

The multi-level integration of policies: linear or circular movement?

The case of water quality policies dealing with agricultural pollutions in Brittany
(France)

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Abstract

Based on the linkage between European water quality protection directives and the French agricultural policy, our research examines the implementation of European environmental requirements in the agricultural sectoral policy in the Breton ground. The integration here at stake concerns the integration of policies between different geographic levels.

The paper argues that, by introducing non institutional actors, we can consider environmental policy integration in European context as a circular movement with a dynamic different from the narrow come-and-go between national and supranational levels. Drawing attention to this point, we fully accomplish the ambition of multi-level governance concept which, paradoxically in this actual development, tends to limit to the hierarchical organizations of the State.

1. Introduction

“ To speak about ‘europeanization’, that means conceiving a polity

located between the institutions of the nation-state and a work-in-progress supranational organization", says A.Favell. In this paper, however, our aim is to put aside the study of these "*interstices*" between States and European institutions, and instead, to focus on new actors in the europeanization process. Indeed, we argue that such shift of focus is necessary to understand the transformations of collective and public action traditionally rooted in Nation-State patterns. We speak in favour of the adaptation of our theoretical tools to interpret changes in the interests intermediation's systems in particular. Doing so, first we need to decentre the glance and take some distance from the kind of actors that political researchers usually depict. Even if, it is true, some sub-national authorities have already been studied in the European integration context, mostly, it is restricted to the description of regional level's renewal. Thus, little is said about the civil society organizations in the europeanization context. Or then, the civil society in question only corresponds with the non-governmental organizations (NGO), those which benefit from large funds, which are structured and efficiently represented in Brussels, close to the European Commission. We find more interesting to examine the relationship between the European Commission and some local environmental organizations that, despite their modest size, play a non inconsiderable role in the europeanization process.

"There seems little point using Europeanization as a synonym for European integration. [...]Where European integration is concerned with political and policy development at the supranational level, Europeanization is concerned with the consequences of this process for (chiefly) the member states", precise C.Lequesne and S.Bulmer (2002, p.16). Our point is to say that there is no need to distinguish these two processes too sharply. In fact, they participate in the same movement as we will see it. That is why, we will use both terms in an undifferentiated sense. Following Bulmer and Burch (2001), we will retain a wide definition of 'europeanization-European integration': "*a set of processes through which the EU political, social and economic dynamics interact with the logic of domestic discourse, identities, political structures and public policies*".

For us, it is important this definition translates the idea that europeanization is a process that doesn't originate in a particular stage or in a specific actor. Finally, we could summarize theories on European integration around the rift of partizans of 'top-down' thesis on the one hand and partizans of 'bottom-up' thesis on the other hand.

Nevertheless, from our point of view, it is not the direction of the interactions that matters - both assumptions are right- but participants to those interactions. We argue it is necessary to open the field of Europeanization actors to non-institutional ones. The ambition of the “*multi-level governance*” concept (G. Marks, 1993) seeks to do so. The concept synthesises studies led on regional authorities and develops theories of EU-state-subnational interdependence. In this theoretical trend, the subnational bodies at stake prove their capacity to re-negotiate European initiatives (see A.Smith’s article on European structural funds, 1997). It shows that European integration have to take this subnational level seriously and not to limit the analysis to the state-EU exchange. But, this approach above all underlines what regional bodies inherit from the EU much more than what they offer to the European institutions’ strengthening. Implicitly, their involvement in the europeanization process appears to be a costly participation: they dilute the European power and thus, the potential policy integration by the European level.

We would like to evoke a more positive contribution of the sub-national organizations to the European integration. Although they take an advantage of the europeanization, we want to show how these sub-national organizations feed it and reinforce it in their turn.

In this debate, our position is not to defend the pluralist theories. S.Saurruger (2002) noticed those NGOs which can address the EC concertation procedures in Brussels, are the most structured ones. Sometimes, in favor of informal mechanisms we will describe, smaller interest groups can pass through this selection. So, we will present the profile of these less visible sub-national actors which give some incentives for European integration (1) and then, we will draw conclusions from their initiatives’ consequences on the europeanization of national policies (2).

