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Executive Power and Accountability in the European Union*

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One of the defining characteristics of the EU is the delegation of executive power to supranational actors, notably, the European Commission. Breaking with the general pattern in international cooperation, the member states of the EU in the 1950s chose to confer extensive executive responsibilities on a supranational secretariat, the Commission. Throughout the years, these powers have been a contributing factor in the deepening of European integration, as the Commission has engaged in policy entrepreneurship. Moreover, these powers have been the subject of a long-standing debate in integration studies on the relative autonomy of the Commission from the member states.

However, since the mid-1990s, we have witnessed the emergence of a distinct field of research on executive politics, concerned with issues of delegation, agency, and accountability, as the EU increasingly has been conceptualized as a political system, rather than a case of regional integration. This development took place against the backdrop of a political evolution in Europe that made the study of executive politics increasingly central to the general understanding of EU politics. Whereas the Commission previously had been the only supranational body vested with executive power, the member states on January 1, 1999, conferred exclusive authority over monetary policy to the European Central Bank (ECB), and

* This chapter draws on Tallberg (2006).

from the mid-1990s and onwards set up a growing number of European regulatory agencies. Simultaneously, the political debate about democracy and legitimacy in the EU grew more intense in the late 1990s, raising questions about the accountability and control of the EU's supranational executives.

The term executive power is derived from the classic constitutional framework, where the legislature decides, the executive enacts, and the judiciary adjudicates. While these powers in some political systems are concentrated in the hands of distinct political actors, the EU boasts a more complex division of power, not least as regards the organization of the executive. In the EU, executive power is vested both in the member states, responsible for implementing EU legislation through their own bureaucracies, and in a set of supranational organs, which have been delegated important competences in the formulation and enactment of EU policy. This organization has sometimes been described as a dual executive.

In this chapter, I address exclusively the three main forms of supranational executives in the EU— the Commission, the ECB, and the European agencies. More specifically, I center on the delegation and control of executive power, with a particular focus on implications for issues of accountability. What powers have been delegated and why? What kind of mechanisms are in place to control executive power and why? To what extent does the resulting pattern of delegation and control present an accountability problem? In addressing these questions, I draw on the increasingly voluminous empirical and theoretical literature on this topic. I conclude that executive power in the EU is subject to a variegated pattern of control and accountability. While the Commission and the European agencies operate within relatively tight constraints, the ECB enjoys extensive discretion in the exercise of its powers. Whether or not this pattern should constitute a cause for concern, in terms of democratic accountability, is an issue of debate among alternative normative approaches.

This chapter proceeds in the following steps. In the next section, I describe how issues of delegation, control, and accountability are addressed by positive and normative approaches to executive politics. In the subsequent three sections, I account for the principal patterns and points of contention with regard to the Commission, the ECB, and the European agencies as executive actors. Finally, I conclude by summarize the argument and its verdict on the issue of accountability in EU politics.

Executive Accountability: Positive and Normative Approaches

The extent to which executive actors can be held accountable is a central concern for both rational choice theorists, posing positive questions about delegation and control, and democratic theorists, posing normative questions about accountability and legitimacy.

Whereas principal-agent theory constitutes the dominant approach for analyzing executive politics in the EU, normative democratic theory problematizes whether delegation to non-majoritarian executive institutions is democratically desirable and legitimate.

The strong position of *rational choice institutionalism* in the study of EU executive politics owes much to the import of theories and methods from the literature on legislative-executive relations in American politics. Since the early 1980s, P-A analysis has been the favored theoretical approach of American politics scholars for understanding the delegation of powers by the US Congress to the regulatory agencies of the executive branch, and the autonomy of the latter vis-à-vis their legislative principals. The study of EU politics in general, and executive politics in particular, constitute the contractual paradigm's most recent frontier in political science (for overviews, see Tallberg, 2002; Kassim and Menon, 2003).

