

# TRANSNATIONAL BUREAUCRATIC POLITICS: AN INSTITUTIONAL RIVALRY PERSPECTIVE ON EU NETWORK GOVERNANCE

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This contribution introduces our symposium by highlighting four distinctive aspects of transnational governance from a bureaucratic politics perspective: the emergence of transnational institutions, their functioning, their impact on the domestic level, and the diffusion of regulatory standards. The general argument is that many accounts of transnational governance seem to be overly optimistic about the conditions for effective problem-solving and fail to take into account that institutional rivalry may either support or constrain the implementation of supranational policies. The aim of this piece is to review existing research, to highlight the contribution of the symposium articles in furthering an institutional rivalry perspective on transnational governance, and to sketch pertinent areas for further research building upon this perspective.

## INTRODUCTION

This symposium focuses on administrative power struggles as an explanation for the development, actual functioning and effects of transnational administrative networks in the European Union (EU) and beyond. These networks address transboundary policy problems, and they facilitate the functioning of the internal market of the EU. They are a fundamental component of modern regulatory governance in the absence of centralized coordination capacity at the global (Slaughter 2004) or EU level (Dehousse 1997). Such transnational networks are composed of specialized domestic officials and regulators who directly interact with each other, often with minimal ministerial supervision (Raustiala 2002). Recent research has addressed the emergence of networks of national regulatory agencies as a means to deliver coherent implementation of EU policies (e.g. Coen and Thatcher 2008; Eberlein and Newman 2008; Maggetti and Gilardi 2014). Moreover, the literature on EU agencies – which often work as hubs for networks of national agencies – also provides insights into the structures, processes and effects of transnational governance (Dehousse 1997; Egeberg 2006; Levi-Faur 2011).

Yet, as much of the literature focuses on functional explanations, taking network-building and effective coordination for granted as a result of functional necessities (e.g. Majone 1997), we still lack systematic empirical knowledge on the actual development, functioning and effects of transnational networks (Kelemen 2002; O'Toole 2015). The functional perspective has been complemented by recent research highlighting the influence of political interests on transnational governing structures (Groenleer 2011; Kelemen and Tarrant 2011; Blauberger and Rittberger 2015). However, the strategic motivations of administrative actors have hitherto not played a major role in theoretical and empirical research on transnational governance (but see Thatcher 2011; Groenleer 2014). This is surprising, considering that bureaucratic self-interest and resulting turf

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battles are considered major impediments to bureaucratic coordination at the national level (Wilson 1989; Peters 1998; Heidbreder 2014). The bureaucratic politics approach elaborated in this contribution synthesizes existing research on the emergence, actual functioning, and effects of agency networks and networked governance and suggests directions for further research. It builds upon and further develops existing research viewing institutional design as power struggles between national and supranational interests, and it provides theoretical underpinnings based on the institutional interests of executive bodies regarding the conditions under which transnational cooperation is likely to solve pressing policy problems.

The aim of this article is to systematically shed light on the 'administrative factor' in transnational network governance. First, we uncover the role of bureaucratic politics, i.e. the institutional interests of public sector organizations and networks thereof, in the emergence and change of institutions of transnational governance. This contribution argues that functional explanations which emphasize the need for transnational coordination fall short of recognizing the role of bureaucratic politics in shaping cross-level interactions. Transnational agencies (which are usually 'networked agencies') emerge in a crowded environment consisting of various organizations all pursuing their own distinct interests, which will affect the politics of institutional design.

Second, we claim that the actual functioning and the effectiveness of transnational agencies and networks can be fruitfully analysed through an institutional rivalry perspective. Much of the literature analyses EU agencies and transnational networks as means to tackle coordination problems, such as dealing with interdependent policy problems or ensuring a consistent implementation of EU policies across member states. However, as evidenced by scholarship on coordination within and between national bureaucracies, effective coordination across organizations seems to be the exception rather than the rule. Arguably, this is especially relevant in the case of voluntary coordination, as opposed to horizontal coordination 'in the shadow of hierarchy' (Scharpf 1997). We therefore suggest considering the institutional interests of national agencies to provide a more realistic picture of the effectiveness of administrative coordination 'after delegation'.

Third, there is a lack of systematic knowledge regarding the impact of the 'transnationalization' of executive decision-making on bureaucratic autonomy in the national setting (Mastenbroek and Princen 2010; Yesilkagit 2011). Egeberg and Trondal (2009) characterize national agencies as double-hatted, meaning that they serve both ministerial departments and the Commission. As members of transnational networks, national agencies keep fulfilling many of their traditional tasks and have to deal with well-established political, societal and economic actors. At the international level, though, they become part of an entirely new constellation of actors and thereby potentially gain new channels of influence, but also have to face new restrictions (Ruffing 2015a). As a result, the agencies' parent ministries compete with the Commission over who controls the agencies (Egeberg and Trondal 2009). Moreover, the agencies' participation in EU administrative networks strengthens their role in domestic policy-making (Bach *et al.* 2015).