Our research rests on the linkage between European water quality protection directives and the French agricultural policy. We question the integration of policies between different geographic levels by examining the implementation of environmental requirements in this sectoral policy in the national ground.

2. To exit the unilateral explanations : introducing new actors in the “bipolar” relations

In the debate on Europeanization, theoretical controversies are divided into two trends mainly: supporters of intergovernmentalist theories and supporters of neo-institutionalist theories. But these two trends have the common disadvantage to polarize the discussion around two single actors of the European integration: governmental actors or supranational institutions.

Supplied with these sole theories, it is difficult to explain an evolution in which national governments are reluctant to get further involved in because of some interests threatened at the national level. The sole European institutions can they enlighten progress realized in the effectiveness of their regulation while they need the collaboration of the national administration staff for the implementation task for instance ? We understand that it is necessary to decentre the glance and to encompass other actors interfering in the integration process.

In the neo-functionalist works, the political aspect of the European integration as an enlargement process produced by European institutions' self initiative capacities, is often described. But here, we would like to evoke the European integration process by the intermediary of *stimulated* self-initiatives capacities of the European institutions. This stimulation comes from decentralized actors. So, in our case, the European rules and procedures have been activated by exogenous actors. We mean actors that didn't belong to the European actors system before this interference.

A.Smith describes that the local context plays an important role because the logic of implementation is non-linear. Inevitably European actions operate through the mobilization of what Alain Faure called ' local-sectoral relationships' (1995). These relationships between generalist public authorities and specialized interests have been built up over time and have a threefold impact upon the manner through which the structural funds are translated

Here, in a converse movement, European commission relies on the local level not at the end of the process but at the beginning in the inputs of the decision.

2.1. New channels of action for the subnational actors : bypassing the State

When the EC agrees on a new measure, the policy often has a long way to go before it is finally implemented. This holds especially for EU directives which require, among other things, that member states interpret the directive and transpose it into national law. The implementation of EU policy is a complicated process that depends on the decisions of many political and administrative actors and the effects of a multitude of institutions, but primarily of etatic institutions. For European directives, member states are compelled to translate them into their national law but they keep the power to choose the best tools and way to achieve the goals set.

So, as Georges Kremlis, team learder of the « juridical affairs, regulatory activities, communautarian law implementation » at the Directorate general for the environment (1998, p.69) argues : « *the Commission entirely depends on informations provided punctually through complaints, petitions, written and oral questions to European parliament, by non-governmental organizations, media or by member states themselves* ». He adds : « *moreover lacking an general inspectorate fore environmental issues at the communautarian level, [...] now it is difficult for the EC to know the environmental problems on the ground* ».

Besides, in a report on the implementation of the Nitrate Directive, the Commission stated (EC, 1997): “*It is difficult for the Commission to judge the compliance or otherwise of the monitoring undertaken by Member States as the only obligation on the Member States to submit monitoring data to the Commission is contained in the Article 10 Summary Report. Even information submitted in this manner need only be a summary*”.

Concerning the small environmental associations now, their weak financial means oblige them to search for the aids of the State. The existence of some of them are subordinated to public subsidies that can be allocated to them only in the case of an official approval (“un agrément d’utilité publique”). Of course, such an official approval is given to those which can prove an reasonable attitude towards the established order. Despite the ambiguity of the relationship between stakeholders and public authorities in this case, small environmental groups need this public recognition as it permits them also to benefit particular advantages like participating to the public organisms activities, to act in justice etc. But this official recognition doesn’t mean that the State will attribute an enhanced impact in the concertations to which they participate. Environmental organizations suffer not to represent economic

interests, what discredit them in sectoral networks as agricultural ones.

So, the EC and the modest environmental groups both need the state to act. State is an obliged pass-through for them: the European Commission need its policies to be implemented and can't do it by itself. The non-institutional groups need the state to exist.

