



*Double-hatted agencies
on the European scene?
A case study of the
IMPEL network*

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Abstract

The European Commission has over the past years intensified its efforts to develop alternative and *non-legal instruments* for improving implementation in the member states. One specific instrument is *networked administrative structures with national regulatory agencies*, aiming to harmonize and improve implementation at the national 'street-level'¹. Changes in character of the member states' public administrations serve as an important background for these developments, a distinctive feature being the decentralization of tasks to regulatory agencies placed outside the central administrative hierarchy. Due to their relative autonomy, these agencies are well placed to work '*double-hatted*' in the sense that they interact directly with the European Commission in enforcing EU law, at the same time as they perform traditional tasks as agents of national ministries.

The case which is described and analyzed in this paper is the IMPEL network², an informal network between the European Commission and national environmental authorities in the various EU countries. It is argued that a network such as IMPEL is an arrangement that on the one hand may lead to more effective and homogeneous implementation of Community law, but that may on the other hand challenge the balance between different institutions at various levels of governance in the European Union.

Keywords: Regulatory agencies, implementation, Environmental policy, networks

¹ The term 'street-level implementation' is drawn from M. Lipsky's (1980) theory of 'street-level bureaucracy', which focuses on the discretionary decisions that each field worker – or 'street-level bureaucrat' - makes when enforcing regulations. This discretionary role makes street-level bureaucrats essential actors in implementing public policies.

² The European Union Network for the Implementation and Enforcement of Environmental Law.

1. Introduction

Recent studies of implementation in the EU literature have to a large extent focused on differences between member states in relation to their individual ability or capacity (or lack thereof) to implement Community law (see e.g. Mendrinou 1996, Tallberg 1999, Peters 2000, Knill 2001, Mbaye 2001, Bursens 2002, Sverdrup 2003a). The focus in this paper is rather on the interplay between different actors at various levels of governance, including a description and analysis of a specific implementation arrangement, namely networks between the European Commission and national regulatory agencies. This is an arrangement to be put into action *after* the laws are incorporated into the domestic legal systems and before the practitioners ‘on the floor’ are to implement the legal acts. The specific case to be analyzed is the IMPEL network, an informal network composed of representatives from the national environmental inspectorates in 29 countries – including all member states of the European Union, the three candidate countries Bulgaria, Romania and Turkey as well as Norway – and the European Commission.

My approach is in line with the so-called multi-level governance literature in the study of European integration, in which the EU is considered ‘a system characterized by co-decision-making across several nested tiers of Government [...]’ (Marks 1993: 407). My aim is to study how a multi-level networked governance structure can be applied to the implementation of the EU Environmental policy, with particular focus on the ‘contents’ and ‘directions’ of the relationship between the European Commission and the national agencies. How can we describe and understand the relationship between these actors? More specifically, I will address whether and in which ways the national regulatory agencies are serving as agents of the European Commission.

2. Implementing Community law. The last stronghold of national control?

It is almost considered conventional wisdom that while European legislation is made by the European institutions, it is implemented at the national level (Cini 2003: 350). This division of responsibilities between the EU and its member states was intentional; those drafting the original treaties in the 1950s felt that it would be both inappropriate and, indeed, unworkable for the Community to involve itself in all aspects of the policy

process (ibid: 351). Thus, although the European Commission oversees the enforcement of EU law, its implementation functions are, in all but exceptional cases, restricted to monitoring and carrying out investigations (Nugent 1999). Implementation of Community law has been considered the ‘last stronghold of national control’ (From and Stava 1993).

From an integrationist point of view, reliance on national governments for implementation of EU policies reflects the “old inter-governmental order”. Implementing through national governments exposes common policies to considerable influence from national politics and administrative traditions (Dehousse 1997, Knill 2001, Olsen 2003, Sverdrup 2003a) and may hamper a uniform and effective enforcement of Community law.

A clear-cut Community solution would be that EU institutions have direct administrative responsibilities. This would be enhanced for instance if the Commission ran its own agencies at the national level. Such a system would ensure Community control and ensure harmonization of the legal systems across national borders. This model is, however, neither politically realistic for the time being nor even desired by the Commission due to lack of capacity (Dehousse 1997: 246).

We do however see in the EU a trend towards developing *networked administrative structures* in which national and European-level institutions create closer cooperative arrangements (Graver 2002). The European Commission has at the same time intensified its work on alternative and *non-legal instruments* for improving implementation by developing a wider repertoire of organizational instruments involving national administrations (Sverdrup 2003b). These changes at the European level can be considered attempts at finding a workable solution to the above-mentioned problem: how to secure coherent and uniform implementation without transferring more direct power from the national to the supranational level (Dehousse 1997, Egeberg 2004c, Sverdrup 2003b). These networked administrative structures are our point of departure.

