
Debating European Governance: An Institutionalist Assessment From The Viewpoint Of Political Economy And Fiscal Sociology

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1. Introduction

Following the failure of the constitutional project, the current state of European integration is informed by the need for implementing adequate governance structures that fit the enlarged European Union. In accounting for the dimensions of democratic participation, fiscal structures and state capacity, the matter of governance thus ranges among the most important topics of European integration. Indeed, it is safe to argue that institutional entrepreneurship in the formation of governance mechanisms will continuously shape the European policy agenda, as indicated by the German Chancellor's recent assessment of the German EU Presidency1. Yet the question remains, which types of strategic frameworks are actually available for pursuing these efforts. This hints at the decisive reform proposal of the Prodi Commission: the White Paper on European Governance. Published in 2001, it discusses major aspects of institutional reform in an enlarged Union2. Originally, it had been perceived as a statement of the Commission from the perspective of constitutional design, meant to advance the implementation of a European Constitution. However, it also provides a guideline for assessing the notion of governance as a strategic device in the institution-building efforts European integration is based upon. These aspects of building, reforming and transforming institutional frameworks have been highlighted most promisingly in the context of the various strands of institutionalist political economy. Its current revival also affects the research perspective of fiscal sociology. It explores the interdependence of states and markets as a reflection of exchange processes in the political-economic system, thus claiming that state activity is not to be viewed in isolation from society3. The state, its regulatory dynamics, its governance structures, and its fiscal profile can be considered as major research

2. European Governance As A Strategic Perspective On Institutional Reform

The notion of governance has evolved as a major element in the discourse on the prospects of European integration. As such, the matter of European governance designates controversies on the adequate institutional underpinnings of the integration process, framed by attempts to legitimise certain integration strategies and de-legitimise others. The corresponding role of discourse in political and economic change has been outlined most prominently in the sociological works of Pierre Bourdieu’s post-structuralist approach to habitus. According to Bourdieu, the set of possible discourses serves as an institutional constraint on the full scale of hypothetical options and possibilities, thus channelling strategic efforts for promoting change processes into distinct directions. Accordingly, specific discourses may be said to structure the political domain in a paradigmatic manner, following the logic of an inclusion and exclusion of certain positions in the array of legitimate arguments. It is this characterisation of discourses, which informs a distinct discursive strand in the institutionalist line of reasoning in sociology and political science. It highlights the discursive dimension of institutions in shaping perceptions and understandings which are underly the diverse orientations of public policy. Thus, discursive institutionalism addresses those discourses, which shape the selective communication of ideas about legitimate political action.

Understanding the conceptual implications of the notion of governance, however, requires some specified elaboration. Governance as a topic of discourses on the reform of government and administration is rooted in the perception of a declining state capacity that is said to result from a fiscal crisis of the state in OECD economies since the 1980s, as expressed by the massive increases of budget deficits and public debt, also informing the debate on the policy impact of globalisation. Accordingly, the fiscal structure of the public budget reflects the substance of governance mechanisms in a political-economic system. However, governance involves not only the public sector, but also the private sector and the civil society as interactive components. Accordingly, form a governance perspective, public goods may be approached as multi-actor products, for various actors apart from the state are involved in coordinating their provision, in particular coming from the private business sector and the organisations of civil society.


In contrast to the notion of government with its hierarchical connotations, governance addresses reflexive self-organisation and rule-based, decentral steering capacities in the policy domain. Thus, the notion of governance differs from concepts of "political steering" that are the hallmark of an actor centered approach to policy-making. Indeed, governance is the key concept of an institutionalist perspective that deals with regulatory structures combining public and private, hierarchical and network forms of action coordination. Moreover, in terms of its concern with both administrative efficiency and democratic legitimacy, governance is perceived as a cooperative steering approach that should allow for participation, transparency, efficiency and responsibility, quite in accordance with rule-guided procedures that have become prominent in discussions on the reform of government and administration under the moniker of "good governance". Thus, the notion of governance addresses the organisational conditions for reforming procedures of policy-making in government and administration on the basis of democratic principles, yet it is also concerned with the institutional inclusion of civil society and private sector in the interactive formulation and implementation of public policy.

These considerations provide the background for the Prodi Commission's White Paper on "European Governance", published on 25 July 2001. Its four chapters deal with reasons for a reform of the system of governance in the European Union, the principles of good governance, and distinct proposals for change that address the policy-related matter of involvement, regulation and delivery as well as the role of global governance as arguments for refocussing policies and institutions in a comprehensive reform process. In this context, the Commission addresses the notion of governance in agreement with established interpretations from the discourse on reform strategies in government and administration, applied to the matter of European integration: "Goverance" means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence. These principles of good governance represent the conceptual core of the Commission's reform proposals and the underlying strategic outlook on the role of the state in the process of European integration. This exposed status of the notion of good governance is also prevalent in the presentation of the key concerns of the White Paper that are presented in its Executive Summary. Right from the outset, the White Paper argues that the complexity of policy formulation and implementation in the European Union is not adequately met by the established institutional set of governance structures and processes, thus contributing to a deepening crisis of legitimacy in its citizenry. The corresponding strategic outlook is characterised as follows: "Many people are losing confidence in a poorly understood and complex system to deliver the policies that they want. The Union is often seen as remote and at the same time too intrusive. (...) The White Paper proposes opening up the policy-making process to get more people and organisations involved in shaping and delivering EU policy. It promotes greater openness, accountability and responsibility for all those involved."