Finally, an analytical perspective emphasizing institutional rivalry provides additional leverage for the analysis of the EU's external governance, in particular with regard to competition, diffusion and harmonization of regulatory standards in international trade. Diffusion approaches typically adopt a macro perspective and understate actor-level explanations. Nonetheless, as shown by Schulze and Tosun (2016) in this symposium, institutional rivalry matters in diffusion studies, in two ways. On the one hand, rivalry exists at the international level, with respect to standards inspired by different regulatory

styles and politico-administrative traditions. On the other hand, they highlight that a dynamic of rivalry can be at work across levels, whereby domestic actors' interests are more important than international power politics in affecting national regulations, even when the latter are enshrined in international regimes. Before developing each of these four aspects (analysed so far in isolation) in depth, the next section gives an overview of different regimes of organizing transnational regulation

## TRANSNATIONAL NETWORKS AND INTERNATIONAL REGULATORY COOPERATION

The growing internationalization of markets and the interdependence of policy issues require common policies and institutional arrangements to avoid negative externalities and regulatory loopholes. In the absence of a global authority, international organizations and transnational networks are set up to achieve regulatory coordination among nation states (Slaughter 2004). In the EU, the question of coordination is particularly pressing: the EU is facing the dilemma of being confronted with a weak legitimacy of deeper integration while the necessity for European coordination to reduce the negative externalities arising from diverging national approaches arguably increases over time (Dehousse 1997; Eberlein and Grande 2005; Eberlein and Newman 2008). In turn, domestic regulatory authorities are confronted with different political preferences, institutional endowments, administrative traditions, market structures and business cultures. To tackle these challenges, several types of sector-specific regulatory regimes have been created for harmonizing standards and regulations, and for ensuring multilevel regulatory cooperation.

The first type of regime involves the creation of transnational agencies to facilitate cooperation among national agencies. In the EU, the process of 'agencification' has been on the political agenda for at least the last two decades (Rittberger and Wonka 2011; Busuioac *et al.* 2012). Agencification is often justified by the need to ensure uniform implementation of EU legislation and to ensure the long-term credibility of regulatory policies, a crucial condition for investors and other market actors (Dehousse 1997; Majone 1997).

The second type of regime consists of transnational networks of both EU institutions and national administrations. Following Coen and Thatcher (2008), these networks configure a weaker institutionalized solution to further the harmonization of European regulation, provide expert-based advice and promote pro-competition rules, given member states' unwillingness to disempower their domestic authorities and delegate more power to the EU level in some key areas. Some such networks were created 'from scratch' by supranational legislation, a prominent example being the European Competition Network (ECN), which comprises the Commission and national competition authorities (see Wilks 2005; Kassim and Wright 2009). Other networks were built on pre-existing bottom-up structures, with which they largely overlap, as in the case of the European Regulators Group for Electricity and Gas (ERGEG). This network was set up by the Commission in 2003 to provide a platform for further developing the internal energy market within the framework of the second Internal Energy Market Directive, in close association with an earlier, voluntary network, the Council of European Energy Regulators.

These networks have proved to be, perhaps unexpectedly, remarkably influential, in particular in comitology (Vos 2005; Krapohl 2008). Furthermore, soft rules developed at the network level have been quite consistently adopted as binding national regulations by member states' regulatory authorities (Maggetti and Gilardi 2014). On the other hand, these networks have allowed domestic regulators to gain new regulatory powers

through the opportunity to play a two-level game (Yesilkagit 2011; Bach and Ruffing 2013; Maggetti 2014).

The third type of regime is related to the role of the EU in promoting the establishment of international regulatory cooperation through global networks (Stone and Ladi 2015). A crucial element is the EU's external governance, through which its eastern and southern neighbours are 'associated', in a process designed to manage interdependence on issues such as justice and home affairs, the environment and energy (Lavenex and Schimmelfennig 2009). This form of governance, exemplified by the creation of the European Economic Area and the 'European neighbourhood' policy, represents a way to extend the scope of EU policies and regulatory reach beyond the EU's borders, notwithstanding the limited institutional involvement of third parties in EU decision-making processes (Lavenex and Schimmelfennig 2009). Other specific international regimes where the EU is actively involved in fostering regulatory cooperation are constituted by bilateral agreements, namely with Switzerland, and by several multilateral initiatives that are more or less formalized, such as participation in the World Trade Organization and in the negotiation of agreements concerning public health or human rights in the context of inter-regional relations, for instance with the ASEM, Mercosur, ASEAN and the Gulf Co-operation Council (Elgström and Smith 2006).