Bypassing the functional hierarchy between the member state administration and the European institutions, cooperation modes and informal network actions built around the relationship of these two actors, permits especially to Eau et Rivières de Bretagne to be very active on the European ground despite this association was not very visible and even quite insignificant by the number of its members. The EC officials grant the environmental group with a lot of confidence towards their representativeness. Indeed, the impact of their actions and the importance of the mobilisation that support them, sometimes that are attributed to them, doesn't always reflect reality. The distance and the *perceived* representativeness provided by media to such environmental groups, push the EC to attach value to the claims of these groups and to relay them. Thus, by a kind of "magnifying glass effect", Eau et Rivières de Bretagne accede to an unexpected audience.

2.2 The logic of the conviction's argumentation: a size effect

In the pre-litigation procedure, "*following numerous complaints concerning the nitrate content of surface water intended for the abstraction of drinking water in Brittany*" says the EC officials, "*the Commission sent a request for information to the French Government on 1 April 1992, to which the latter replied on 11 May 1993*". However, it is more correct to notice that informal letters sent to EC by *Eau et rivières de Bretagne*, were transformed into a complaint by the own EC initiative. Finding the French reply unsatisfactory, the Commission sent a letter of formal notice to the French Republic on 30 November 1993, indicating that it considered that the French Republic had failed to fulfil its obligations under the Directive, and more particularly under Article 4 thereof. By letters of 1 February 1994, 28 November 1994 and 1 March 1995, the French authorities replied to the Commission's letter of formal notice. On 28 October 1997, the Commission sent the French Republic a reasoned

opinion, reiterating the complaints set forth in the letter of formal notice. The Commission set a deadline of two months for compliance with the directive, as from the notification of the reasoned opinion. The French authorities replied to the reasoned opinion by letters of 2 January and 18 June 1998, so eight months after the deadline. This delay expresses the difficulties with which national administrations agree with the fact to give some appropriate informations to EC staff members. Being unconvinced by that reply, the Commission brought the present action. The Commission makes three complaints against the French Republic. By application lodged at the Registry of the Court on 16 July 1999, the Commission of the European Communities brought an action under Article 226 EC for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to ensure that the quality of surface water intended for the abstraction of drinking water complied with the standards laid down under Article 3 of Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States, the French Republic had failed to fulfil its obligations under that directive, and in particular Article 4.

The interpretation of the 75/440/CEE, made by the European Court of Justice shows that the text of 1975 is taken in a harsh way. The text requires an obligation of result because as argues the European Commission “*whilst it is true that Article 4(2) of the Directive does not contain any express qualitative or quantitative prescription in relation to those improvements, it is nevertheless clear that provision requires Member States, within the 10-year period which it lays down, to achieve quantitative values lower than the limiting values which they are required to attain before the expiry of the transposition period of two years laid down by Article 4(1) of the Directive*”. Moreover, lower quality water may, in exceptional circumstances, be utilised provided suitable processes including blending are used to bring the quality characteristics of the water up to the level of the quality standards for drinking water. But the Commission argues that it must be notified of the grounds for such exceptions, on the basis of a water resources management plan within the area concerned, as soon as possible, in the case of existing installations, and in advance, in the case of new installations.

The French government was in a position to speak in favour of its plan made up of

several programmes. In its reasoned opinion presented to the EC, this plan did exist. Nevertheless, the appraisal conflict between the French government and European officials on the subject of what constitutes an “*organic plan*” reveals strong ties between EC and actors on the ground. These ground actors are able to inform with some accurate details about the actual effectiveness of measures. That’s why the EC can argue without being arbitrary that no organic plan does exist “*where the measures communicated by a Member State to the Commission have a restricted area of application from the practical or geographic point of view [criticism addressed to the “areas of structural surplus” programme and Bretagne Eau Pure II programme], or are in the nature of a merely localised operation [criticism addressed to the PMPOA]. Such measures lack the necessary coherence for them to constitute a systematic plan of action within the meaning of Article 4(2) of the Directive*”.