By explicitly addressing a comprehensive array of institutions – involving central government, regions, cities, and civil society – the White Paper underlines an argument that perceives governance in a multi-actor and multi-level policy context. With regard to the resulting proposals for change, then, this orientation towards an institutional setting of multi-level governance that should contain a wider sphere of interactions with civil society is accompanied by an emphasis on the need for both legislative and non-legislative instruments. This perspective on governance as an institutional process is presented in terms of a renewal of the Community method of policy-making, which implies a flexibilisation of the separation of legislative and executive powers between Commission, Council and Parliament: "The Union must renew the Community method by following a less top-down approach and complementing its policy tools more effectively with non-legislative instruments". Accordingly, the flexible correspondence of governance profiles with the institutional mechanisms of deliberative democracy is taken to the fore. In particular, this aspect of public discourse and civil society involvement in the actual terrain of policy-making is reflected by the measures that are specified in the proposals for change. They involve measures of e-Governance provided by the Commission, accompanied by measures that should support interactions with regional and local governments as well as with organisations of civil society. Recommended means are multi-level dialogues among regional, national and Community levels in the policy process, local flexibility in implementing Community legislation, and the standardisation of more transparent consultation procedures, to be accompanied by improvements in the...
preparation of policy results through diverse policy tools, simplified legal rules, more transparent external advice, and improved mechanisms for enforcement and regulation.\(^\text{20}\)

Moreover, well in addition to the matter of governance in terms of an institutional reform of policy processes, the White Paper refers to the matter of global governance in combination with the notion of good governance, interpreting both as concepts for a more effective international dialogue with governmental and non-governmental actors: "The Union should seek to apply the principles of good governance to its global responsibilities. It should aim to boost the effectiveness and enforcement powers of international institutions."\(^\text{21}\) This strategic orientation towards the international position of the EU is paralleled by a concern with refocused institutions in the division of responsibilities between Commission, Council and Parliament that should allow for increased policy coherence in accordance with established long-term objectives.\(^\text{22}\) The latter aspect points to the projected renewal of the Community method as a key concern of the reform of the European system of governance, highlighting a separation of powers in which the European Commission makes specific legislative and policy proposals in its function as guardian of the Treaties, who represents the Community in international negotiations; whereas, fundamental legislative and budgetary acts are adopted by the Council of Ministers as representative of the Member States and the European Parliament as representative of the citizens. While the execution of policy is entrusted to the Commission and national authorities, the European Court of Justice enforces the rule of law.\(^\text{23}\)

This leads to the question of the Commission’s perception of governance as a conceptual framework that should inform the reform of the institutional architecture of the European Union. According to the White Paper, the five principles of openness, participation, accountability, effectiveness and coherence are singled out as factors that underpin good governance and the changes proposed for the institutional reform of policy-making in the European Union, promoting democracy and the rule of law in the Union’s setting of multi-level governance. Openness points to the matter of transparency in the formulation and communication of the various policies, paralleled by need for comprehensive participation in an inclusive mode of policy-making. Accountability then shapes the roles of EU institutions as well as national and regional governments and other participating actors in the legislative and executive processes, thus contributing both to the effectiveness of policies and the coherence of these policies and corresponding action in the complex setting of a European Union its enlargement.\(^\text{24}\) Moreover, these principles of good governance are said to reinforce decisive policy-related principles that result from the interpretation of the Treaties, namely proportionality and subsidiarity. They highlight the choice concerning the level at which policy action is actually to be taken as well as the selection of adequate instruments. In conclusion, due to the increasing complexity of the Union’s policy agenda regarding both internal and external affairs, the corresponding mode of governance is need of a systematic adaptation towards more flexibility in practice: “This means that the linear model of dispensing policies from above must be replaced by a virtuous circle, based on feedback, networks and involvement from policy creation to implementation at all levels.”\(^\text{25}\) With these concerns for civil society participation, then, the White Paper spells out specific proposals for change that need to be translated into detailed reform measures.

As put forward in the Commission’s White Paper, the proposals for change regarding the reform of the institutional foundations of policy-making address four distinct points: first, the problems of participation and transparency as key concerns of the governance approach; second, the policy-related aspects of regulation and delivery that pinpoint the public good quality of policy-making; third, the external dimension of the reform process with regard to the matter of global governance; fourth, the strategic orientation of policy-reform and institutional change for the institutional matrix underlying European governance. Thus, even with regard to the discursive structuration of these proposals, the substantial comprehensiveness of the notion of governance, as taken to the fore by the Commission, becomes obvious. It ranges from democratic participation and deliberation over administrative efficiency to global governance. However, while that lack of conceptual specificity may reflect the multi-faceted character of the subject under consideration, it may also promote the realisation of contradictory interpretations.