3. National regulatory agencies within a new context

*'I believe we have to stop thinking in terms of hierarchical layers of competence separated by the subsidiarity principle and start thinking, instead, of a networking arrangement, with all levels of governance shaping, proposing, implementing and monitoring policy together.'*³

Changes at both the European and national levels serve as important background for this paper. As mentioned above, we see a trend towards developing networked structures in the EU, and the idea of a 'networked administrative system' - in which the Commission could partly 'dispose' of national agencies - has been launched⁴. At the same time, we have witnessed an important development with regard to national administrative systems; those in most Western states have changed during the last few decades, especially since the 1980s, and become less hierarchical, more fragmented and more decentralized (Christensen and Lægreid 2001). While explanations and motivations for these changes may certainly be plentiful, so-called New Public Management (NPM) ideas, with their market-inspired character, come easily to mind. One central feature in this approach has been to make a clearer distinction between politics and administration, with administration perceived as a *craft* best performed at an arm's length from political considerations (ibid: 96). A possible way of gaining 'political leeway' is through the decentralization of tasks to independent, regulatory agencies placed outside the central administrative hierarchy. Although these ideas have had a major impact on national administrations in Europe, concerns related to possible consequences for accountability of administrative actions and for political control over the executive apparatus have persistently been at the centre of attention.

The reason I choose to study the role of national regulatory agencies in a European context is threefold. Firstly, regulatory agencies constitute an important part of the national political system in the member states, both in policy formulation and

³ Speech held by Romano Prodi for the European Parliament, 15.02.2000.

⁴ Cf. 'Externalization of the Management of Community Programmes – including presentation of a framework regulation for a new type of executive agency' (COM (2000) 788 final).

implementation. They ‘matter’ in political terms. Secondly, there is a lack of knowledge regarding the role of national agencies in the European cooperation, with focus having rather been on the founding of agencies at the European level (see for example Dehousse 1997, Majone 1997, 2000, Kreher 1997, Yataganas 2001)⁵. Finally, as mentioned above, the European Commission has shown increased interest in these organizations when Community law is to be implemented; due to their relative independence from national ministries, these agencies may be well placed to collaborate with actors at the Community level and to take part in network structures across levels of governance (Egeberg 2003a).

Our knowledge of national agencies in a European context is limited and, in my view, profound cooperation between the European Commission and these entities could indicate new and interesting patterns of cooperation and conflict on the European scene. In that respect, this paper may contribute to our understanding of the dynamics in the European cooperation and the change of dynamics between institutions at different levels of governance. In the next section, I will give a brief presentation of the EU’s environmental policy and the case of the IMPEL network before presenting the theoretical framework of this paper.

4. EU’s environmental policy and the IMPEL network

As the 1957 Treaty of Rome did not contain any reference to environmental protection, environmental policy was in the 1970s and 1980s a domain of innovation in the European Union (Sbragia 1999). Under the Single European Act (SEA), environmental policy was finally formally recognized as a proper competence to be exercised at the European level, and under the 1992 Treaty on European Union (the Maastricht Treaty), it became possible to pass most environmental measures through the Council of Ministers by qualified majority (Weale 1999). To quote Weale (1999: 40), ‘Completely unanticipated in 1957, environmental policy had moved from silence to salience within thirty years’.

⁵ Agencies at the European level (e.g. the European Environmental Agency) have not been granted the needed authority to enforce Community acts at the national level and function mainly as information-gathering institutions (Majone 2000, Kreher 1997).

Environmental policy is now one of the major policy areas in which the EU plays a role, and covers a very wide-ranging set of regulations that contain the critical environmental media (water, air and soil) and a range of industrial products (Zito 2002). However, the political salience of environmental policy has gradually declined over the past fifteen years, and the political commitment to impose regulations has consequently diminished. Governments seem at times willing to approve comparatively stringent rules, while subsequent compliance with them is often patchy and slow, or at worst non-existent. In practice, therefore, legislation does not always have as far-reaching an impact as one might expect. A growing concern, both in member states and at the European level, about this issue of disparity serves as the backdrop for the founding of the IMPEL network (Sbragia 1999).

The origins of IMPEL can be traced back to the Dutch EU Presidency in 1991, which placed environmental issues high on its presidency agenda. On the basis of a report on insufficient implementation of environmental law, the Council proposed an informal network be formed between national environmental authorities, initially known as the Chester Group (first meeting in Chester, 1992). A plenary meeting was then installed on a bi-annual basis, alongside four working groups assigned to core areas of legislation (Schout and Claessens 1999).

At that time, a proposal was already circulating in the Commission to address the issue of disparity in the field of environmental law. The Commissioner for Environment at that time, Ripa di Meana, favoured a European Environmental Inspectorate. This proposal was however never realized due to concerns about the Commission having any such enforcement or supervisory role within member states (Sbragia 1999).