Some criticisms seem to be relayed. As local environmental groups often say, criticizing the preoccupation of public authorities to protect the interests of drinking water suppliers more than the ecological state of rivers, “*the BEP II programme applies to Breton territory in only a limited way, given that it extends only to the 20 most problematic catchment basins*”. Also the quite paradoxical defence of the SAGE, another instrument whose sole problem would be that it is not set up yet. Here also, this statement seems to reflect the opinion of the Breton environmental organizations keen of such SAGE instrument. However the weakness of the means it gives to enforce measures of water protection improvement is obvious and has often been underlined.

Even what permits the EC to say that the Breton situation have a tendency to face a continued and growing damages while the French Republic argues on the contrary, would have been difficult without counter reports coming from territorial actors.

Finally, we can observe that the proceedings set off at Brussels’ level is much more than the added sum of elements that have been invested in, at the beginning. Something new has been created that go beyond the procedure initiators’ intentions. The information provided by local groups returns back, several years later, translated in new regulatory norms on the local territory. In our case, the relations of this actors’ triangle combine to create a virtuous circle’s effect. We assume also that

judicial judgements which in France made the environmental organizations be the winners of their proceedings, never have happened without the conviction of French government by ECJ.

3. To exit the linear process: analysing a “virtuous circle” effect

If the multi-level governance theory expounds interdependent processes, these processes are still thought in the frame of the former distribution of power in the *governmental* public regulation. In this way, discussing the contributions of the multi-level governance approach, A.Smith (1997, p.725) says: “*the second major problem with current approaches to the study of multi-level governance [is] its paradoxical focus on government rather than governance. This tendency is reflected in the excessive attention given to the emergence of formal subnational competences for EU policy-making. Although the label on the tin says ‘governance’, little reference is made to the governance literature which stresses that each actor’s resources are not simply determined by formal institutional provision*”.

Moreover, in most of the scientific works, European integration is analyzed either as an horizontal or as a vertical process. In the first case, internal or external integration among departments of a government is at stake. In the second case, integration between different institutional levels is considered. In all the cases, “europeanization” is described as a linear movement that stems from the mutual adjustment of the “closest” hierarchical actors. But, to consider integration either by *supra* or by *infra* entrance, in each case, the institutions to which the attention is called here, have in common to represent the national organizational institutions. The process is linear in the sense that the exchanges go down or go up along a hierarchical canal. However, it is obvious that sometimes the national representation canons are upset: non-institutional actors intervene and modify the way of interactions. We can observe such phenomenon in examining non-linear and indirect interactions inside the europeanization process. Doing so, it is possible to witness a chain reaction - we will speak of a “virtuous circle”- (3.1) with some paradoxical effects, especially on the State (3.2).

3.1. Indirect influence and external feedback : a virtuous circle effect

In the 60's, the neo-functional theory in the international relations' domain considered the role of non-etatic actors. They defended the thesis of a '*spill-over effect*': one objective to be carried out, appeal to the execution of another objective and so on, each supplementary actions being the future conditions for another goal. Nevertheless, according to the intergovernmentalist theories, such a development of the European integration is hardly conceivable in the case of competing interests between European Commission directives and strong national economic interests. Confronted divergent interests, the integration process is threatened with reaching a deadlock and, as observed in such national context, to get bogged down in a status quo. In 2003, with the Maastricht austerity criteria, the French government made use of its political influence to dismantle what it first contributed to build with the other member states and the European Commission.

So, quite the opposite, we argue that debates meet a new lease of life because of some forces undermining the national position from the inside, and aiming at the European target to weaken this national resistance to integrate environmental constraints here.