Regarding the first aspect of an improved involvement of various actors in the process of policy-making, the argumentation of the White Paper takes its point of departure in references to the indispensable role of public debate, involving access to information as a requirement for the participation in communication among actors in the general public. At this point, the Commission is primarily viewed as a provider of knowledge and moderator of knowledge networks, based on information technology in terms of e-Governance.\(^\text{26}\) Moreover, reflecting the

\(^{20}\) Ibid., p. 4-5.
\(^{21}\) Ibid., p. 5.
\(^{22}\) Ibid., p. 6.
\(^{23}\) Ibid., p. 8.
\(^{24}\) Ibid., p. 10.
\(^{25}\) Ibid., p. 11.
knowledge-related complexity of multi-level governance, the local and regional level of democratic participation and government activity should be strengthened, paralleling national involvement under conditions of increased flexibility and coherence. This should involve an institutionalised dialogue with European and national associations of regional and local governments, including the Committee of the Regions, as well as by the experimental launching of target-based contracts in the implementation of EU policies. In addition to that, the Commission emphasises the outstanding role of civil society in voicing citizen preferences by promoting structured feedback channels and in delivering collective goods that contribute to meeting these preferences. In this line of reasoning, then, the domain of civil society should include trade unions and employer organisations, from a neo-corporatist perspective actually denoted as social partners, who can reach binding agreements that may be turned into Community law, following the consultation mechanism of the EU platform of social dialogue. Moreover, nongovernmental organisations, professional associations, charities, grass-roots organisations, local and municipal organisations, yet also churches and religious communities are mentioned as constitutive components of civil society.

The advocacy of an inclusion of the organisations of civil society in the communication and deliberation networks of European policy making is combined with a hint at the procedural responsibilities that coincide with participatory rights. In particular, the aspects of accountability and openness are mentioned with regard to the possibility of governance failure due to the sclerosis of exclusive networks. As in the case of participatory strategies, technological means of e-Governance are outlined as levers of institutional change, in this case through supplying databases that should assist in the reorientation of the internal structures of civil society organisations towards the principles of good governance. Moreover, the Economic and Social Committee is singled out as an institutional actor that should facilitate corresponding patterns of responsibility — while it is implicitly portrayed as an arena for producer-related interest groups. Indeed, the order of listing the various participants of that Committee speaks for itself, as the White Paper enumerates: “representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.” Evidently, the potential tension between the interests of both the latter groups and all of the former is not considered to be relevant for further scrutiny.

In agreement with these considerations, the Commission takes up the matter of consultation as a feature of policy deliberation. Beyond the confines of democratic dialogue with civil society organisations, the use of expert knowledge is taken to the fore as a major issue, which is also of concern for the European Parliament and its committees. At this point, the institutional advantage of a “reinforced culture of consultation and dialogue” is highlighted. Yet the lack of transparency and openness that is potentially related with these network-based modes of European policy making is said to require counter-measures like public reviews of consultative procedures, accompanied by a code of conduct with minimum consultation standards that could even prepare the ground for partnership agreements between the Commission and civil society organisations, combining reform efforts in external and internal governance dimensions. All of this points to the impact of issue-related networks in the domain of European policy making, which need to become more accessible for the general public.

The second line of reasoning that is associated with the White Paper’s proposals for change highlights the need for improving the implementation of policies, that is, the corresponding modes of regulation and their actual delivery. The underlying argument suggests that EU policies and legislation are getting increasingly complex, thus slowing down the legislative process. Accordingly, policy execution by the Commission needs more attention, reflecting an appreciation of expert advice in informing these policies. Thus, a more efficient mode of policy-related regulation is envisaged, combining effective decision-making with differentiated policy instruments. These need to account for aspects like the relationship between formal rules and non-binding policy tools such as recommendations, guidelines, and self-regulation. Additionally, flexible instruments like framework directives are appreciated together with the primacy of primary legislative instruments that are concerned with basic rules, which should leave their detailed actualisation to the executive. This approach is also prevalent with regard to the notion of co-regulation as a means for combining legislative and regulatory action with actions commonly taken by concerned actors in line with their expertise, thus allegedly promoting rule compliance.