The analytical core of P-A theory is the principal-agent relation, which arises whenever one party (principal) delegates certain functions to another party (agent), in the expectation that the agent will act in ways desired by the principal. P-A theory posits that this relationship

is inherently problematic, since what is optimal for the principal is not necessarily optimal for the agent, who may have private interests at heart. Furthermore, principals rarely enjoy full insight into the actions of their agents, which provides the agents with an opportunity to pursue their own interests at the expense of the principals' – to "shirk" in the P-A vocabulary. However, principals are not helpless in the face of agent shirking. Through the establishment of control mechanisms, involving forms of monitoring and sanctioning, principals may induce agents to comply with their wishes.

In the standard application of the P-A model to EU politics, scholars have conceptualized the member states as principals who have delegated certain powers to the supranational institutions and subsequently been confronted with a control problem. The framing of the relationship between states and supranational institutions in these terms has focused the attention of EU scholars on the two issues of central analytical importance in P-A analysis, namely why principals delegate power to agents, and the extent to which agents can take advantage of their discretion to pursue private preferences.

The general answer offered by rational choice institutionalism to the first question is functionalist in orientation. Delegation is explained in terms of the anticipated effects for the delegating party, and is likely to take place when the expected benefits outweigh the expected costs. More specifically, the P-A literature emphasizes a set of transaction-cost reducing motivations for delegation, notably: (a) facilitating credible policy commitments, as delegation to agents insulated from the day-to-day pressure of electoral politics allows politicians to bind themselves to a given policy; (b) reducing information asymmetries, as the creation of institutions and agencies in technical areas of governance gives politicians access to policy-relevant expertise; and (c) improving decision-making efficiency, as agents manage detailed rule-making, thus saving politicians' time and effort for more general policy decisions (see, e.g., McCubbins and Page, 1987; Epstein and O'Halloran, 1999). In the study

of executive politics in the EU, scholars have sought to test whether these reasons for delegation accurately capture the functions conferred on the supranational institutions. Furthermore, rational choice institutionalists have engaged in a debate about the relative explanatory power of alternative logics of delegation, contrasting credibility-based and efficiency-based reasons for delegation.

As an offshoot to this research on the sources of delegation, scholars in recent years have paid increasing attention to the degree of discretion allocated to agents within their delegated powers (Epstein and O'Halloran, 1999; Huber and Shipan, 2002). Discretion is commonly understood as the net of the powers delegated to agents, and the various forms of control mechanisms established by principals (delegated powers – control mechanisms = discretion). All principal-agent relationships are likely to involve some level of agent discretion, since control mechanisms are costly to institute and operate. The question that primarily has motivated P-A theorists is how to explain variation in the degree of discretion, which thus is conceptualized as a question of institutional design. Referring back to the reasons for delegation, this research hypothesizes that the degree of discretion is positively related to the demand for credible commitments and the demand for policy-relevant expertise. Inspired by the work of American politics scholars, students of executive politics have begun to explore the pattern and sources of discretion in the EU delegation.

Shifting to the agency stage, P-A analysis suggests that agent autonomy constitutes an effect of the extent and efficacy of control mechanisms. The general literature offers a set of well-established categorizations of forms of oversight (McCubbins and Schwartz, 1984; McCubbins, Noll, and Weingast, 1987). First, it is common to distinguish between *ex ante* administrative procedures and *ex post* oversight procedures as two complementary forms of control mechanisms. Administrative procedures define the scope of the agent's activity, the legal instruments at its disposal, and the kind of procedures it has to follow. Oversight

procedures, for their part, consist of institutional mechanisms for monitoring agent behavior and sanctioning potential shirking. A second influential distinction is that between “police-patrol” oversight and “fire-alarm” oversight, where the first consists of centralized, active, and direct monitoring on the part of the principal, and the second of decentralized, reactive, and indirect monitoring through parties affected by the agent’s actions. With regard to sanctions, P-A theorists have identified an array of potential instruments, including cutting an agent’s budget, reversing appointments, overriding decisions through new legislation, and revising an agent’s institutional mandate. Drawing on these general categorizations and inventories, students of EU politics have sought to identify the kinds of mechanisms set up by member state principals for controlling their supranational agents, and, on this basis, generated specific hypotheses about the scope for agency and autonomy.