By 'getting other actors to behave in a way that *generally satisfies or conforms to European rules*' (Damro 2015, p. 1344, emphasis in original), externalization of EU regulatory regimes occurs not only among neighbouring countries. The economic power of the single market as well as the normative power of European governance principles and values, such as democracy, human rights, rule of law and modes of cooperation (Newman and Posner 2015), have enabled the EU to set rules and standards for global markets (Young 2015). The size of the single market, the stringency of its rules and the administrative capacity to enforce them allow the EU to compete with other global standard setters. These mechanisms of external influence are power resources that allow the EU to be a strategic actor which aims to attain its policy goals within the global regulatory context (Newman and Posner 2015).

## THE POLITICS OF INSTITUTIONAL CHOICE: FROM FUNCTIONAL TO POLITICAL EXPLANATIONS

Having outlined the different types of international regulatory regimes, this section addresses how supranational agencies and transnational networks emerge. There is a growing body of scholarship studying the growth of supranational agencies and transnational administrative networks. There are two noticeable trends in this area. First, whereas the early literature tended to focus on either agencies or networks, more recent scholarship sees agencies and networks as functional equivalents or complementary structures of multilevel coordination, which therefore need to be jointly analysed (Groenleer 2011; Levi-Faur 2011; Blauburger and Rittberger 2015). For instance, in 2011, the ERGEG network was replaced by the Agency for the Cooperation of Energy Regulators (ACER), in which senior representatives of all national regulators are members of the Regulatory Board, which plays a key role in ACER's decision-making (Ruffing 2015a). Since domestic agencies have not been dismantled, the newly created EU agencies, although more formalized and powerful than transnational networks, still function as networked organizations (Levi-Faur 2011). Moreover, formal and informal networks of

regulators often continue to exist side by side, allowing national regulators to coordinate even without the involvement of the Commission.

Second, whereas most early accounts of the emergence of agencies and networks relied heavily on functional explanations (Dehousse 1997; Majone 1997; Eberlein and Grande 2005), more recent scholarship has embarked on political explanations, stressing the relevance of power struggles between supranational and national interests (Kelemen 2002; Christensen and Nielsen 2010; Groenleer 2011; Kelemen and Tarrant 2011), or has tried to reconcile the two types of explanation, political and functional (Blauberger and Rittberger 2015). Most relevant for the claim put forward in this article are recent accounts theorizing the effect of the pursuit of institutional interests by existing agencies and networks for the politics of institutional choice (Newman 2008; Thatcher 2011).<sup>1</sup> These explanations have the potential to account for the emergence of both agencies and networks. The remainder of this section discusses the concurrent theoretical explanations.

From the perspective of a functional logic of delegation, elected politicians delegate regulatory tasks to non-majoritarian institutions, most importantly independent regulatory agencies, to signal a credible commitment to a chosen policy and to increase policy-making efficiency (Majone 1997). Any alternative in which politicians can exercise discretion would imply the risk of unpredictable changes in the regulatory environment, following the electoral cycle, which is assumed to be detrimental for effective regulatory policy. Another functional explanation for agency creation builds upon the notion that agencies can close the 'regulatory gap' which results from the limited administrative capacities of the Commission to ensure a harmonized implementation of EU legislation (Dehousse 1997). Indeed, a similar argument is also prominent in scholarship on the emergence of transnational regulatory networks (Slaughter 2004; Eberlein and Grande 2005; Eberlein and Newman 2008).

The relevance of political explanations for the institutional design of EU agencies is underlined by Christensen and Nielsen (2010), who find that higher degrees of formal powers of EU agencies coincide with stronger mechanisms of formal control by the member states. Moreover, in terms of institutional design, they do not find any significant differences between regulatory and non-regulatory agencies, whereas Wonka and Rittberger (2010) provide evidence that economic regulatory agencies have been endowed with higher levels of formal autonomy. Kelemen (2002) analyses the creation of EU agencies since the early 1990s as a consequence of inter-institutional power struggles between the Commission, the Council and the European Parliament (especially since the latter institution became increasingly engaged in the politics of agency design).

Kelemen and Tarrant (2011) more explicitly address the conditions under which agencies or networks are created. They argue that member states will prefer to have more control over the implementation of EU policies through administrative networks under conditions of strong distributional conflicts (rather than see the establishment of a supranational agency, which tends to be the preferred solution of the Commission and the European Parliament). In an attempt to reconcile functional and political explanations, Blauberger and Rittberger (2015) argue that functional explanations perform well in explaining the decision to create a particular coordination structure (e.g. a transnational network rather than an EU agency), whereas political explanations are useful in explaining variations in the specific institutional design of transnational networks.