The Chester Group was reborn in 1993 as IMPEL, in response to the Fifth Environmental Action Programme's proposal for a more structured network through which to canalize information, advice and implementation consensus. Work was organized within 'projects' chaired by the member states with a particular interest and competence in the relevant topic. It was further decided that the work of IMPEL was to be pursued in

partnership with the Commission; the Commission would co-chair six-monthly plenary meetings with the presidency. In 1997, the Commission further agreed to share the work programme costs and host an IMPEL Secretariat in Brussels where a seconded national expert would be employed (ibid).

The Commission has recently proposed extending the scope of the network to include policy-making or, more specifically, to involve the network when relevant legal acts are in the pre-pipeline phase. The Commission wants in particular to know whether the relevant legal acts seem reasonable from the practitioners' point of view. Due to uncertainty among the members as to how to manage this in practice - as well as skepticism, especially among many at the British Environmental Ministry, about including 'inspectors' in law-making - this proposal is still on hold, to be revisited at a later stage (interview 07.10.04).

5. Theoretical framework

There are several theoretical angles from which this subject might be approached. As mentioned, this paper is in line with the so-called multi-level governance literature, an approach that for some time has pointed to the fact that international institutions may provide opportunity structures that encourage transnational coalitions (Hooghe and Marks 2001). The literature heavily criticizes the 'state fixation' in the studies addressing intergovernmentalism (see for example Moravcsik 1993, 1998, Hoffman 1995), claiming that it offers only a partial representation of both integration and EU governance (e.g Kohler-Koch 1999, Hooghe and Marks 2001).

According to Bauer (2001: 2), 'it was hoped that it would be possible to offer an empirically informed explanation of day-to-day integration in the tradition of neo-functionalism that would be able to compete with – or rather 'co-exist' with liberal-inter-governmentalist research agendas'. Arguably, the multi-level governance literature gives a vast empirical description of an important development in the EU; the question we have to ask in this respect is whether and how we can use this perspective for analytic purposes. Is it possible to apply it as an analytic tool, as a basis for crafting hypotheses about the subject we are interested in for the purposes of this paper? To use Jachenfuchs'

words (2001: 259); ‘The governance perspective offers a problematique, but does not constitute a coherent theory’. From my point of view, it seems difficult to craft fruitful hypotheses about the relationship between the Commission and the national agencies purely on the basis of a multi-level governance perspective. We may state that these networks ‘matter’, and represent a challenge to the authority of the member states. This could be a useful starting point, a theoretical assumption that we might try to test out. At the same time, it seems difficult to move forward, especially if we want to reveal underlying mechanisms for behavior and single out relevant variables for explaining different outcomes. An institutional perspective might help us a step further in that respect, a theoretical approach I will outline in the next section with special emphasize on the organizational dimension.

6. Institutionalism and an organizational approach

Institutionalists of all kinds seem to agree that actors’ behavior is influenced by their institutional context. Institutions tend to impose particular worldviews, ways of thinking, guiding as such behavior and stabilizing expectations (March and Olsen 1989).⁶ An important assumption in one branch of this literature is that players are viewed as bounded rational; it is not possible for them to attend to everything simultaneously or to calculate carefully the costs/benefits of alternative courses of action, as attention is a scarce resource (Simon 1965). Institutions provide simplifying shortcuts, cues and buffers that can lead to the enactment of particular role conceptions among individuals. Human rationality may thus be described as institutionalized, embedded or contextualized (March and Olsen 1989).

⁶ There is a vast diversity of institutionalist literature. This diversity may, according to Checkel (1998), be divided into three branches: rational choice institutionalism, historical institutionalism, and sociological institutionalism. As one moves from rational choice to sociological institutionalism, the effects of institutions change. For rational choice, the focus is on behavior, instrumental self-interest and strategies; sociologists, on the other hand, emphasize the prescriptive and legitimizing role of institutions. Underlying these distinctions are two radically different logics of action. Rational choice scholars posit a model of human action based on utility maximization. Interests are given a priori and exogenously. Structures and institutions constrain the choices and behavior of pre-existing agents who operate under logic of consequences. Sociological institutionalists favor a different model, where utility maximization is replaced by rule-governed action, and where logics of appropriateness, derived from social norms, prevail (ibid: 4).

Based on these general remarks on institutionalism, we now adopt a specific approach within this literature⁷, namely, an organizational perspective. The study of European integration through institutional prisms has to an increasing extent been influenced by organization theory perspectives. From such a perspective, the extent to which institutions (might) impinge profoundly on people's pre-established mindsets depends on how these institutions are organized (see for example Bulmer 1994, Egeberg 2001, 2003a, Trondal 2001). Thus, to study processes in the EU, we need first to reveal the institutional architecture at the European level and have a closer look at the organizational principles on which they are based upon. The notion is not, however, that the institutional architecture of the EU *determines* political behavior, only that it makes some patterns more likely than others.