Normative democratic theory challenges positive approaches to executive politics by highlighting the normative implications of delegation from democratically elected governments to non-majoritarian institutions, neither directly accountable to the voters nor to their elected representatives. These are issues that rational choice institutionalists either have neglected or regarded as unproblematic. Normative concerns have received limited attention in the scholarly debate about legislative-executive relations in the US. Similarly, P-A theorists in EU studies have remained wedded to positive questions, even if there is an unstated assumption in the broader literature on European integration that the delegation of power to supranational institutions has been instrumental to the process of European unification, and thus good for Europe.

More specifically, it is the ideals of the model of competitive or majoritarian democracy that present the most interesting challenge to the positive perspective of P-A theory. Highly simplified, this model of democracy stresses the opportunities for citizens to choose between competing political elites with alternative agendas (Schumpeter, 1943; Dahl, 1967). It is this

model of democracy that in different versions informs the design of representative government in national political systems. In a strict interpretation of this theory, delegation to non-majoritarian institutions risks undermining desirable principles of democratic governance. First, the act of delegation in itself means that part of the authority to govern is shifted from the realm of democratic contestation to the realm of technocratic governance, especially if this power is difficult to effectively retrieve. Second, the mechanisms for holding non-majoritarian institutions democratically accountable are by definition absent or underdeveloped. And third, the political room for maneuver enjoyed by non-majoritarian institutions may give rise to autonomous actions contrary to the interests of the democratic representatives who empowered them.

While not unique to the EU, these problems of democratic legitimacy have received particular attention in Europe, where the delegation of power to supranational institutions and agencies often is considered one component of the EU's "democratic deficit" (e.g., Lord, 1998; Schmitter, 2000; Karlsson, 2001; Arnall and Wincott, 2003). Problems typically mentioned include technocratic decision-making, lack of transparency, insufficient public participation, exploitation of supranational discretion, and inadequate mechanisms of control and accountability. This is a critique that has been directed at all three main forms of supranational executive power in the EU. Furthermore, this critique most often comes attached with specific prescriptions for how to address this part of the democratic deficit, with proponents of competitive or majoritarian democracy generally endorsing a parliamentarization of the EU, through an enhanced role of the European Parliament (EP) in the formulation of legislation, the appointment of the Commission, and the control of all supranational executives.

Whereas the large majority of rational choice institutionalists have remained silent in this normative debate, some have taken a stance in defense of non-majoritarian institutions

(Majone, 1998; Moravcsik, 2002). These theorists have emphasized the virtues of delegation as government *for* the people, rather than its limits in terms of government *by* the people. First, they stress that delegation to non-majoritarian institutions is normatively justifiable since it tends to produce better outcomes for citizens, by raising the efficiency of decision-making, securing political rights against majority rule, and offsetting imperfections in majoritarian institutions. Second, these theorists point out that delegation to supranational institutions mainly takes place in those areas that are excluded from democratic control in most national political systems as well, and thus serves to replace the increasingly ineffective efforts of national bureaucrats. Third and finally, they emphasize that non-majoritarian institutions in fact are subject to forms of control, even if these do not involve direct democratic accountability. Foremost among these are procedural requirements, which offer a source of legitimacy.

In the following three sections of this chapter, I address the dominant forms of supranational executive power in the EU. I describe the powers delegated to the Commission, the ECB, and the European agencies, the mechanisms available for controlling these institutions, and the scholarly debate between rational choice institutionalists and normative democratic theorists on the extent to which gaps in control generate problems of accountability.

The European Commission as EU Executive

In an international, comparative perspective, the Commission enjoys more far-reaching executive powers than any other administration or secretariat serving international organizations. However, EU governments have been careful to match the delegation of powers with measures for controlling the Commission. While not accountable to the European electorate directly, the Commission is broadly accountable to the European

Parliament and the member governments, with relatively limited possibilities of pursuing its own political agendas. Whether increased accountability is best served through a politicization of the Commission or tighter procedural requirements is a subject of debate among EU scholars.