M. Mann (1997) relates the existence of new sources for 'social power' *beyond* the Nation-State. Our point is preferably to speak about such new sources searched beyond the Nation-State but so as to better reinvest them in the national exchanges. Indeed, we have already defended the necessity not to confine interdependences to the sole institutional bodies and rather to extend them to new actors (see supra). But it is important also not to substitute one dynamic to another. It is often said that governance doesn't replace government. So we want to analyze the intertwining of governance and government modes, here describing the impact of governance on governmental patterns. We give a hint of a circular process here. But we precise also that the mutual influences and interdependencies observed are more indirect than direct. A local environmental organization like *Eau et rivières de Bretagne* can benefit from a new legitimacy on the national ground insofar as the legitimacy of its demands and interpretation of the situation has been recognized by the European level firstly. In the articulation of these indirect-crossed dependencies, the state is for a regional-scaled organization the only authority which can attribute the pursued official approval ; but, here, the state itself is pushed to attribute such a recognition inasmuch as a transaction game first intervened between local environmental groups

and the European Commission. However, in this transaction game, the European authority credits the environmental group with some important influential power *as far as* this environmental group is a national-based and, unlike the EC, a ground actor one.

As we can observe, the decoupling of legitimacy and accountability, we mean the fact that different organizations are not responsible and legitimized in front of and thanks to the same authorities, is what allows the environmental associations for instance to neutralize the game of dependence upon the necessary legitimacy provided by the State to the civil society organizations in France for example.

So, we have depicted how these local environmental organizations - and especially *Eau et Rivières de Bretagne*- were taken seriously by the European institutions, but it seems that, now, the national and local authorities too listen to them more attentively than before. Fouilleux (1998) had already stated a shift in the French agricultural neo-corporatist arrangements at the time of the CAP reform in 1992. But it concerned only the declining aura of the French government - in fact the ministry of agriculture- in the negotiations of the European legislation. But concerning the agricultural policy-making on the French national ground, no repercussion of this change in the European agricultural policy network has been noted. According to the water quality issue nevertheless, it seems that a new deal emerges. Indeed, even if we can not say that the established political orders have been destabilized at the local level, the environmental organizations have been able to influence it despite everything. So we can understand why, in a quite urgent way, decrees related to the Nitrates Directive have been reviewed in a more stringent way from 2001. It also explains the behaviour of the French authorities on the occasion of the 'Breton perennial agriculture' plan, insisting to be sure the environmental organizations will sign aside the agricultural coalition's members, and conceding some measures for this purpose.

Speaking about the communautarian regional policy, Balme remarks that above all this policy is the field of mutual concessions that make it be a mean much more than a purpose of the European integration. Our inquiry on CAP's national declension and agricultural pollutions of the local water courses confirms and prolongs this statement in a certain manner. Here, the *informal* relations between the European Commission and some local environmental organizations aim first at reinforcing their influence on

the national level more than developing some new exclusive relations. As we are in a dynamic of additional actors, the important point is not to try to substitute new exclusive exchanges to former ones with member states, but to find other kind of supports than the sole Member States for the European Commission.

In fine, going off at a tangent on the European level, the Breton local environmental organizations have finally succeeded in influencing the local-sectoral policy community on agri-environmental issues. We concede that, however, it didn't make them enter the agricultural policy community yet. But, indisputably, the external feedback we noticed in this process produces a legitimizing effect too. In this way, it is not obvious that European incentives operate through the mobilization of "local-sectoral relationship" as regional studies often proclaim it. In our case, domestic institutions still matter but they are not as able as in the other situations to determine the distribution of resources among domestic actors or the degree to which Europeanization changes the distribution of resources among domestic actors.