At this point, the Commission discusses the “Open Method of Co-ordination”, which has evolved as a flexible approach to sector-specific EU policy-making among various Member States, primarily in the areas of employment creation and social policy. It denotes a mode of co-operation through the monitored exchange of best practice in the context of common targets and guidelines. As the institutional character of the “open method” with its state-centred practices ranges well beyond the executive competence of the Commission, it is treated with critical
distance, for it is said to potentially upset "the institutional balance" of European governance as defined in the Treaties — with the Commission as the decisive organ of centralised coordination and policy stimulation. Indeed, hinting at the established separation of powers as denoted by the "Community Method", it is argued that the "Open Method" should not be used when legislative action under the procedures of the Community method is possible. However, this argument points to an exposed role for the Commission in reforming both the formulation and implementation of legal rules that is said to be indispensable due to the increasing institutional complexity following European enlargement. Indeed, the proposed reorientation of legislation by Council and Parliament towards basic issues should go hand in hand with simplified legal rules, involving the more extensive use of differentiated policy tools like framework directives and co-regulatory mechanisms. This should allow for an improved application of these rules by the regulatory agencies of the EU, promoting their capabilities in drawing on sector-specific knowledge. Moreover, as the application of European Union rules on the national level remains in the domain of the nation-states themselves, strengthening their administrative capacity in terms of good governance strategies is viewed as decisive in proceeding with the rule of law. In this setting, monitoring the application of Community law should remain a task for the Commission, underlining its role as a guardian of the Treaties with supranational competences.

3. The Commission’s Reform Proposals And Methods Of European Governance

Proceeding with its reform proposals, the Commission explicitly addresses the matter of global governance, claiming that domestic reform will enhance international change and thus support the role of the EU as an actor with global reach. As the reform proposals are directed towards a sustainable division of competences among the various organs and actors of EU multi-level governance, however, the White Paper goes on with discussing the need for refocused policies and institutions. Actually it is argued that refocusing policies would allow for identify

more clearly the long term objectives of the EU: "These may, with the overall objective of sustainable development, include improving human capital, knowledge and skills; strengthening both social cohesion and competitiveness; meeting the environmental challenge; supporting territorial diversity; and contributing to regional peace and stability". In meeting these long term objectives, the Commission views itself as the decisive organ for initiating policy-related activities and steering the long-term agenda of European integration. Accordingly, the need for refocusing policies should promote the use of a revitalised Community method as an institutional framework that resembles a seemingly traditional yet controversial separation of powers between Commission, Council and Parliament: "Everyone should concentrate on their core tasks: the Commission initiates and executes policy; the Council and the European Parliament decide on legislation and budgets - whenever possible in Council using qualified majority voting, the European Council exerts political guidance and the European Parliament controls the execution of the budget and of the Union’s policies".

In particular, the Commission provides an assessment of its own function in the mechanism of European governance that underlines "Treaty tasks of policy initiation; execution; guardian of the Treaty; and international representation of the Community". The Council of Ministers is criticized for a lack of capacity in political leadership needed for arbitrating between sector-specific interests, allegedly facing the situation that the Union has moved from a "diplomatic process" of partly formal and partly informal bargaining procedures to a "democratic process" of rule-based, transparent negotiations among legitimised policy actors. The European Parliament and the parliaments of the Member States are then singled out for stimulating public debates on the course of European integration; a function that should accompany efforts in monitoring the execution of EU policies and the implementation of the budget. In doing so, policy-oriented control measures based on political objectives were to replace procedures of detailed accounting that would lack strategic considerations. This should lead to a situation where simplified legislation could outline the basic terrain for the Commission's executive role, to be monitored by Council and Parliament. Thus, legislative practices should assist in restructing the complex set of regulatory and management committees under the leadership of the Commission.

36 Ibid., p. 23-25.
38 Ibid., p. 28.
39 Ibid., p. 29.
40 Ibid., p. 29.
41 Ibid., p. 29-30.
Following these considerations, the White Paper finally outlines the course of European integration as an institutional process that is based on well established principles of good governance, namely openness, participation, accountability, effectiveness and coherence, which are said to promote the related principles of proportionality and subsidiarity, prominent within the conceptual framework of the Treaties. Moreover, the principles of good governance are also interpreted as key concepts for promoting a political vision of multi-level governance in the European Union with the Commission as decisive organ for monitoring, guidance and political leadership. This orientation is also emphasised by the summarising enumeration of strategic thrusts that are said to promote the reform of policy making and policy implementation in the European Union. Generally, the proposals in the White Paper are said to contribute to the restructuring of the European Union’s relationship with civil society, involving a code of conduct for consultation that addresses the matter of responsibility and accountability and by doing so enhances a public dialogue, which contributes to the openness of civil society organisations. A related topic is the potential for making use of the dispersed skills, capabilities and knowledge segments of regional and local actors. The proposals for reforming the mechanisms of European governance are thus to be interpreted as means for mobilising and using local knowledge for the purpose of the Community at large. In this line of reasoning, the European Union’s multi-disciplinary system for communicating expert advice is to be made more transparent by opening it up to extended public debates. Further topics in the governance agenda of the Commission are outlined by emphasising the need for establishing a more flexible mode of promoting EU policies, combining formal legislation with non-legislative and self-regulatory mechanisms. EU regulatory agencies should support these efforts by elaborating on sector-specific governance. Generally, a refocusing of the institutions of the European Union is taken to the fore. Yet these reform proposals are not necessarily linked with Treaty changes, for the Commission underlines the need for political leadership within the established framework: “Carrying these actions forward does not necessarily require new Treaties. It is first and foremost a question of political will.”