Delegation to the Commission

Through the treaties of the EU, the member states have delegated power to the Commission in three principal areas: agenda setting, enforcement, and implementation. As agenda setter, the Commission enjoys exclusive authority to present proposals for new legislation in the first pillar of the EU cooperation, comprising areas such as internal market policy, environmental policy, social policy, regional policy, and agricultural policy. In addition, the Commission possesses the power to present proposals, next to the member states, in the second and third pillars of EU cooperation, which consist of foreign and security policy and justice and home affairs policy, respectively. As guardian of the treaties, the Commission has been granted the power to monitor member state compliance with EU rules, and to initiate infringement proceedings against states that violate these rules, with the option of eventually imposing sanctions in cooperation with the European Court of Justice. Finally, in the implementation of EU policies, the Commission is vested with the authority to adopt implementing regulations within the framework of legislation adopted by the Council and the Parliament; to manage EU spending programs in areas such as agriculture, regional aid, and research; and to execute EU law directly in areas such as competition policy and external trade policy.

Member governments' delegation of executive power to the Commission has generated extensive interest among EU scholars, who have sought to identify the reasons for delegation, the specific functions delegated, and the degree of discretion enjoyed by the Commission within these powers. P-A analysis has constituted the main approach in this research, which

may be divided into two strands, where the first addresses the delegation of treaty-based powers and the second the delegation of implementation powers to the Commission through secondary legislation.

The literature in the first category testifies to a close fit between the functionalist predictions of rational choice institutionalism and the actual powers delegated to the Commission in the treaties. The observation of a close match was first forwarded by Pollack (1997), and this conclusion subsequently has been strengthened by research on the negotiations of the founding treaties (Rittberger, 2001), as well as in-depth studies of the Commission's treaty-based powers of agenda setting, enforcement, and implementation.

First, scholars have argued convincingly in favor of a rationalist interpretation of the Commission's unusual agenda setting role, stressing either the logic of credible commitments or the need to reduce information asymmetries (Moravcsik, 1998; Majone, 2001; Pollack, 2003). According to the first interpretation, most consistent with the data, the member states pre-committed themselves to a particular agenda of supranational integration, when delegating a monopoly on formal agenda setting to the Commission. According to the second interpretation, the conferral of an agenda-setting role on the Commission helps to reduce technical information deficits, by allowing the member states to profit from the policy expertise of the Commission in the formulation of EU legislation.

Second, research on the Commission's function as guardian of the treaties strongly suggests that delegation in this area can be adequately explained by the logic of credible commitments (Tallberg, 2003). The discretion accorded to the Commission is exceedingly extensive, since EU governments effectively have abstained from establishing means of controlling this institution in the enforcement of state compliance. Furthermore, historical data testify that EU governments indeed have been motivated by the desire to safeguard their commitments, when delegating enforcement powers to the Commission.

Third, research into the delegation of issue-specific implementation powers through the treaties suggests that the logic of credible commitments is at play here as well (Pollack, 2003). In the particular areas where member governments have chosen to delegate far-reaching implementation powers to the Commission, and allowed the supranational executive extensive discretion, such as competition policy and external trade policy, the Commission's tasks typically are designed to safeguard state commitments.

In the second strand of research on delegation, scholars examine the conferral of implementation powers to the Commission through secondary legislation. The questions that drive this work is why the Council and the Parliament delegate implementation authority to the Commission in some issue areas, but not others, and why this authority tends to be accompanied with varying levels of discretion for the Commission. Drawing on the work of P-A theorists in the US context, EU scholars have developed and tested hypotheses about executive delegation in the Europe (Franchino, 2002, 2007). The findings indicate that variation in the amount of delegation and discretion depend on several factors: the level of conflict within the Council, the decision rule operating in the Council, the degree of conflict between the Council and the Commission, and the complexity of the policy area. Formulated in terms of rationales of delegation, this research suggests that the delegation of implementation authority to the Commission through secondary legislation is motivated both by a demand for efficient policy-making and by a demand for credible-commitment devices.