A feature of special interest is the division of tasks and responsibilities between the Council and the European Commission. One may argue that these institutions are organized according to two different basic and general principles in administrative life. Parallel to the sectorial and spatial institutional build-up of the domestic political-administrative apparatus (sector ministries and agencies versus Foreign Ministries), the Commission may be seen as exhibiting functional principles; conversely, the Council may be viewed as demonstrating spatial and territorial principles of organization since the key decision-makers formally represent the constituent governments (Egeberg and Trondal 1999)⁸.

Existing studies show that national officials do in fact play different roles in these respective organizational contexts in the EU. National officials operating within the

⁷ The literature I draw upon in this respect falls mainly under the category 'new institutionalism'. As an approach to political science it is "new" in the sense that it is not identical to the old institutional interest in politics in which attention was almost exclusively paid to the formal aspects of decision-making and this mostly in a descriptive way. The difference between "old" and "new" is then, that the new institutionalism not only points at the importance of rules and traditions in decision making processes, but also the role of routinization and socialization in these (Kerremans 1996:3).

⁸ There are several contending organizing principles within the European Commission and the Council of Ministers. Within the Commission a geographical principle runs parallel to the sectorial principle, while a sectorial principle of organization is present within the Council, supplementing the area principle. I will argue, however, that the dominating and uppermost principles are mentioned above.

Commission's working groups and committees seldom perceive themselves primarily as government representatives (Egeberg et al. 2003, Trondal and Veggeland 2003). Participation in comitology committees and Council working parties, on the other hand, more clearly evokes role conceptions related to nationality. Further, these studies show that the behavior of national officials participating in the Commission structure are less coordinated nationally than their counterparts in the Council structure (Egeberg et al 2003). These findings illustrate that patterns of cooperation and conflict are, at least to some extent, a function of the organizational structure of the EU institutions. As such, institutions as organized entities discriminate among conflicts, systematically activating some latent cleavages while others are routinely ignored (Egeberg 2004a, Trondal 2001).

To be able to answer our questions on the basis of an organizational approach, we also need to trace how administrative life is formally organized at the national level of governance (Knill 1998). As stated earlier, we see a trend of administrative decentralization at the national level in the member states, where more tasks and functions are "hived off" from ministerial departments and put into quasi-autonomous agencies. Studies show that government officials employed at the agency level in the national administration are more likely to evoke intra-sectorial modes of coordination than officials employed at the ministry level (Trondal 2000, Trondal and Veggeland 2003, Egeberg 2003a). This 'agencification process' may have as such provided a window of opportunity for running 'double-hatted' regulatory agencies at the national level; on the one hand, the national agencies constitute an integral part of the national bureaucracy as originally intended, however, due to their relative independence and the compatible organizational structures in the European Commission, they may on the other hand, also be well placed, in organizational terms, to act as local agents of the Community level (Egeberg 2004a). The point is that impact stemming from organizational principles existing at different levels of governance may be conditioned by the degree of *institutional compatibility* across these levels of governance (March and Olsen 1995, Knill 2001). By connecting up national agencies in issue-specific administrative networks, the European Commission would, in a sense, have the possibility to extend its organization down across the levels without formally erecting its

own offices. Hence, on the basis of an institutionalist perspective we address organizational components at both the national and European level and expect that certain developments have cleared the ground for a new, double-hatted position for the national regulatory agencies on the European scene.

7. In search of empirical dimensions

As stated, the aim of this paper is to explore the character of the IMPEL network and whether the agencies are playing a ‘double-hatted’ role in the EU. The pertinent question is, then, where to look when studying the IMPEL network or, in other words, which questions can provide us with relevant answers.

7.1 Multiple identities?

The first dimension to explore is the degree of identification between the different actors at these two levels. To what extent do the Commission and national experts consider themselves part of a community? Institutions tend as mentioned to impose particular worldviews, identities and ways of thinking - a particular ‘logic of appropriateness’ (March and Olsen 1989). The question here is not whether the national experts have changed their identification and institutional affiliation completely, but rather whether their belonging to the national administration has been extended to include an affiliation to the Community network or if so-called multiple identities have been developed (Egeberg 2004c).

7.2. The Commission in charge?

The European Commission and the national regulatory agencies are formally equal members of the IMPEL network.⁹ However, we are interested in the actual functioning of the network; as I have indicated that the agencies may work as agents for the European Commission, the second dimension I will address is the hierarchical relationship between the Commission and national agencies. Is there an asymmetric relationship between

⁹ Cf. the IMPEL Annual Work programme at IMPEL’s homepage:
<http://europa.eu.int/comm/environment/impel/workprog.htm#multiannual>.

them? Does the Commission have a grip on these agencies and the possibility, consequently, to steer them in their work?