In terms of institutional choice, such an analytical perspective highlights the importance of the institutional interests of bureaucratic organizations. Moreover, it explicitly considers that institutions are created in a crowded institutional space, especially in the EU. For



instance, the creation of agencies in economic regulation occurred much later than in social regulation (Eberlein and Grande 2005; Thatcher 2011). This empirical observation is at odds with the logic of credible commitment, according to which delegation to independent regulators is most relevant for economic regulation, in contrast to social regulation (Gilardi 2008; see Wonka and Rittberger 2010 for a more nuanced discussion). The explanation put forward by Thatcher (2011) is one of institutional rivalry, driven by existing organizations defending their interests. He argues that the Commission initiated the establishment of EU agencies only in sectors where it had limited powers, whereas it resisted the creation of agencies in areas where it had accumulated substantive powers.

Another explanation is that national regulators tend to oppose the creation of supranational agencies (and prefer the creation of less institutionalized transnational networks) because they fear a shift of power to the supranational level. When EU agencies in economic regulation have been created, national regulators and governments have attempted to limit their powers, for example by integrating national regulators into those new EU agencies' management boards. However, being able to rely on a network of powerful national regulators may in fact increase the actual autonomy and power of supranational agencies (Groenleer 2014). Moreover, the degree of contestation of transnational agencies may also vary across policy sectors, with corresponding differences in national agencies' assessment of the desirability of transnational coordination (Heims 2014).

A key insight from an institutional rivalry perspective on networks is to focus on the interplay of national as well as supranational administrative actors' institutional interests. The symposium contribution by Mathieu (2016) shows indeed that the Commission created favourable conditions for the establishment of a transnational regulatory network in the telecommunications sector by mandating member states to set up independent regulators. This setting then created a functional necessity – also driven by the (newly created) agencies' institutional interests – to create a transnational regulatory network to facilitate the implementation of EU legislation. Newman (2008) provides another example of how institutional dynamics at the national level shaped institutional choice at the supranational level. He shows that an informal transnational network of national agencies governing data privacy acted as a successful policy entrepreneur in the process leading to the adoption of the EU's Data Privacy Directive by imposing its preferences against initially strong opposition. Moreover, this process entailed a formalization of the transnational network, which has had major repercussions on both the formal and informal powers of national data protection agencies (Yesilkagit 2011).

## **THE COORDINATIVE CAPACITY OF SUPRANATIONAL AGENCIES AND TRANSNATIONAL NETWORKS**

After highlighting the relevance of bureaucratic politics for the institutional design of supranational agencies and intergovernmental networks, we now turn to the dynamics of multilevel coordination in practice. The argument is that analysing processes of inter-organizational coordination through the lens of bureaucratic politics is particularly relevant, considering that both EU agencies and transnational networks are composed of national agencies that may have divergent interests (Dehousse 1997; Levi-Faur 2011; Groenleer 2014). This approach is based on the insight that formal structures and procedures do not determine actual practices of decision-making. Once created, public bureaucracies pursue distinct institutional interests and become 'political actors in their own right' (Moe 1990, p. 143). As with other public organizations (Carpenter 2001),

this may even go as far as EU agencies being able to set the agenda and impose their preferences on elected politicians and other stakeholders. In other words, a bureaucratic politics perspective highlights institutional interests as potentially driving or inhibiting inter-organizational coordination. More specifically, national agencies' institutional interests are likely to be threatened by coordination in the EU multilevel setting, in which supranational agencies and networks potentially take over tasks from the national level.

A key lesson from research on bureaucratic coordination at the national level is that effective coordination between public sector organizations is the exception rather than the rule (Peters 1998). The virtual impossibility of allocating every policy problem to a single organization leads to a situation of structural interdependence, which makes coordination between bureaucratic organizations necessary (Scharpf 1997). However, coordination with other organizations may imply changes to an organization's standard operating procedures and may compromise its preferred course of action. Also, task specialization leads to selective perception or a 'silo mentality', which occurs when organizations develop a biased view of policy problems. Although selective perception tends to be viewed as inherently problematic, it is a precondition for government based on expertise (Heidbreder 2014). As a consequence of selective perception, inter-organizational conflict will be fiercest among organizations within the same policy area that 'lack common ideas about service delivery' (Peters 1998, p. 304).

Against this background, the conditions for effective supranational coordination through networks of national agencies seem quite favourable, as the latter do not compete for the same budgetary resources, usually have similar competencies and adhere to common professional standards (Eberlein and Grande 2005; Maggetti and Gilardi 2011). This argument is backed by the notion of shared worldviews among national agencies, but it tends to underestimate that supranational coordination is costly in terms of time and resources, and may impinge upon national agencies' institutional interests or turf (Heims 2014). More specifically, institutional interests resulting from organizations striving to maximize their autonomy (Wilson 1989) are considered as major impediments to effective inter-agency coordination.