Controlling the Commission

What, then, are the mechanisms by which EU governments can control the Commission, and to what extent does the Commission's execution of these powers bear evidence of gaps in control and accountability? Pollack (1997, 2003) has presented the most comprehensive inventory of control mechanisms, whereas other researchers have offered in-depth treatments

of the design, evolution, or use of specific control mechanisms (e.g., Gabel and Hix, 2002; Tallberg, 2003). Expressed in P-A terms, EU governments have established a system of police-patrol oversight through the comitology committees that supervise Commission implementation, as well as a system of fire-alarm oversight in the shape of institutional checks, administrative law, and judicial review. The sanctions available to the member states, too, are familiar from legislative-executive relations in American politics, and include powers of appointment and censure, the possibility of cutting the Commission's budget, the right to overrule Commission decisions through new legislation, the option of non-compliance, and the ultimate possibility of revising the Commission's institutional mandate at the next review of the EU treaties.

The design of the system of comitology committees is a topic that has generated an impressive amount of research. Part of the explanation for the interest in this relatively arcane part of EU politics is the presence of an alternative account to the claims advanced by rational choice institutionalists. In two frequently cited articles, Christian Joerges and Jürgen Neyer (1997a, 1997b) argue that the comitology committees, rather than constituting control mechanisms for member governments, provide fora for national and supranational experts to meet, deliberate, and engage in joint problem solving. Joerges and Neyer submit that deliberative problem-solving is the empirically most accurate description of the actual workings of comitology, even if these committees originally may have been set up to secure governments a voice in the adoption of EU regulation. Rational choice institutionalists have responded to this challenge by investigating empirically the Council's choice of comitology procedure, generally concluding that member governments carefully calculate the likely consequences of alternative comitology procedures, and thus tend to perceive this system as a control mechanism (Dogan, 1997; Franchino, 2000; Pollack, 2003).

The research on supranational agency has been driven by the question of when, where, and how the EU's supranational institutions are capable of implementing their favored political agendas. This literature stretches across all three main functions of the Commission, and across a range of issue areas. An overall conclusion in this research is that independent influence are more likely to appear where the Commission enjoys greater degrees of discretion within its delegated powers. Furthermore, this literature strongly suggests that the Commission is relatively more constrained than the European Court of Justice (ECJ), but that the close cooperation of this institution often features as a key component in those cases where the Commission succeeds in pursuing a supranational agenda unsupported by member governments (Schmidt, 2000; Tallberg, 2000; Pollack, 2003). These are findings that contrast with the literature on the Commission as policy entrepreneur (Sandholtz and Zysman, 1989; Cram 1997), which was considerably more optimistic about the Commission's influence in EU politics.

Empirical studies of the Commission's capacity to exploit its formal agenda-setting power for private purposes indicate that the requirement of member state approval in the Council (as well as the approval of the Parliament in many cases) constitutes a serious constraint that highly limits the scope for independent supranational influence (Pollack, 2003: chs. 5-6). Rationally anticipating the risk of having its legislative proposals dismissed by the Council, the Commission tends to present proposals with a high likelihood of adoption. Research on the enforcement function of the Commission shows how the guardian of the treaties, in tandem with the ECJ, has been able to exploit its discretion for purposes of strengthening the EU's enforcement regime (Tallberg, 2000; 2003). Finally, research on the Commission's powers of implementation points to relatively greater scope for supranational influence, but also to variation across issue areas. In the field of external trade, the Commission's mandate is matched with state control through the Council's 133 Committee,

reducing the scope for autonomous action (Meunier and Nicolaïdis, 1999; Pollack, 2003: ch. 5). In the area of competition policy, there is relatively greater scope for agency and influence, often secured with the benign help of the ECJ (Schmidt, 1998, 2000; Pollack, 2003: ch. 5).

A Problem of Accountability?