Also the implementation of the reform proposals should primarily yield a refocusing of the decisive institutions in the scheme of European governance, namely Commission, Council, and Parliament. The proposals are meant to strengthen the leadership role of the Commission by allowing for a more targeted use of the right of initiative, as the mechanisms of consultation and involvement should support knowledge flows from other political institutions and civil society organisations. With EU legislation focussed on basic rules and regulations, Council and Parliament should be enabled to concentrate on long-run issues of political content in their legislative activities, while detailed operations are left to the executive, that is, the Commission. Therefore, the White Paper promotes strengthening the executive position of the Commission in a refocused separation of powers between the organs and actors of European governance. In addition to the matter of competences among the organs of the European Union, the reconsideration of the mechanisms of multi-level governance in the process of European integration is said to require the effective involvement of national and regional actors in the EU policy process, involving the formulation and implementation of adequate rules. At this point, the White Paper points to the need for intensified dialogue, institutional decentralisation as well as sustained co-operation between the involved administrations. Yet there is a second effect mentioned, which is oriented towards approaching national and regional governance organs as communicative transmission belts of the Commission, as they are designated for informing the relevant national and regional public about EU policies. Implicitly, the Commission stylises itself as a nodal centre of communication networks with a European reach.

This self-assessment, as well as the underlying strategic orientation, is in line with the emphasis on a renewal of the Community method in the face of international governance challenges. Again, the Community method as a scheme for the separation of powers that is said to follow from the practice which has been established with the political formation of the Union, informed by the Treaty principles of subsidiarity and proportionality, is defined as follows: “This means ensuring that the Commission proposes and executes policy; the Council and the European Parliament take decisions; and national and regional actors are involved in the EU policy process.” While the Commission argues in favour of the co-decision procedure that allows for taking joint decisions by Council and European Parliament, the Commission alone is to assume responsibility for executive action. Yet this scheme includes also an allocation of competences to the Union and the Member States, approached in terms of a vision of the future of “a Union based on multi-level governance in which each actor contributes in line with his or her

43 Ibid., p. 32.
44 Ibid., p. 33.
45 Ibid.
48 Ibid., p. 34.
capabilities or knowledge to the success of the overall exercise", involving rules for sharing competences on different levels of the governance system.  

The actual implementation perspective of these proposals was directed towards the Laeken Council, which was followed by a process of constitutional design in the European Convention that should provide the conceptual horizon for institutional reform. According to the Commission, several of the topics regarding institutional reform, as addressed in the White Paper, have been taken up in the draft constitutional treaty. This involves the general reference to a renewed Community method, yet also the emphasis on the principles of good governance in Article 150. Indeed, the Commission's assessment of the Constitution speaks for itself: "The conclusion can therefore be drawn that the Constitution has incorporated the debate on the reform of European governance at the level of primary Union law. The current state of the constitutional project, however, provides decisive arguments for re-assessing the debate on the White Paper in terms of its strategic relevance - in particular with regard to the aspects of democratic participation and legitimacy, which have been identified as major problems in the failed ratification of the Constitution. Indeed, already the introductory remarks of the White Paper - pinpointing the fact that the Union is often seen as too remote and as too intrusive at the same time - remain significant for current attempts of realigning strategies for institutional reform with the preferences of the citizenry.

In summary, the White Paper hints at the primary concern with institutional reform in the multi-level system of European governance by promoting principles of openness, accountability and responsibility. Regarding the aspects of participation, consultation and dialogue, the involvement of national, regional and local levels of policy-making is addressed, accompanied by a concern with the involvement of the organisations of civil society. In promoting flexible policy tools, paralleling a formalised role of expert advice, the corresponding policy framework should be made compatible with the principles of good governance. Yet underlying these concerns is also the search for a well defined separation of powers, as the Commission emphasises its executive role. This line of reasoning has been upheld quite rigorously in the Commission's subsequent interpretations of the White Paper: "The basic message was a simple one and is as topical now as it was then: we need to govern ourselves better, together - European institutions and Member States. We can do this without changing the Treaty, without necessarily waiting for the successful outcome of a new intergovernmental con-
Moreover, the matter of participation implies a reconsideration of interactions with the organisations of European civil society: "Interaction between the European Institutions and society takes various forms: -- primarily through the European Parliament as the elected representative of the citizens of Europe; -- through the institutionalised advisory bodies of the EU (Economic and Social Committee and the Committee of the Regions), based on their role according to the Treaties; -- and through less formalised direct contacts with interested parties"\(^{58}\). According to related statements by the Commission, this perception of civil society addresses a variety of interested parties involved in the management of socio-economic affairs even beyond the 'third sector' of civic activities: "So 'civil society organisations' are the principal structures of society outside of government and public administration, including economic operators not generally considered to be 'third sector' or NGOs"\(^{59}\). Yet apart from civil society involvement as a requirement of deliberative democratic legitimacy, the underlying concern with steering and regulation addresses the functional coordination of knowledge. Indeed, the inclusive participation of civil society actors in the procedures of European governance should promote knowledge flows to the benefit of the steering efforts of the EU executive, that is, the Commission. Similarly, as outlined in the White Paper, expert advice is addressed as means for mobilising specific knowledge segments in the wider context of policy making: "Experience forms an integral part of a dynamic knowledge-based society. Specialisation and skills help create new opportunities that can boost competitiveness and enhance our quality of life"\(^{60}\). Related problems of decision-making under uncertainty, also owing to technological complexity, require the accountability, plurality and integrity of expert advice, as echoed by reforms concerning the system of scientific committees in the areas of food safety and consumer protection\(^{61}\).

