence criteria, in order to keep its national currency. Although Sweden never negotiated an opt-out from the Economic and Monetary Union, it nevertheless benefits from a *de facto* exemption, tacitly accepted by the European Commission and the European Central Bank. The negotiation of opt-outs is not accidental or transitory – the Lisbon Treaty includes new opt-outs regarding the application of the EU Charter of Fundamental Rights or the implementation of certain policies regarding police and judicial cooperation in criminal matters. The acceptance and official “validation” of these exemptions has been facilitated by the fact that some common initiatives have initially been developed outside the Community framework (e.g. the Schengen Agreement) and were subsequently integrated into the *acquis*. Moreover, the very concept of *acquis communautaire* implicitly assumes that new policy developments are dealt with on the basis of *previous decisional practice*. Somewhat similar to judicial systems based on case law, the *acquis* represents the system of rights and obligations applicable in the Member States without distinction. In addition to legislation, it includes the decisions of the European Court of Justice, resolutions and declarations adopted by the EU institutions, provisions adopted under international treaties concluded by the EU, as well as measures adopted under the common foreign and security policy. It is not reducible to a legislative and procedural system, but integrates a complex decisional history that informs and guides future policy decisions.

Secondly, the political dimension and the administrative/technocratic dimension appear to be much more integrated at EU level than at the level of national

¹⁰ These convergence criteria concern price stability, interest rates, exchange rates and budgetary deficit.

administrations. The European integration implies a mutual influence of these levels and is not contextual, but structural. From this perspective, the functioning of institutions like the European Commission can hardly be compared with the functioning of governments. If governmental action, at the level of state, implies a one-directional way from political decisions to their implementation and administrative management, at the level of the European Commission the political and technocratic levels are mutually-dependent and more integrated. The bidirectional feedback and adjustment mechanisms are present in both contexts, but at EU level they take on a much more visible role, to the extent that the political and policy dimensions are often impossible to separate. This decisional interdependence reflects the inter-twinning of *systematic policy developments* with *pragmatic interventions* motivated by the need to adjust to a shifting political and social situation. This inter-twinning is particularly visible at the level of EU committees and working groups (the so-called "comitology") with inter-institutional prerogatives. Of course, there is nothing new or specific about the fact that the administrative apparatus has a certain influence on political decision-making (especially when it comes to establishing the "filter of feasibility", according to which some alternatives are further taken into account and others are discarded). Any bureaucratic system can influence high-level decisions, by showing its willingness to cooperate in the implementation of "desirable" measures and to delay or block the implementation of "undesirable" measures. However, the EU's case presents more than just dependency of levels: the political and policy-making dimensions are interdependent. Political input is still essential, but it only through the work of the Commission's Directorates General, departments or units that this input is converted into viable policy options. The technocratic / administrative level is responsible for establishing the range of possible policy alternatives and their detailed implementation plan, as well as feasible adjustments in the implementation of current policies.

The work of Commission departments is guided by strategic objectives established by the College of Commissioners, but influences in its turn the formulation of these objectives, through a bottom-up process of policy formulation that is rarely visible at the level of national administrations. A similar process takes place in the EU Council's working committees, in which experts from Member States (many of them governmental experts) try to reach agreement on issues before these are put to vote in the Coreper (the Committee of Permanent Representatives of the Member States). For some of these issues ("point A"), reaching an agreement at the level of the working committees or Coreper is enough: the Council takes note of the agreement and formally validates them, without reopening the discussion. For others, ("point B", with have significant political or financial implications), the Council considers the results obtained at lower levels as a basis for further negotiation between the Ministers of the Member States.

This process has also an inter-institutional dimension: for example, although its role is secondary in relation to the Council or Parliament in legislative or budgetary matters, the Commission may exert a significant influence at the level of working groups and committees. These committees are set up under the Commission's implementing powers provided by the Council (by delegation) and their role is to monitor, assist and in some cases even regulate the process of policy implementation. There are several types of committees, with different powers of intervention, depending on the policy area under consideration: advisory committees (simply provide an opinion that the EC is free to take into account or not), management committees (in case of disagreement with the Commission, the Council may modify the proposed decision by qualified majority) and regulatory committees (in case of disagreement with the Commission, the proposals are returned to the Council and - in some cases - the European Parliament, who may propose amendments or may oppose their adoption).

Thirdly, the main actors in this process (EU institutions, Member States, interest groups, NGOs, companies etc.) have multiple and (to some extent) interchangeable roles¹¹. For instance, as a Commissioner, a politician is bound to represent EU's interests and supranational objectives in relations with third countries and international organisations. At the same time, he or she may be in a position to defend the interests of the Commission in relation to other EU institutions, or the interests of a particular set of policy proposals, which may favor certain Directorates or departments within the corresponding Directorate General.