7.3. Ministerial control?

The third dimension to address is the role of the national ministries. Do they control and steer the work of the national agencies in the IMPEL network, or do they leave matters to the national agencies? If the national ministries are in fact heavily involved in the network, it would be difficult to talk about ‘double-hatted’ agencies, serving two different ‘masters’ in their work.

7.4. Talking or acting?

Last, but not least, I will explore whether cooperation between the two levels matters in a broader sense. Does the IMPEL network actually affect the way different member states implement legal acts? Does it make a difference? If it makes no political difference, the idea of new patterns of cooperation and conflict between these two levels of governance could in such a case be no more than an illusion.

8. A note on methodology and data

8.1 One case, two ambitions

The study of the IMPEL network is a single case study: one particular network in a specific policy field is presented and analyzed (N=1). *'A major problem in any form of social research is to reason from the parts we know to something about the whole they and parts like them make up'* (Andersen 1997: 135 quoting Becker 1992: 213). My aim in this paper is not to tell the 'whole story' and draw general conclusions about the relationship between national regulatory agencies and the European Commission. I have foremost an explorative ambition; I want to know more about this phenomenon and the study of IMPEL may help develop a first impression, a hint and a piece of the broader picture. Secondly, I want to examine whether the above-mentioned theories can explain and shed light on this specific case. Are they able to capture the dynamics of the relationship between the actors involved? Do we have to refine or alter concepts in our theoretical framework to be followed-up in other studies of these actors? This study can as such be considered primarily a starting point for future research.

8.2 Collecting data

Given the small population of IMPEL members it would make little sense to do a statistical analysis of this group as such. I chose therefore to conduct qualitative interviews with open-ended questions. The advantage of such an approach being the possibility of receiving broad reflections and extensive information from the actors involved. Given the explorative nature of my project, the opportunity to acquire as much information as possible from the relevant actors seemed most strategic.

I chose to interview twelve national experts and one representative from the Commission in the IMPEL network¹⁰. My ambition was not to examine differences between the member states in their relation to IMPEL, but rather to capture a general impression of

¹⁰ I wanted to include the Nordic countries, some of the new member countries and the 'major' EU members: UK, France and Germany. I also wanted to include a representative from the southern part of Europe and the Benelux-countries. My informants represent therefore the following countries: Denmark, Finland, Sweden, Lithuania, Slovenia, the Czech Republic, the United Kingdom, Germany, the Netherlands, Greece, France and Norway.

the network arrangement with special emphasis on the relationship between the national experts and the European Commission. While these twelve informants, it was concluded, could provide enough information about the general functioning of the network, we should nevertheless be aware that not all potential voices in the network are necessarily heard.

I set out by sending network members an e-mail briefly describing the project, including the questions I intended to ask. After a few days, I made a follow-up phone call and went through the questions. The interviews lasted between 45 minutes and one hour. An important challenge in analyzing the data was the selection and weighing of the various observations. However, the level of convergence among responses turned to be quite high, despite certain differences between new and old member states in how they viewed the network in general and, more specifically, the role of the Commission. These differences are addressed in the following analyses when considered relevant. In addition to the interviews, I consulted written sources such as the IMPEL Multi-annual work program, IMPEL Work program 2004, the Commission's 6th Environmental action program and the European Commission's annual Internal Market Scoreboard, in addition to several documents on the internet homepage of IMPEL. These sources helped provide an overview of the practical work of IMPEL, the organizational structures, meeting frequency as well as formal procedures. The interviews, however, were the most useful instrument for gathering highly valuable information regarding the character of the relationship between national experts and the European Commission.

9. Presenting and analyzing the data

9.1 Acting?

If we consider the last question first, whether the experts are 'talking or acting', we can conclude that the members of the network are indeed acting, not just talking. The guidelines and standards developed in the network are followed-up in the different member states; we're not, then, facing an empty partnership that looks good on paper but that doesn't really matter at the end of the day. The IMPEL network has significant

practical consequences in relation to how the member states actually implement the legal acts in this specific policy area. According to the informants, the reason for this is the direct involvement of the technicians ‘on the floor’: they are the people in charge, the actors on the scene. This finding may be understood within a so-called ‘bottom-up’ perspective within the implementation literature; the assumption is that lower-level actors - that is, those responsible for implementing policy on the ground - are as important as those who originally drafted the law. Bottom-up studies further show that policies are ‘ineffective not because they are poorly implemented but because they are poorly conceived on the ground’ (Cini 2003: 355). Having stated that the IMPEL network matters in practical terms, we now turn to our main focus in this paper, namely the relationship between the different actors involved in this cooperation.