4. Debating The White Paper: Democracy, Legitimacy And Multi-Level Governance

What are the common concerns in these arguments on European governance - as promoted by the Commission's White Paper and the elaborations it has stimulated subsequently? So far, academic discourse has been mostly critical of the White Paper, still acknowledging its stimulating role for subsequent developments in the discourse on institutional reform. The neo-institutional approach, in particular, which analyses the dynamism of both the processes of policy making and changes in their institutional conditions, has been most relevant for discussions of European governance\(^{62}\). Indeed, it has been claimed that debates on European democracy and the Constitutional foundations of European governance have commonly emphasised good governance in terms of efficient performance, stressing the aspect of "output legitimacy", whereas more recent arguments have put emphasis on democratic participation in terms of "input legitimacy"\(^{63}\). This distinction refers to a notion of output legitimacy as efficient political-administrative problem-solving in terms of "government for the people"; whereas input legitimacy denotes a political responsiveness to citizen's preferences in terms of "government by the people"\(^{64}\). Nonetheless, critical reconsiderations of the White Paper highlight its specific way of dealing with problems of input and output legitimacy, perceived in terms of the participatory accessibility of the process of policy making and the efficiency of its outcomes in a multi-level setting\(^{65}\). Basically, then, it has been suggested that the decisive problem of European governance is an implicit elitism combined with lacking democratic legitimacy, in particular regarding the self-styled leadership role of the Commission. Instead, the need for more inclusive and participatory governance modes, as discussed in terms of the need for substituting output legitimacy by input legitimacy, requires a rule-based framework of democratic criteria\(^{66}\). Accordingly, the Commission's strategic neglect of an inclusive participation of democratic citizenship and


\(^{59}\) Ibid., p. 6.


organised civil society, favouring in its place a consultative feedback mechanism, is harshly criticised: “Participatory democracy is a bottom up process of raising voice rather than a top down one of granting consultation rights. This concept is clearly input-oriented and rests on a shared understanding that democracy is a social endeavour based on communication and social transaction”\(^67\).

Even more than that, the Commission’s proposals have been denounced as a centralist and even authoritarian attempt of “the creation of a benevolent dictatorship”\(^64\). However, this may suffice as a pointed characterisation of a conceptual trend in the White Paper’s treatment of governance approaches, characterised by an implicit bias towards uniformity across the EU and accompanied by efforts in centralising competences for policy making with the Commission, as reflected by its promotion of the Community method\(^66\). In more cautious and defensive terms, it has been also claimed that the White Paper represents the Commission’s efforts in countering the spread of cooperative ventures of Council and Parliament that would circumvent the Commission’s authority through strengthening informal contacts in the framework of co-decision procedures\(^68\). This interpretation assesses the White Paper as an attempt of regaining an irreversibly decreasing role as centralist steering authority. This argumentation points towards the political economy of European governance with its distinct pattern of conflict and cooperation among political organs and interest groups. Indeed, the governance approach to European integration needs to account for the fundamental role of power relations and dependency aspects in policy making and the exercise of political rule\(^69\). Accordingly, Schmitter’s definition of governance deals with aspects of credible commitment in political bargaining processes: “Governance is a method / mechanism for dealing with a broad range of problems / conflicts in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating and deliberating with each other and co-

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73 Ibid., p. 4-5.


form of democratic experimentalism, differing from established neo-corporatist practices of administrative states, as the administrative centre now tends to set general standards and provides infrastructures for local units, which are striving for their own goals, allowing for coordinated learning strategies that tap local knowledge, by doing so promoting public accountability. In particular, this type of democratic experimentalism allows for combining local innovation and public accountability through the mutual coordination of public institutions as well as the drive for social learning in a coherent societal setting. Applied to the European Union, then, the proposed mode of reflexive governance allegedly informs a new architecture of public rule making, which involves a procedure in which framework goals and related implementation mechanisms are set up jointly by the European organs and the Member States, while lower level units in the national and regional domain may advance these ends in accordance with local conditions and traditions. Thus, the subsidiarity principle remains decisive in the implementation of rules and regulations. Still, the lower level units are also held accountable for their performance, as they are subject to benchmarking, peer reviews and revision proposals. Crucially, this kind of experimental procedure implies that specific governance functions may be carried out by a variety of institutional means, which allows for an adaptation of jointly set policy propositions to local capabilities.