This empirical record on delegation and control has generated a vigorous debate about the normative dimension of the Commission as executive actor. Proponents of majoritarian democracy at the European level emphasize the negative implications of delegation to the Commission, the low legitimacy of this supranational executive, and the virtues of a parliamentarization of the Commission and the EU (e.g., Dehousse, 1995; Mancini, 1998; McKay, 1999). This argument tends to be developed through a comparison with national political systems, which yields the conclusion that delegation to the Commission has created an executive that possesses exceptional control over the political agenda, and is relieved of standard forms of democratic accountability. The placing of a monopoly on formal agenda setting in the hands of bureaucracy means that citizens are deprived of the possibility to influence the political agenda of the EU executive through the normal route of electoral contestation, involving competing elites and alternative political agendas. By the same token, the procedures for appointing and dismissing the Commission effectively entail that this executive cannot be voted out of office, should citizens be disappointed with its performance.

This analysis translates into a distinct normative position on the democratization of the EU, which is seen as best achieved through a parliamentarization of the Union. In the political debate, this standpoint is generally associated with a federalist vision of the EU. The most important components of this reform alternative are the development of the Parliament into a full-blown co-legislator next to the Council in a bicameral legislative structure, and the

transformation of the Commission into a true European government, appointed by and accountable to the Parliament.

The second distinct position in the normative debate about the Commission's executive power defends the status quo and cautions against an increasing politicization and parliamentarization of the Commission. The most consistent advocate of this perspective is Majone (1998, 2002), who warns that the progressive parliamentarization of the Commission risks compromising its credibility as an independent regulator, without necessarily enhancing its democratic legitimacy (see also Moravcsik, 2002). If EU governments delegate powers to the Commission mainly in order to secure credible policy commitments, then the subjection of the Commission to stronger parliamentary control would risk undoing the virtues of this arrangement. No longer insulated from political pressure and majoritarian swings, the Commission would be unable to function as an impartial long-term guarantor of collective decisions, with negative effects for the credibility and consistency of EU policy.

Rather than strengthening the Commission's democratic accountability through the development of a European parliamentary system, representatives of this normative position propose that greater recognition be given to the legitimacy that flows from appropriate procedural requirements (Majone, 1998). Procedural legitimacy, in this context, requires that powers be delegated to the Commission through democratic procedures, that the leadership of the Commission is selected by elected politicians, that the Commission's decision-making must follow well-defined procedures, and that its decisions must be justified and open to review.

The European Central Bank as EU Executive

The establishment of the ECB as the joint central bank of the member states in the euro zone constitutes an exceptional example of monetary delegation. Through the Maastricht Treaty,

the member states delegated the execution of monetary policy in the Euro-zone to the Governing Council of the ECB. In comparison to other executive actors in the EU, as well as national central banks, the ECB enjoys remarkable independence. While motivated by the desire to achieve a stable, non-inflationary monetary policy, the absence of direct or indirect control over the ECB presents a potential accountability problem.

To date, empirical research on this topic mainly has been preoccupied with the “why” question. How can we explain that states normally protective of national sovereignty agreed to delegate exclusive authority of monetary policy to a supranational central bank, simultaneously abstaining from the most conventional means of control? By contrast, the other prominent question in research on delegation – the degree of control – so far has not featured as a topic, even if the ECB’s conduct of monetary policy has been the subject of studies by economists. This absence of research on agency is best explained by the perception of ECB shirking as a non-issue, given the bank’s own preference in favor of price stability – the target chosen by its principals for the conduct of monetary policy.

Existing research on EU governments’ motives for delegating executive power in monetary affairs to the ECB features two alternative answers. Rational choice institutionalists typically present the establishment and design of the ECB as motivated by the functional logic of credible commitments, and support this argument with data on the negotiation of the Maastricht Treaty (Moravcsik, 1998; Majone, 2000). By placing the power over monetary policy in the hands of an independent central bank, and charging this bank with the objective of securing price stability, EU governments committed themselves to a non-inflationary monetary policy.