Even if, once the internal negotiations in the College are finalized, their results are assumed by all Commissioners (according to the principle of collegiate responsibility), it is reasonable to assume that Commissioners may choose to defend particular interests (of certain Member States, interest groups or lobby organisations). The European Commission supports the Union's common position in negotiations with other states or international organizations (for example, in trade agreements), but promotes and defends its own interests in relation to other EU institutions (e.g. the acceptance of parliamentary amendments to EC's legislative proposals). At the same time, the experts appointed by Member States in the committees and Council working groups may act as government officials representing national interests, as "impartial" technocrats or as "European experts, representing Community interests. A clear delineation of these roles may be difficult to draw, as one or the other is activated – or becomes dominant - depending on the context of the decision, the mandate of the working group or even the group dynamics (effects of composition of intra-group interaction). The roles and responsibilities attached to each mandate are codified in laws and administrative provisions. For example, European Commission officials should be characterized by independence, impartiality and exclusive pursuit of Community interests. Each requirement must be further explained, so it can function as a guide of administrative conduct: for instance, independence refers to the absence of any dependency on national authorities, political forces or interest/pressure groups. This implies detailed norms and constraints regarding, among other things, the avoidance of conflicts of interest, the acceptance of gifts while acting in an official capacity and even the extra-professional conduct.

Fourthly, inter-institutional relations confer a much more important role to *informal negotiations and decision-making mechanisms*. Complex bureaucracies can only maintain a reasonable degree of administrative efficiency by developing alternatives to formal procedures.

Informal rules do not seek to replace formal criteria, or create a parallel, underground decision-making system. Rather, they supplement the formal criteria when necessary, filling the procedural gaps, facilitating negotiations and mediating conflicts. In situations where formal and informal rules propose diverging solutions, the latter may prove to be more powerful than the first, as a result of the gradual attachment and commitment built, in time, by the parties involved. For example, although the transition from unanimity to qualified majority in the EU Council for most policy areas has dramatically increased decisional efficiency, the ministers of Member States are still following the informal – and unwritten – rule of trying to reach consensus whenever possible. It is estimated that, since the introduction of qualified majority voting, the Council only votes on about one fourth of the issues on the agenda (the others being adopted without a formal vote, on the basis of unanimous agreement achieved in negotiations at lower levels).

¹¹ Peterson & Bomberg 1997, 2.

The role played by informal or semi-formal mechanisms in inter-institutional cooperation is generally positive: the administrative apparatus seems to be able to find, especially at lower levels of decision, effective ways of facilitating an otherwise slow decisional process and to solve bottlenecks. However, it is interesting to note that these mechanisms are sometimes just an additional obstacle, by virtue of a perverse effect generated by the failure of Member States to coordinate their strategies and by the manipulation of the collective agenda by a small number of decision makers with veto power. A good illustration is provided by the Luxembourg Compromise. Although the qualified majority is the standard voting procedure in the Council, being extended by the Treaty of Lisbon, *inter alia*, to the Common Agricultural Policy, Structural Funds, common industrial policy and cooperation in matters of civil law), unanimity is still required for the adoption of decisions which are considered a matter of important national interests. Sometimes Member States seek to achieve unanimity even in areas where it is not formally required, if one or more Member States have serious objections. This practice is related to an important precedent – the 1965 refusal of France to accept the shift from unanimity to qualified majority for certain EU-level decisions, primarily those relating to the Common Agricultural Policy. Although the gradual introduction of qualified majority in the policy areas where decisions were initially taken by unanimity was provided for by the Treaty of Rome, Charles de Gaulle did not accept the package of reforms proposed by the first President of the Commission, Walter Hallstein, and boycotted the Council's activities for six months. In early 1966, the negotiating team has reached a compromise, whereby a Member State may request, in exceptional circumstances, the continuation of negotiations even after a particular item on the agenda has been put to vote, to the degree that it concerns important national interests. The purpose of this procedural exception was to find a unanimously acceptable solution within a reasonable period of time. Although the Luxembourg Compromise had no legal force, it has created a precedent that influenced not only the informal mechanisms of cooperation within the Council, but also the way formal decision-making procedures are applied. In fact, it created an informal (but effective) veto, which gradually gained in influence and became part of the Community decision-making practice for decades. This way, a *de jure* rule came to be superseded by an *ad hoc de facto* rule imposed by the force of the precedent. How did this happen? Given the fact that *any* Member State had to defend, at one moment or another, certain interests that involved blocking the adoption of certain pieces of legislation, seeking unanimity beyond the provisions of the treaties became standard practice even if, for the Union and for each individual Member State, this involved, in the majority of cases, additional costs and resources. By tacitly supporting the mechanism of the Luxembourg Compromise, Member States have implicitly offered it a quasi-official political validation. The text of the compromise illustrates a situation which seems to offer minor advantages to individual members, while creating lasting disadvantages for *all* members and delaying much-needed reforms in the common agricultural policy, regional development, social policy or education.