3. 2 . the paradoxical effect of the europeanization: a revitalization of the State

Several authors have announced the end of the State under the pressure of globalization-transnationalization movements. But since this statement, a lot of contributions have also underlined the strong reconstruction capacity of the State (Balme and al., 1993). For many issues, the etatic administrations still know how to impose their mediation among European institutions and their local political partners. Here however, we will speak about the strengthening of the role of the State but, this strengthening is much more the fact of a well understood constraint than of a free-decided actions reinforcement. Indeed, the State actions in the agricultural diffuse pollutions domain are mostly defined by a lot of permissiveness and indulgence. In fact, this issue was dealt with in the context of traditional neo-corporatist arrangements. So a lot of competences are delegated to the farmers representatives themselves, and the problem of agricultural pollutions has not made an exception to this rule. In that way, the farmers representatives, namely the local "Chambers of agriculture" (*Chambres d'agriculture départementales et régionales*), are in a

position to influence the implementation of the “Nitrates directive” decrees, especially as the agricultural administrations (*directions départementales de l’agriculture*) don’t have much staff to commit in this subject. It is not excessive to say that they need the personnel of the agriculture Chambers to be operational on the ground.

But, in a context characterized by a huge financial fine threatening the French government, a far more severe position in the negotiations with farmers representatives was possible inasmuch as now it could impute it to the European inflexible requirements. The good relationship between the agricultural trade and the public authorities was less implied as the state could shift the blame of the future decisions and negative consequences for the farming population on to the European Union.

Cole and Drake (2000, p.40) have already provided the example of the Maastricht austerity measures, arguing that “*the Jospin government has come the furthest in attempts to optimize the European constraint as being an opportunity for modernizing French democracy*”. In our case too, the State administration finally decides to use the European constraint when it remarks it is not possible to evade the obligation of agro-environmental objectives’ enforcement any more. Led to endorse the role it was reluctant to play before, the State henceforth used to act with authority through “command and control” ways. Then, we can speak about a “vicarious effect” provoked and permitted by this complex dynamic of indirect resources’ exchanges. This vicarious effect allows the state administration to get out of the conventional agricultural arrangements for a moment.

3. Conclusions

A lot of times, the loss of monopolistic etatic control on social processes have been evoked but only elliptically. We wanted to remedy to this imprecision and tell on which modes such a loss is operated. Doing this, our ambition was to think in a perspective of recomposition of/at *each* institutional level, a perspective that our choice for the circular metaphor translates. In this case, the circular metaphor reflects a picture of the emerging peculiar political system of the European Union that is far from the complex web of governance disguising and dispersing, political power as it

is stretching over multiple levels. On the contrary, starting from individual weak positions, the actors have reached more powerful conditions of negotiations by this kind of movement.

Furthermore, if we have argued in favour of this circular analytical tool, it doesn't mean that we think europeanization in incremental and adjusting terms. On the contrary, we have shown in our case that there are many more breaking off than learning effects unlike the neo-functional theories used to plead.

But, in spite of the concrete consequences of the overlapping relations depicted, no improvement of the European policies' *convergence* is observed yet. Indeed, if these interrelated processes have reinforced the impact of the European institutions, they haven't enhanced the coordination/integration of European policies outside (between members States) the European level yet. But, at least they make some European formerly adopted policies be effective.

From a local perspective now, we noticed also that it is less relevant to speak about transnationalisation of issues than of the use of this transnationalisation by the subnational bodies to get going again in the local arena. Here, European integration is an instrument *and* a goal without the achievement of which no use could be made of its resources at the local level.

Here, the European Commission grants a small interest group with some political support and representativeness. In this way, some environmental associations are able to bypass the imperfect interests intermediation and representation in Bruxelles. What would have been too costly for small organizations to afford, has become possible through this kind of multi-level governance.

Doing this, it re-designs the representatives around problems and not around policy communities which is important because the focus on the latest had led to the relative marginalization of the environmental interests representatives in the past compared to those of the agricultural interests. So, it contributes to a better democratization of the governance. Nevertheless, to soften this optimistic statement, we will add that it is the perspective of an efficiency necessity which guided this unexpected openness of the European Commission towards this modest interests group. The decrease of CAP subsidies need to be accepted and European environmental directives supported by a large consensus among European citizens, provide a good justification of it. So perhaps the pressure to imply these European requirements would have not been the

same without this context of CAP budget restrictions. Following this reasoning, nothing indicates that the same circuit to gain power and legitimacy on the national ground would be possible in other cases than this punctual one.

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