Accordingly, it seems that the notion of governance may be accompanied by conceptual proposals for an institutional devaluation of constitutional rules as a source of state sovereignty and political authority to the benefit of more flexible arrangements based on the capabilities of political entrepreneurship in defining the opportunity space of state capacity. Such a view, however, is highly problematic, for constitutional rules need not imply a static view on state capacity. Even in a dynamic setting they come to define a consensual set of general rules that may promote political entrepreneurship and institutional innovation in a setting of constitutional search, experimentation and discovery. In this manner, constitutional rules are indispensable for the maintenance of an adaptively flexible institutional structure of governance mechanisms. Similar variants of the governance discussion are related with the arguments of deliberative democracy, arguing in favour of small-scale decision-making institutions and individual involvement in the political process in order to counter widespread alienation and estrangement in democratic systems. However, the critique of this position hints at asymmetries in the capability for agenda setting, resulting in a distortion of the deliberative profile to the benefit of selected special interests.

This is a crucial aspect of the governance perspective at large. Apart from the multi-level interactions between the designated legitimate actors of the process of policy making, such a perspective involves the communicative inclusion of a variety of organisation representing the diverse interests within an evolving civil society in a transparent and accountable manner that combines legitimation and efficiency considerations. For instance, in more concrete terms, the case has been made for restructuring the European Economic and Social Council. As it represents functional interests with an emphasis on neo-corporatist arrangements on the national level of interest aggregation, it is said to lack from a pluralist representation of the more diverse interest groups in European civil society. Thus, it is primarily the reference to multi-level governance in the Commission’s White Paper that remains of utmost importance for addressing European governance in its current post-constitutional phase. Yet this perspective needs to be combined with an exploration of the institutional transformation of the nation-state in order to produce a viable analytical framework for further reconsiderations.

At this point, it may be useful to invoke Christian Joerges’ outline of well-established governance modes in the European Union. In criticising Sabel’s approach of experimentalist governance as a perspective that contradicts the norms and values of the rule of law, Joerges pinpoints the fact that various governance mechanisms have already become vibrant components of policy making on the European Union that are set apart from the Community method. These governance mechanisms contain the following components:

- The System of Comitology. The European system of committees is basically concerned with the implementation of Community law framework provisions that are most relevant in the administration and regulation of the Common Market, reflecting the negotiations among expert groups that make up certain committees in related regulatory domains.

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77 Ibid., p. 142.
80 Ibid., p. 139.
81 Ibid., p. 155-156.
- The Principle of Mutual Recognition. Following the European Court of Justice's paradigmatic Cassis de Dijon decision, the principle of the mutual recognition of national law has been singled out as a major stimulant for inter-jurisdictional competition. At least, an opening of national legal systems to viewpoints of other systems has been observed.
- The New Approach to Technical Harmonisation and Standardisation. In this operative framework, European law-making would be concerned with essential regulations whose actual content and implementation would be left to expert groups on the European and national level that regularly include non-state actors.
- The System of Agencies. In a regulatory manner, a set of European agencies has become relevant in the governance structures of the Common Market, exercising market-correcting functions on the basis of a semi-autonomous status in their working relationship with the Commission.
- The Open Method of Coordination. A multilateral coordination process that is based on benchmarking procedures and non-binding guidelines laid down by European Council, Council and Commission as means for promoting policy learning of the Member States in selected policy fields.

Taken together, all of these governance mechanisms are an outcome of institutional efforts in the regulation of the Common Market. Indeed, while integration through law had been dominant for long in the integration process, especially the Delors Commission's project of completing the Common Market had paved the way for regulatory schemes that would later on inform the "governance turn" of the Prodi Commission.

Thus, the persistent relevance of the Commission's White Paper on European Governance may be derived from the attempt of combining a problematical modification of the division of competences between the Community organs with actually pressing problems regarding the combination of administrative efficiency and democratic legitimacy in a setting of multi-level governance. Adding to that dimension of institutional complexity, the process of economic globalisation exerts adaptive pressures on national and regional governance modes. An influential diagnosis of the situation of the European political economy thus draws on fundamental asymmetry and legitimacy problems that result from an institutional competitive pressure for deregulation on the national level, which contrast with the need for supranational modes of correcting market failure. Indeed, in this line of reasoning, the national varieties of capitalist market economies will prevail in the foreseeable future, while European policy making needs to remain consensual; whereas, attempts of establishing centralist modes of regulation on a European level, involving aspects like majority rule accompanied by the Community method, are viewed as a recipe for disaster.