Fifthly, the decisional practice at the level of EU institutions suggests a system characterized by "the existence of overlapping competences between multiple levels of government and the interaction of political actors across these levels"¹². The multi-level governance model has emerged, to some extent, in reaction to the dominant perspective in sixth seven and seventh decades of last century, which considered the integration process an extremely complex intergovernmental cooperation mechanism. In contrast, the new model emphasizes the role of local administrations, regional associations, civic

¹² Marks et al 1998, 41.

organizations, working groups and advisory committees. They are all part of a decisional equation whose results they can influence, and most results require cooperation rather than a strict delimitation of responsibilities and powers.

Various organisations active at local, regional or national levels have become „part of political networks, acting jointly with the institutions located at different levels of Community government. The state was forced to accept regional authorities as fully-fledged actors with specific political interests and purposes”. This process was foreshadowed by „the importance given by the Commission to specialized information available the regional level, which establishes a relationship of interdependence of resources between the sub-national and supranational actors”¹³.

As such, decision-making involves the interaction of agents located at different levels and playing different roles in the political system or the civil society. Regional and local public authorities, but also trade unions, socio-professional associations and private companies acquire an important role in this process, which is no longer systematically controlled by a small group of decision makers. This process cannot be adequately described in intergovernmental terms, nor in terms of transnational control of European institutions over the national political agenda. The multi-level character does not entail the mere existence of several plans in which political, social and economic agents manifest themselves at European level, but also the fact that these levels (or „arenas”) are relatively autonomous, albeit interconnected. In other words, sub- and supranational levels can operate relatively independently, there is no central authority to decisively influence their functioning and decision-makers can be involved at several levels simultaneously in this process. The traditional model based on a clearly specified and stable hierarchy of competence in the exercise of authority is replaced with one based on a partial overlap or intersection of responsibilities. Therefore, uni-directional communication along the hierarchical chain is replaced more and more by negotiation, which brings again into attention the problem of defining the appropriate decision-making procedures for the new context - decentralized, flexible, able to accommodate a variety of interests and viewpoints of actors who, although at different levels of authority, are claiming a greater role in political decision making. This process does not necessarily lead to a diminished role of state authorities, but it does lead to redesigning the relations between state and other sub- or supranational actors. This extended decisional perspective recognizes the diversity of interconnected agents, who need to negotiate and reach agreement in order to obtain common benefits. Some authors even speak of a conceptual relocation, of "reassessing the traditional dichotomy between domestic and international policy"¹⁴. The multi-level model of governance is focused on the analysis of the "interactive infrastructure" which conditions the formal and informal decision-making mechanisms. As opposed to the macro-level approach of the inter-governmental perspective, which discusses with priority "historical decisions" and systemic changes, this model assumes the burden of explaining the micro-level decision-making mechanisms, which involve negotiation, feedback and adjustment between different types of decision makers and levels of authority . It remains to be determined whether the multi-level model of governance is proving equally useful in other decision systems analysis, but its relevance for the European context is obvious. Not only the EU's institutional structure, but the EU policies as well are difficult to explain outside this multi-leveled model of interaction.

The characteristics described above do not occur accidentally. They are found in one form or another across the entire EU institutional system. Their influence extends far beyond the bureaucratic / procedural level and concerns the results of decision making

¹³ Awesti 2007, 7.

¹⁴ Bache & Flinders, 2004, 94.

(directives, regulations, decisions, recommendations, and proposals to modify existing legislation). The analysis of EU inter-institutional decision is already the subject of a growing literature. Decision procedures have been targeted as a priority in successive attempts to reform the EU, and the modest results obtained are subject to constant criticism - both from supporters of the European project, who seek a way to attenuate the "democratic deficit" and the bureaucratic inertia and from Euro-skeptics of various political orientations. But beyond the implementation of certain provisions of the treaties mentioned, the decision-making reform was part of a quasi-continuous process, at the political and administrative, formal and informal level. Often, changes at different levels have influenced or conditioned each other: for example, increasing the number (and importance) of common policies resulted in a significant increase in the quantity of legislative acts issued by European institutions and this in turn made required a simplifying and streamlining decision-making. Some changes seem to follow a non-linear development: aggregation of local adjustments made at different levels can have unforeseen consequences that cannot be integrated into a project of voluntary action. A good example is the evolution of the Common Agricultural Policy: the political negotiations and administrative measures had a modest success (following decades of negotiations) in reforming an inefficient system, which favored for decades some Member States over the others. The reform was however facilitated by contextual factors whose influence has not been properly appreciated: the need to open the European market of agricultural products, growing losses generated by protectionist measures and the need to strengthen the Union's position in the negotiation rounds of the World Trade Organisation provided a strong motivation, which brought together social partners and policy makers, better than any political project "imposed" by the Community institutions. Beyond the institutional arrangements found in the treaties or in secondary legislation (regulations, directives, decisions), there is an "decisional infrastructure" based mostly on informal interaction and communication, which facilitates (and in crisis situations or deadlocks may even replace) formal mechanisms. This infrastructure has evolved over time in response to contextual demands related to complex decisions involving a large number of decision makers.

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