9.2 Multiple identities?

The relationship between the national experts and the European Commission in the IMPEL network has clearly changed over time. As previously stated, the initiative to create the network surfaced at the national level, and the participation of the European Commission was not part of the original plan; in fact, the national experts actually expressed concerns about admitting the Commission. This skepticism to include the Commission gradually drifted away: *‘By the end of 1993, however, familiarity with individuals and the good working relationships developed during the relatively unstructured phase of the Network seemed to have dispelled those concerns’* (Duncan 2001: 2). The Commission and the national experts became accustomed to each other, and gradually built a spirit of cooperation, mutual trust and companionship; as such, *increased familiarity* might accurately describe how the relationship between the national experts and Commission developed over time. This increased familiarity among members goes hand in hand with formal changes in the relationship between national experts and the Commission: namely, the Commission’s role as co-chair of the six-monthly plenary meetings (1993), and Commission (DG XI) as host for the IMPEL Secretariat (1997)¹¹.

¹¹ It is interesting to note the ‘inter-governmental’ elements built into these organizational arrangements, such as (the) co-chairing with the current Presidency (in practice the member from the country holding the Presidency) and the seconded national expert working in the Secretariat. These inter-governmental

However, lack of hostility, a kind of familiarity, and contact on a (partly formalized) regular basis do not seem sufficient to conclude that the Commission and the national regulatory agencies consider themselves as part of the same community, that they have developed a common ‘logic of appropriateness’, a ‘we’ . The strongest companionship seems in fact to have developed among the national experts. The members emphasize that they have common tasks and share the same practical experiences back home, but while the representatives from the Commission, on the other hand, know the field but are ‘*not technicians on the floor like us*’¹². It can thus be argued that the national experts’ professional affiliation in their home countries is sustained and reassessed through their contact and discussions with colleagues in the trans-national group.

It is also worth noting that the national experts have more contact with each other than with the Commission. They exchange e-mails and speak on the phone on a weekly and sometimes daily basis, whereas contact with the Commission is more typically on a monthly basis. Thus, it is possible to argue that the common professional background and high degree of contact between the experts create a sort of common identity that reaches deeper than the companionship with the institutions at the European level. According to one of the experts:

‘The Commission has become more active... The Parliament has actually also paid more attention to the network lately. Their view is that the network should be doing more, function more like a police force, discover and report infringements... be more confronting and challenging’¹³. That is not our style. And the member states wouldn’t like it either.’

elements may serve as an illustration of the aim to balance different concerns (e.g. ‘national’ and ‘European’) in the European institutional architecture.

¹² The informants were promised anonymity before answering the questions, as such all quotations lack direct references.

¹³ IMPEL is not directly involved with the European Parliament, however IMPEL reports are occasionally sent to the EP for discussion (Schout and Claessens 1999).

9.3 The Commission in charge?

‘The Commission looks for procedures and partners [that] will help to improve its performance and bring it closer to the citizen’ (Kohler Koch 1996: 361).

Having examined the *identity* dimension of the relationship between the different actors in the network, we now turn to the question of *authority*. To what extent does the Commission steer the work of the national experts? As mentioned in the previous section, the Commission is formally an equal member of the IMPEL network; it is clear, however, that the Commission has certain resources that make it something more than an equal partner, first and foremost money. The network operates to a large extent through different projects with the Commission as its main economic contributor, and through this funding the Commission can influence which projects are realized. The Commission does not dictate what is to be done, but the money ties make it difficult for the national experts to initiate different projects without the Commission’s acceptance. According to the Commission representative: *‘we have great interest to benefit from IMPEL projects and it is thus important to pay attention that priority areas for IMPEL and the Commission correspond to each other to the extent possible’*.

Secondly, the Commission has knowledge and expertise, resources that are less visible but no less influential. The Commission people know the content of the relevant legal acts, they know the institutional history of IMPEL and they have an overview of the organization. In addition, they are housing the IMPEL Secretariat, the latter functioning as an important connecting link, bringing the experts closer to the Commission and vice versa. According to the representative from the Commission: *‘the secretariat provides the network with information stemming from the Commission and liaises with the Commission.’*

The European Commission functions, as such, not only as an actor with certain knowledge and expertise, but as a *facilitator* and *coordinator* of the network. The informants point to the fact that the previous expansion has resulted in a larger and less informal organization where the Commission’s overview and expertise are needed to an even greater extent.