In proceeding with this matter of institutional variety, the perspective of differentiated integration is put forward, owing to the need for coping with both input- and output legitimacy in the European Union, placed in a setting of indispensable supra-national solutions that can deal with the regulation and correction of cross-border externalities, among others. The persistence of the institutional arrangements for economic coordination and power distribution that characterise the varieties of capitalist market economies still underlines the pointlessness in endorsing institutional convergence. Europe is not to be envisaged as a hierarchical and unitary entity, endowed with institutional competences for wide-ranging political steering as implicitly suggested by the White Paper. Rather, a viable political project of European integration needs to account for the persistence of the nation-state and thus for the requirement of establishing an inclusive mode of Europeanising identities that could be promoted by an array of transnational intermediary organisations. In other words, adequate mechanisms of European governance need to cope with distinct governance styles in a setting of multi-level interactions that allow for both competition and cooperation in a common institutional framework. For instance, a model of transnational pluralism in the European Union, as proposed by Streeck and Schmitter some time ago, would imply a type of disjointed pluralism and competitive federalism that differentiates regional, national and supra-national levels of interaction that cover diverse actors and interests. Yet European governance becomes ever more complex due

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to the ongoing process of globalisation, as the nation-state is transformed into a complex structure of associations that confronts its capacity for economic regulation. The corresponding institutional architecture functions as a polycentric system that coincides with a drive for shared sovereignty in cooperation and integration. However, in such a setting, the question of the democratic legitimacy of political rule prevails — and it is particularly pressing with regard to the options for the institutional reform of governance structures in the European Union.

At this point, at last, the matter of constitutional design and implementation comes to the fore once again. Viewed from the perspective of constitutional law and economics, it highlights the need for rules and regulations that structure the process of policy-making by establishing well-defined propositions for a separation of political powers and their bargaining relations. Indeed, the underlying aspects of adapting political governance structures to changing economic conditions make the European Union a prime example of the trial-and-error procedures that characterise institution-building in general. Augmenting these considerations with arguments from fiscal sociology, however, implies the transcending of the dichotomy of state and market in favour of an exploration of their interdependence with regard to the exchange processes in the political-economic system. Again, the aspect of legitimacy plays a decisive role in the corresponding stylisation of state-society relations that shape the actual profile of governance structures and institution-building. This is the actual background for the claim that state-making, institution-building and the formation of markets feed back on each other in the evolution of governance structures. In particular due to its discursive impact, thus, the Prodi Commission’s White Paper on European Governance may accordingly be interpreted as an exercise in the political construction of legitimate governance structures that come together with the formation of statecraft. After all, these aspects may contribute decisively to a more substantial understanding of the institutional processes underlying the future course of European governance.

5. Conclusion

The Prodi Commission’s White Paper on European Governance has provided key motives for the debate on the institutional reform that should accompany the process of constitution design and implementation in an enlarged European Union. Despite the failure of the constitutional process, the White Paper still stimulated a discourse on European governance that has come to designate controversies on the adequate institutional underpinnings of the integration process. Indeed, it is actually the persistence of intensified attempts at reform in a provisional institutional setting that underlines the current relevance of the original strategies outlined in the Commission’s White Paper. Indeed, it refers to the continuous search for adequate governance structures that support both legitimacy and efficiency in the setting of European integration. In terms of discourse theory, it follows that the White Paper has contributed to a channelling of strategic efforts for promoting institutional change into certain directions, by doing so structuring the political domain through the provision of legitimate arguments and thus shaping a common understanding of reform requirements.

In summary, the White Paper hints at the primary concern with institutional reform in the multi-level system of European governance by promoting principles like openness, accountability and responsibility. Regarding the aspects of participation, consultation and dialogue, the involvement of national, regional and local levels of policy-making is addressed, accompanied by a concern with the involvement of the organisations of civil society. In promoting flexible policy tools, paralleling a formalised role of expert advice, the corresponding policy framework should be made compatible with the principles of good governance. Yet underlying these concerns is also the search for a well defined separation of powers, as the Commission emphasises its executive role. However, since the project of the European Constitution has run into major difficulties while the separation of powers remains subject to controversies, currently mirrored by conflicts on budget affairs, the long-run view on the EU policy agenda is primarily shaped by the need for coping with the status of participatory democracy in European governance.

The latter aspect especially underlines once again the weight of arguments emanating from institutionalist lines of political economy, and here in particular from the reasoning of fiscal sociology with its reconsideration of the institutional underpinnings of the activities of government and administration. The

The basic proposition of fiscal sociology, namely the claim that the analysis of fiscal affairs and other elements of state activity needs to take into account state-society relations in their full complexity, most obviously connects very well with the debate on European governance. Viewing European integration as a historically specific case of institution-building thus implies that the discursive perceptions and understandings of the involved actors on the legitimacy of political actions are to be taken into account.

References