A high level of autonomy is characterized by relatively undisputed jurisdiction and a coherent mission of the organization, i.e. 'a widely shared and approved understanding of the central tasks of the agency' (Wilson 1989, p. 182). As a result, agencies will try to match their mission with their jurisdiction and defend their turf in order to ensure political support, as well as to minimize the need for monitoring their employees. Accordingly, bureaucratic organizations will coordinate with others only if this contributes to the accomplishment of their core mission, or at least does not threaten their turf. In a recent empirical study covering several sectors and countries, Heims (2014) shows that national agencies will engage proactively in (mandated) supranational coordination only if it adds value to their core (national) business.

Another body of literature expands the turf perspective and emphasizes the importance of reputational concerns as a driving force of bureaucratic behaviour (Carpenter and Krause 2012; Maor 2014; Gilad 2015). Accordingly, bureaucratic organizations are driven by the desire to create or maintain their distinct reputation, which is considered to be a key source of power and which ultimately ensures organizational survival. Put differently, an agency's distinct reputation is a political resource to ensure autonomy (Carpenter 2001) and therefore also its turf. This kind of reputation-sensitive behaviour becomes visible in various ways, such as through the timing and type of agency decisions or strategic responses to public allegations (see Maor 2014 for a recent review of the

literature). An important element is that public bureaucracies have multiple audiences, which place potentially conflicting demands upon them as they value different aspects of an organization's activities (Carpenter and Krause 2012). As a result, reputation-sensitive organizations have to trade off reputational risks against each other when taking decisions (Gilad 2015).

For the study of coordination in a multilevel setting, this approach implies that reputational calculations of national agencies will strongly influence their propensity to cooperate. In the study of transnational coordination, this is largely untrodden territory. In her contribution to this symposium, Busuioc (2016) shows that reputational concerns drive the willingness of national agencies to cooperate with supranational agencies. The supranational agency in the field of police cooperation (EUROPOL) is provided with insufficient information by national law-enforcement authorities, which fear losing cases because of the associated reputational costs in their domestic context. The situation is different for joint border control (FRONTEX), where national authorities are dependent on the efficient working of their sister organizations, due to a high level of problem interdependency, and hence are willing to contribute actively to supranational operations. That said, they tend to oppose strengthening the administrative capacity of FRONTEX, as it might then become a rival institution, pursuing its institutional interests by demonstrating its added value, similar to EUROPOL (Busuioc 2016).

In a similar vein, Groenleer (2014) shows that the supranational medicines regulator, the European Medicines Agency (EMA), gained substantial powers by co-opting national regulators into its decision-making structures and thereby protecting their institutional interest of organizational survival. In contrast, national agencies are less integrated into the (formally more autonomous) supranational food safety agency, the European Food Safety Authority (EFSA), which is hence perceived more strongly as a rival institution by national authorities. Therefore, taking the institutional interests of already existing national authorities into account can be seen as a key condition for supranational agencies to gain power by adding value to 'an environment replete with other organizations, in particular national authorities' (Groenleer 2014, p. 283). This type of supranational networking will be eased if national authorities have comparable task portfolios and formal powers (Eberlein and Grande 2005). As we have seen above, supranational legislation can play a decisive role in establishing such conditions (Mathieu 2016). Before turning to another instance of institutional rivalry, namely multilateral agreements, we look at the effects of supranational coordination on relationships between national administrative actors.

## DOMESTIC EFFECTS OF TRANSNATIONAL NETWORKS AND INTERNATIONAL COOPERATION

How network-building on the international level would impact on national administrative systems is a largely unexplored topic. In her seminal book *A New World Order*, Anne-Marie Slaughter (2004) argued that networks are ubiquitous in the international system and that the process of network-building goes hand in hand with a disaggregation of nation states, meaning that they are no longer represented by diplomatic corps only but also by regulators, courts and parliamentary committees. However, Slaughter was concerned with the question of whether this network-building process might enable a legitimate political order in the international system and not with how it might impact on nation states.

Whereas regime theory acknowledged as early as the 1980s (Keohane 1984) that expert networks gain far-reaching influence in and on international organizations, the fact



that these experts are mostly national administrative actors was often reported but not discussed (e.g. Adler and Haas 1992; Gehring and Ruffing 2008). Trying to gain ground against the formerly predominant (neo-)realism, regime theory was mainly concerned with demonstrating that international organizations (and their administrations) are able to gain any kind of influence on policies and implementation at all (Barnett and Finnemore 2004; Joachim *et al.* 2008). Current research on the bureaucracy of international organizations tends to follow this tradition, by focusing on whether and how such administrations gain autonomy from their member states (Biermann and Siebenhüner 2009; Ege and Bauer 2013). However, if they are able to increase their autonomy, and if they are based on networks of national administrative actors, international relations theory might have much to learn from research on European integration (Stone and Ladi 2015).