It is worth noting that it is the experts in the new member states who are the most enthusiastic about the Commission's knowledge and expertise. They focus on the help and encouragement the Commission has provided to get them onboard in this collaboration, and stress that the Commission's strong involvement in the network gives the network prestige and more bearing in the outside world. Some of the national experts from the old member countries are on the other hand quite sensitive to the active role of the Commission; they are aware that it can become problematic if the relationship gets too tight and the Commission gains too much control. Some of the experts made reference to a recent incident at a plenary meeting where the Commission proposed two projects that would have taken up almost the entire budget, and where the national experts made the Commission withdraw its proposals. According to one of the experts, *'We drew a line in that case.'*¹⁴

In conclusion, the European Commission has worked itself into the network and become an influential member of the IMPEL family; according to one of the experts, it has taken the role of *'the father of the family'*. It steers the direction of the network's projects not only by its funding, but also through its expertise and knowledge and role as coordinator. Hence, if we are to describe the relationship between the Commission and the national agencies, we can point to two important if partly contradictory dimensions that define it: *familiarity* and *partnership* on the one hand, and *use of authority* on the other. The partnership dimension appears however slightly weaker than the latter, as the Commission's influence and position in the network are linked to its resources and use of authority rather than to a common identity among the actors across the two levels of governance. In addition, it should not be ignored that an element of *conflict* exists as well in this relationship, with some of the experts expressing mistrust and a degree of irritation in relation to the active role of the Commission¹⁵.

¹⁴ One of the experts in one of the old member states is concerned the Commission go too far collecting specific information about implementation gaps in the different countries. He pointed to the possibility that the Commission may use this information as a base for infringement procedures.

¹⁵ A member of the network expressed her view on the role of the Commission in this way: *'La Commission a tendance à devenir plus dirigiste, et être moins respectueuse des choix et décisions des membres d'IMPEL, elle essaie de plus en plus souvent d'imposer ses vues et ses objectifs propres'*.

9.4 Ministries on the sideline?

What about the national ministries? What role do they play? Are they active or passive players in this cooperation? The role of the national ministries in the IMPEL network varies to some extent between the different countries, and it is therefore difficult to draw any general conclusions. In Finland for instance, the Ministry is strongly involved; the Ministry of Environment is eager to gain all relevant information and participates in the plenary meetings as well as in the concrete projects involving Finland. An example of the opposite is Norway¹⁶, where the Ministry of Environment participated in a couple of the initial plenary meetings, only to conclude that the work was of too technical a nature to get involved. In most countries, however, the Ministries are kept informed but are not directly involved in the practical, daily work of the network¹⁷. One of the national experts further mentioned that the Germans occasionally sent ‘politician-types’ from the federal government to join the project groups, leaving the impression that *‘these people were probably there to control us and did not fit in’*. Though the general picture is, then, that the regulatory agencies ‘run the business’, we should nonetheless be aware of the differences between countries regarding involvement at the ministerial level in the work of IMPEL, and that not all potential voices have been heard in this study. Examining and explaining the differences between the countries is outside the scope of this paper, and to be followed-up in further studies.

9.4 Double-hatted regulatory agencies?

It does not seem feasible to provide any categorical answers to the questions posed in the introduction. On the one hand, there is indeed a strong link between the national regulatory agencies and the European Commission, and it is clear that the inter-governmental ideal, where ‘street-level’ implementation of Community law is seen as a pure national domain, is not an accurate description. We have seen that the European Commission is heavily involved in the actual functioning of the network, it possesses important resources, and seeks to steer the work of the network in certain directions as a

¹⁶ Norway is not a member of the EU, but participates in the IMPEL network (and several other EU forums) through the EEA (European Economic Area) agreement.

¹⁷ In some of the countries, the Ministry is formally in charge, but an employee in the relevant agency is the actual coordinator at the national level. In Germany, the national coordinator is actually situated in the Ministry.

tool to fulfill certain goals. Thus, it may be difficult to portray the national regulatory agencies in IMPEL as solely national agents. They could be said to be ‘double-hatted’ in the sense that the IMPEL aspect of their work is influenced by the Commission, while the rest is devoted to the ordinary business of the national regulatory agency¹⁸. On the other hand, however, we have seen that the involvement of the different Ministries in the IMPEL network varies among member states, and we lack extensive information about how they conceive of and react to the situation. We need therefore to explore further the relationship between the different Ministries and the national regulatory agencies before drawing any clear conclusions about the degree of leeway the regulatory agencies actually enjoy in a network like IMPEL.