The alternative interpretation, informed by sociological institutionalism, has been most pointedly expressed by Kathleen McNamara (2002), who questions the functional rationale of delegation. Instead, the ECB is viewed as the latest expression of the diffusion across

industrialized countries of the independent central bank as an organizational model (see, also, Verdun, 1999; Marcussen, 2000). In McNamara's (2002: 48) account, "governments choose to delegate not because of narrow functional benefits but rather because delegation has important legitimising or symbolic properties which render it attractive in times of uncertainty or economic distress. The spread of central bank independence should be seen as a fundamentally social and political phenomenon, rooted in the logic of organizational mimicry and global norms of neoliberal governance."

However, the area of research on the ECB as executive actor that boasts the liveliest scholarly debate addresses the question of democratic control and accountability. The ECB is effectively relieved of most of the control mechanisms normally put in place to hold executive actors accountable to their principals. The members of the Executive Board serve the longest terms of EU civil servants, and these terms are non-renewable. The ECB deliberates in secret, and the voting records and transcripts of its meetings are not made public. The ECB is not accountable to any of the other EU institutions, but has agreed to testify regularly before the European Parliament. The Maastricht Treaty identifies price stability as the sole objective of the ECB, but the Bank enjoys complete discretion in formulating monetary policy to meet this goal. Finally, the statutes of the Bank can only be revised with the unanimous agreement of all member states on a new treaty, and subsequent ratification in all countries.

The point of contention in the scholarly debate is the appropriateness of such remarkable independence in view of democratic theory (for analyses of this debate, see de Haan and Eijffinger, 2000; Elgie, 2002; Jabko, 2003). Critics of the existing arrangement typically highlight the lack of transparency in ECB decision-making, and the lack of accountability vis-à-vis both member governments and the European Parliament (e.g., Verdun, 1998; Berman and McNamara, 1999; Buiters, 1999). EU governments in the negotiation of the statutes allegedly went further than necessary in the crafting of the Bank's

independence. Even compared to other independent central banks, the ECB lacks in democratic accountability. Neither the Federal Reserve nor the Bank of England, for instance, keep the records of their proceedings permanently secret, or are protected by such demanding conditions for the revision of their statutes.

Defenders of the ECB's independence typically stress the rationale of this arrangement in terms of maintaining the credibility of the bank and its capacity to function as the impartial guarantor of the public's long-term interest, as well as the mechanisms of transparency and accountability that do exist (e.g., Majone, 1998; Issing, 1999). The legitimacy of the ECB, in this view, is not primarily derived from the democratic properties of its decision-making procedures, but from its capacity to fulfill the monetary policy objectives set by member governments when founding the Bank. Furthermore, defenders emphasize how the ECB in practice has strengthened its accountability and transparency beyond what the treaty requires, by appearing before the Parliament, and by publishing information on monetary policy.

The European Agencies as EU Executives

The establishment of European agencies is often described as one of the most important developments in EU executive politics since 1990. Whereas the first of these agencies were set up already in the mid-1970s, it was during the 1990s and early 2000s that the European agencies truly emerged as new actors on the EU executive scene. Between 1990 and 2008, the EU established 22 regulatory agencies, bringing the total number of agencies within the EU's first pillar of cooperation up to 24. In addition, since the late 1990s, the EU has created three agencies in the second pillar of foreign and security policy, three agencies in the third pillar of police and judicial cooperation, and six specific executive agencies to manage Community programs. The large-scale establishment of European agencies raises a set of important questions for students of executive politics. The areas that so far have been subject to the most

detailed work are the sources of the new wave of agency creation, as well as the design of these agencies. By contrast, the operation of the agencies, including questions of autonomy and control, has received more limited attention.

Research on the political causes behind the establishment of the new agencies emphasizes the role of the Commission in promoting this development, and member states' acceptance of this initiative after having secured intergovernmental control of the new mini-executives (Everson, 1995; Dehousse, 1997; Kelemen, 2002). In this account, the EU's internal market initiative created a demand for regulatory activity that the Commission, with its limited staff, was hard-pressed to supply on its own. The creation of independent agencies constituted a solution that met the Commission's dual objectives of expanding the EU's governing capacity and off-loading some of the Commission's highly technical and resource-intensive regulatory activities.