With regard to the EU, there are two strands of research on the effects of network-building on member states. First, there is research on whether national administrative procedures and structures are changed by European integration (Börzel and Risse 2000; Knill 2001; Ruffing 2015b) or even converge within the EU member states (Trondal and Peters 2013), leading to the emergence of a European administrative space. Börzel and Risse (2000) developed the now well-acknowledged misfit thesis. This thesis assumes, *inter alia*, that 'Europeanization leads to domestic change through a differential empowerment of actors resulting from a redistribution of resources at the domestic level', or an internalization of changing norms (Börzel and Risse 2000, p. 2).

These processes of change are triggered by a certain degree of misfit between European and national processes, policies and institutions, where by adaptational pressure increases with the degree of misfit. Esmark (2008) demonstrates that a misfit between the European and Danish polity led to a change in administrative structures, establishing new coordination structures within and between ministries. In contrast, Knill (2001) shows, by comparing British and German implementation of European environmental policy, that even a high degree of misfit does not lead to change in administrative structures if adaptational pressure impinges on the core of well-established national administrative structures. This finding is in line with the research on the convergence of national administrations towards a European administrative space that delivers repeatedly mixed results, showing that some convergence processes are under way even while, on the other hand, differences remain quite persistent (Olsen 2003; Trondal and Peters 2013).

The second strand of research is more focused on the effects of networks on the autonomy and role in the policy process of their members – national agencies. One well-established empirical finding is that membership of European networks affects the formal and de facto autonomy of national agencies from their parent ministries (see Bach and Ruffing 2013 for a discussion of formal and de facto autonomy in this context). Domestic agencies not only are more independent from elected politicians when they are part of EU networks, but their network membership also increases their independence from the regulated industries (Maggetti 2012). Studying the implementation of the European Data Protection Directive, Yesilkagit (2011) finds that the Dutch data protection agency gained a high degree of formal independence due to initiatives of and resources provided by the European network of data protection agencies. In a similar vein, Ruffing (2014) demonstrates that the creation of an independent German utilities regulator was to a great extent induced by network-building dynamics on the European level. Maggetti (2014) shows that national agencies involved in European networks enjoy a reinforcement of their regulatory powers, granting them also more formal autonomy.

However, even if the formal configuration of ministry–agency relations remains unchanged, agencies may gain *de facto* autonomy. Egeberg and his colleagues found that national agencies involved in European decision-making become ‘double-hatted’: that is, simultaneously serving their parent ministry and the Commission (Egeberg and Trondal 2009). This allows them to bypass their ministries and influence European policy-making directly (Egeberg 2006). Yesilkagit (2011) shows that the formally empowered Dutch data protection agency could use the resources of its supranational network to decisively influence national policy-making. Ruffing (2015a) shows that the German energy and financial market regulators gained *de facto* autonomy in policy development due to the increasing information asymmetry between agencies and ministries resulting from the multilevel character of European decision-making. Moreover, several large-*n* studies indicate that participation in transnational networks in general results in more *de facto* autonomy of national agencies (Bach and Ruffing 2013; Bach *et al.* 2015). What remains to be done is to operationalize cross-level interactions from a rivalry perspective, that is, to focus not only on the benefits of playing in a multilevel arena, but also on the constraints deriving from it.

### THE EFFECTIVENESS OF THE EU AS A TRANSNATIONAL REGULATOR

Having discussed the domestic effects of transnational networks and supranational agencies, we now turn to the external effects of EU network governance. The process of Europeanization and its impact on domestic institutions situated beyond the EU borders is not a novel research area. An emerging literature focuses on public policy-making on a global scale (Stone and Ladi 2015) and argues that Europeanization research can be regarded as a special instance of policy and institutional diffusion (Börzel and Risse 2011). However, research on Europeanization and diffusion beyond the EU is mostly limited to processes of policy transfer, institutional emulation and models for regional integration (Jetschke and Murray 2011; Lenz 2011). Empirical analyses of regulatory competition and interdependence between transnational regulatory orders are now emerging (Birchfield 2015; Kissack 2015; Schulze and Tosun 2016).<sup>2</sup> Furthermore, the impact and effectiveness of EU-orchestrated transnational regulatory networks and institutions need to be assessed *vis-à-vis* other transnational legal and regulatory orders. Ultimately, transnational norms and associated institutions gain force and effect when they are embedded in national legal systems (Shaffer 2012).

Transnational regulatory orders are interconnected (Abbott and Snidal 2001) and interdependent (Lazer 2001). They are a reflection of either international regulatory competition or international regulatory coordination that affects the choices of national policy-makers. At the global level, legal orders and norms are sometimes complementary and sometimes incompatible. In the former case, transnational regulatory institutions provide another means to pursue harmonization for obtaining market access and achieving economies of scale (Raustiala 2002). An example of the first type of interdependence is the transatlantic cooperation through which transnational networks negotiate treaties for harmonizing policies and rules (Raustiala 2002).