10. Balancing efficiency and accountability

The issue of balancing efficiency and democracy has received increased attention in recent literature discussing ‘multi-level governance’ and ‘networks’ in the European cooperation (see for example Dehousse 2002, Kohler Koch 2002, Sørensen and Torfing 2004). One of the key issues is the balance between on the one hand securing effective problem-solving capacity and, on the other hand, having legitimate administrative structures subjected to political control. The first type of concern may be linked to the concept of ‘output democracy’ where focus is on the superior performance of the agency, relative to the result that would be likely if elected politicians were to perform the functions themselves (Thatcher and Stone Sweet 2001). In the case of IMPEL, we have seen that the network clearly contributes in securing a more *effective* implementation of the legal acts on the ground and contributes to enhance a harmonized internal market in the field of environmental policy. This may be even more salient if policy-making were included in the scope of the network, as the laws might become more ‘enforceable’ and as such easier to implement for the technicians on the ground. The informants are positive to such a development, and consider it a necessary development. In the words of one of the experts, ‘*we have so many practical problems with the directives, so it is necessary that we have a word to say when the laws are in process*’. Hence, a network

¹⁸ The national experts devote in general approximately 1/3 of their time to the IMPEL network and the rest to their ‘ordinary’ work to the agency.

like IMPEL may be a workable solution both for the Commission and the member states to the above-mentioned problem, namely how to secure uniform implementation without transferring more direct power from the national to the supra-national level. In this respect it is possible to understand such an arrangement through ‘inter-governmental lenses’; in other words, as an arrangement securing an important political goal for the member states, that of harmonizing the Internal Market.

On the other hand, we have seen that the national experts in the regulatory agencies have to alternate between different principals, and it can be argued that such a ‘double-hatted’ position may blur the relationship between different actors, making it difficult to individuate the real owners of competencies and responsibilities. In Wessels’ words (1996: 365): *‘Fusion’ becomes also ‘confusion’ since we are increasingly less able to make individual institutions and persons accountable for their action’*. In this respect, it is possible to argue that the IMPEL network challenges traditional notions of the functioning of national administrations and in so doing the notion of democratic governance¹⁹. In relation to agencies at the European level, there is growing awareness in the EU of the need to ensure the autonomy of experts while at the same time securing political and legal control through increased transparency, codes of conduct and principles of good administration (Dehousse 2002, Sverdrup 2003b)²⁰. In my opinion, this awareness may also be expressed in relation to the role of national regulatory agencies on the European scene.

¹⁹ The fundamental political concept of ‘democracy’ is of course multi-faceted and may be understood and interpreted within different theoretical frameworks. It is not possible within the limits of this paper to do justice to this political concept; my aim here, however, is primarily to point to the fact that an arrangement such as IMPEL may be understood and considered in different ways dependent on the student’s ‘glasses’.

²⁰ This is explicitly outlined in COM (2002) 718 final: Communication from the Commission. The operating framework for the Regulatory Agencies.

11. Conclusion (and a starting point)

Organizations direct and redirect patterns of conflict by adhering to different principles of specialization (Egeberg 2003: 4). By weakening the principle of territorial organization in a political entity by imposing smaller functional entities as the main building blocks, the focus of conflicts may be shifted from territorial lines and towards other lines of conflict. As such, it may be argued that a harmonized implementation of EU policy in its member states that is based on organizing administrative policy across territorial lines would be a more far-reaching transformation of the EU as a political system than harmonization due to member state adherence to EU-level legislation. Sverdrup (2003b: 17) puts it this way: ‘These developments challenge the traditional principle of sovereignty that has been a fundamental building brick in the European administrative order. The principle of institutional independence is gradually being stretched and it is gradually being replaced by an idea of administrative interdependence’.

As stated earlier, this study is tentative and explorative, and my remarks have been restricted to one particular area, one network. The purpose of the study has been to pinpoint future research efforts rather than offer any clear answers. We have some indications and a notion of a puzzle to be examined further: it would for instance be interesting to dig deeper into the relationship between the national Ministries and the regulatory agencies in a European context. Why do the states differ in relation to the national Ministries’ involvement? How do the national Ministries react to and perceive the situation?²¹

I would also like to explore further different mechanisms explaining the dynamics between the various actors at their respective levels; it would be interesting for example to examine further the concepts of ‘partnership’ and ‘authority’ that have been pointed out in this analysis. Are these concepts relevant and fruitful for understanding the cooperation between national regulatory agencies and the European Commission? A relevant question is whether we find the same type of relationship between the European

²¹ Cf. the report from the Swedish Agency for Public Management (2003:29) regarding an increased need for further coordination of the work of the national regulatory agencies in the European cooperation. www.statskontoret.se.

Commission and the national regulatory agencies in other types of networks. One possibility is to compare the first network of pollution authorities with one dealing with matters where national interests are more salient, for instance a network of agencies in the energy sector. Does the European Commission have the same grip on the agencies when there is more 'at stake' for the member states? Is the familiarity dimension equally strong? If we found the same pattern in this latter case, it would serve as indication of the robustness of the mechanisms involved. Hence, the IMPEL network is a stepping-stone, hopefully a useful and fruitful stepping-stone, which will contribute to our understanding of the dynamics between different institutions in the European cooperation.

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