Studies of agency design demonstrate that the powers delegated, as well as the control mechanisms established, vary extensively among the different European agencies (Majone, 1997; Everson et al., 2001). The agencies within the first pillar of EU cooperation fall into multiple categories, depending on the nature of their responsibilities: providing services to industries, gathering and disseminating information, promoting cooperation between industries and trade unions, or performing specific executive tasks for the EU. Likewise, control mechanisms differ across the agencies, with variation in funding arrangements, administrative procedures, and oversight mechanisms. Some see the absence of a one-size-fits-all institutional structure as preliminary evidence that these agencies have been designed with specific functional benefits in mind (Pollack, 2003: 396).

The European agencies, too, have been the topic of a normative debate, in this case about the democratic appropriateness of delegating executive power to independent agencies staffed with experts and unaccountable to the electorate. Critics of the delegation of

regulatory tasks to European agencies typically express concern about the speed and extent of this development, as well as the little thought that allegedly has been given to the democratic control of these agencies. As one leading theorist of democracy at the European level puts it, “these emerging patterns of guardianship could represent a rather considerable future hazard for Euro-democratization” (Schmitter, 2000: 88).

Rational choice institutionalists tend to perceive of the democratic credentials of these agencies as less important, given the functional benefits they promise. Furthermore, they emphasize that independent regulatory agencies in the US successfully derive legitimacy from the democratic statutes through which they are created, the procedures they most follow in their activities, and the mechanisms of ex post control available to the legislature (Everson, 1995; Majone, 1998). To the extent that such well-designed instruments of procedural accountability could be fashioned with respect to the European agencies, delegation of executive power to these mini-executives should be considered equally legitimate, according to this argument.

Conclusion

This chapter suggests that executive power in the EU is neither in the hands of runaway bureaucrats, independent from and unaccountable to the member states and their citizens, nor tightly controlled through extensive means of oversight. Rather, this chapter points to a variegated pattern of delegation and control, with differences both across and within institutions. The ECB is by far the most independent executive actor in the EU, whereas the Commission and the European agencies are subject to more elaborate control arrangements. Moreover, the latter two present variation in the form and degree of control, depending on the specific functions they execute.

Whether this pattern of delegation and control of executive power poses a problem of accountability is a question of standards – in at least three ways. First, the empirical variation in control across executive actors and functions precludes a unified verdict. Whereas the Parliament’s growing control of the Commission is real and constitutes a source of gradual parliamentarization of the EU, the ECB is far removed from all forms of direct control and accountability. Second, the assessment depends on the point of comparison. The ECB is more independent than any other EU institution, but only marginally more autonomous than national central banks. Likewise, the Commission is least controlled when acting as guardian of the treaties or executing competition policy – two areas where the judicial and executive branches at the national level typically enjoy extensive autonomy as well. Third, and most profoundly, alternative democratic theories yield different answers. As the review of ongoing debates on the Commission, the ECB, and the European agencies demonstrates, analysts arrive at radically different conclusions on the nature of executive accountability in the EU, depending on the normative democratic perspectives they espouse.

Proponents of strong mechanisms of accountability typically find existing executive arrangements highly unsatisfactory. Not only are the EU’s executive institutions to varying extents removed from effective control and accountability, but the mechanisms that do exist also tend to be overrated. In this view, the parliamentary oversight of the Commission, the transparency policy of the ECB, the statutes governing the European agencies, and the general threat of treaty revision all serve to create an illusion of accountability, when, in practice, these institutions only can be held accountable for their actions and decisions with great difficulty, if at all. Defenders of the existing order, by contrast, find the executive arrangements in place broadly acceptable in terms of accountability. The executive institutions of the EU have been established through democratic decisions, are subject to various forms of oversight, and can at any point have their powers retrieved by the member

states. Moreover, it would be wrong, in this view, to apply more stringent standards to executive arrangements at the EU level, than we do to executive arrangements at the national level. And, finally, they suggest that we must recognize the potential trade-off between accountability and other central values, such as effectiveness, that we would want to see furthered in and through the EU institutions.

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