In the latter case, jurisdictions are called to choose one among several models of economic and institutional cooperation for achieving regulatory harmonization (Zielonka 2008). An example of the second type is transnational regulatory interdependence regarding competition law, where jurisdictions are called to embrace an international treaty based on US or EU norms and practices (Raustiala 2002). Another example are environmental

multilateral agreements, as analysed in Schulze and Tosun's (2016) contribution to this symposium. Moreover, EU agencies interact with pre-existing international organizations aimed at solving transnational issues and governing global markets. This implies that EU agencies often conform to international organizations' norms and values in order to enhance the effectiveness and legitimacy of their performance. Similarly to the argument that involvement in EU agencies or transnational networks benefits national agencies, the interaction with international institutions may further the autonomy of EU agencies towards their stakeholders (Busuioc *et al.* 2012).

As a global actor, the EU is seeking to promote its environmental and trade regulation also among non-member states. A measure of the effectiveness of the EU as a global standard setter is the ratification of international agreements that overlap with its own governance style on environmental and trade issues. Schulze and Tosun (2016) emphasize that there is now an institutional marketplace composed of poles of influence, i.e. the economic superpowers, which are able to set international standards for all other countries. The US and the EU are the main producers and exporters of transnational norms. Accordingly, they play an essential role in the construction and diffusion of transnational legal norms (Shaffer 2012).

Cooperation and competition between transnational regulators have different implications. The choice of transnational actors to cooperate leads to the global standardization of products and services, as well as to economic and social regulations. On the contrary, the choice of regulatory players to compete with each other results in a division of the world, in a set of clubs in which national jurisdictions adhere to and comply with one of several standards set by hegemonic global regulators through regional integration processes and multilateral and bilateral agreements and institutions.

What is striking from the strand of comparative and international political economy is the impact on global regulation of the institutional features and administrative capacity of the EU as a regulatory state. Policy-making processes and decision-making rules contribute to the EU's external dimension of the regulatory state. The regulatory expertise, internal cohesiveness and sanctioning authority of EU regulatory networks and agencies are necessary conditions for the external influence of the EU as a regulatory state (Damro 2015). Furthermore, similar to the bureaucratic politics approach, the literature on the EU as a global regulator and market power is also characterized by interest contestation of domestic actors (Damro 2015), the bureaucratic interests of cooperating actors (Legrand 2015) and by the density of regulatory institutions within a global regulatory context (Newman and Posner 2015).

Accordingly, one can maintain that administrative power struggles are common across all the institutional manifestations of EU regulatory networked governance. In other words, institutional rivalry is an analytical perspective that can be applied in explaining variation in regulatory governance within EU networks, as well as variation in the extent of the externalization of such networks.

## CONCLUSION

This article – together with the other contributions to this symposium – points to the crucial role of bureaucratic politics in explaining the emergence and change of institutions of transnational governance. We also explored the impact of bureaucratic interests on cooperative behaviour within administrative networks and the effect of transnational governance on national administrations. Finally, we investigated power struggles that might influence

the diffusion of EU regulatory models. Thereby, we suggest that studies of EU agencies and transnational networks which take into account the institutional interests of national agencies and of the EU as an actor in the international arena provide a more realistic picture of the effectiveness of administrative coordination on the European level. In addition, we have shown that European network structures also impact on national administrative structures and actors, empowering them with respect to their formal structures, capacity and autonomy.

However, a major research gap relates to the extent of any interaction between such processes on the European and the national levels. Most studies focus either on the question of how 'Europe hits home' (Börzel and Risse 2000) or on how national actors influence European network-building and coordination. One could assume, however, that those processes become mutually reinforcing or, on the contrary, inhibit each other. For example, if national agencies are empowered by their involvement in European networks, as discussed above, this might change their bureaucratic interests and their preferences with regard to the creation of a supranational agency. Further research needs to account for the bureaucratic politics that affect coordination within and across different levels, which includes feedback processes in the cross-level interactions that span all these levels. This symposium is a first step in this direction by relying on three different case studies of transnational regulatory cooperation, brought together by the theoretical framework of institutional rivalry. Taking this line of thought a step further, the institutional rivalry perspective on administrative networks may be 'scaled up' to the study of transnational networks at the international level, e.g. within international organizations, but it may also be 'scaled down' to study administrative networks spanning different levels of government at the national or regional levels, comprising regional and local actors, respectively.

All in all, we maintain that regulatory agencies pursue their own interests across all levels of transnational governance. National regulatory agencies are in need of achieving autonomy and legitimacy within their domestic institutional and political environment. This pursuit is facilitated by the process of agencification at the EU level that may enhance the autonomy of national regulatory agencies vis-à-vis domestic institutions. However, emergent EU and supranational regulatory institutions may also control national agencies, limiting their operational autonomy. Once an institutional equilibrium among divergent interests has been reached, for instance at the level of EU single market regulation, the EU may become a 'model power' for tackling market, environmental and social issues at the global level (Zielonka 2008). In other words, regulatory governance institutions designed and implemented within the EU, such as the precautionary principle and mutual recognition of products and services, may be adopted and consequently legitimated by other non-EU actors.

The EU can act as a legitimate actor and as a model power only if it can display externally its capacity of effectively governing its internal market and environmental and societal issues. At the global level, where different models designed by the US and other regional powers are in competition for acquiring the status of global standard, the EU may be able to play a distinct role as an international actor (Groenleer and Van Schaik 2007; Zielonka 2008). By putting forward a general hypothesis that bureaucratic actors are willing to cooperate internationally only if the shift of their competences to a higher level of governance does not endanger their autonomy, reputation or legitimacy, this special issue is a first step towards an integrated analysis of multilevel regulatory governance.

The literature review in this article and the articles in the symposium suggest that the actual autonomy of agencies may differ quite substantially from their formal autonomy,

a finding which is consistent with research on national agencies (Yesilkagit and van Thiel 2008; Maggetti 2012; Bach 2014). Due to their nature as networked agencies, the actual autonomy of supranational agencies needs to be assessed in conjunction with the formal and actual powers of those national agencies incorporated in the decision-making structures of the supranational agencies (Mathieu 2016), as well as with the institutional interests of national agencies (Heims 2014; Busuioc 2016). Having strong linkages to a vertical network of national agencies and the co-optation of national agencies into the decision-making process may provide supranational agencies with important power resources (Groenleer 2014) and this may not be reflected in measures of formal agency autonomy. Hence, the perspective proposed here may also provide analytical leverage to explain variation between different networks (including supranational agencies) in terms of their autonomy, and ultimately their problem-solving capacity.

More generally, we should pay more attention to within- and cross-level interactions. To understand the establishment and functioning of transnational networks, we should examine horizontal and vertical relationships involving cooperation but also conflict among actors that aim at expanding their organizational power. At the same time, intense cooperation at the transnational level is likely to limit the potential for cooperation among domestic actors, and vice versa (Egeberg and Trondal 2015). This would imply that well-functioning agencies or networks could also have negative effects on the cohesion of national policy-making capacity, although they would be able to improve policy effectiveness from an essentially sectoral, EU perspective. This 'dark side' of networks is, however, an empirical question that should be investigated further.

Finally, we believe that an institutional rivalry perspective on transnational networks and the diffusion of regulatory standards beyond the EU itself have a strong potential for cross-fertilization. However, the type of rivalry may vary. In the case of transnational networks and EU agencies, we focused on rivalry in terms of institutional interests, which were assumed to be consistent across national agencies. The willingness to cooperate with EU agencies, as studied by Busuioc (2016), is a case in point. In contrast, our discussion of the diffusion of regulatory standards essentially focused on diverging institutional preferences related to policy substance, rather than on questions related to institutional design or the functioning of international trade regimes in practice. We therefore suggest that studies of transnational networks and agencies should examine the dynamics of interests related to policy substance more closely (e.g. Maggetti and Gilardi 2011). This includes issues on which national agencies manage to 'upload' policy preferences to transnational settings, but also issues relating to the general mode of functioning of networks, e.g. whether they are dominated by bargaining or problem-solving (Scharpf 1997). At the same time, we suggest that studies on the diffusion of regulatory standards need to pay closer attention to the 'administrative factor' underlying such processes. As Newman and Posner argue, there is a close relationship between administrative capacities and the ability to assert policy preferences, as 'a polity must have the institutional expertise, internal arrangements and governance mechanisms to develop a set of rules, identify breaches in those rules and sanction non-compliance' (Newman and Posner 2015, p. 1323). In this sense, the symposium is an important step to link the European and the global debate on bureaucratic politics.



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## NOTES

<sup>1</sup> A third theoretical explanation for the creation of supranational agencies is rooted in sociological theories of isomorphic change in organizational fields, claiming that agencies have become a standard model of organizing and are therefore considered legitimate (Van Thiel 2004; Ruffing 2014). These theories are not covered in this article but have been applied to analyse processes of institutional choice for supranational agencies (Christensen and Nielsen 2010; Groenleer 2011).

<sup>2</sup> Transnational regulatory orders can be conceptualized as 'a collection of more or less codified transnational legal norms and associated institutions within a given functional domain' (Shaffer 2012, p. 236).

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