

National regulators, regulatory networks, and European agencies: Connecting the dots

Public Policy and Administration
0(0) 1–6

© The Author(s) 2019

Article reuse guidelines:

sagepub.com/journals-permissions

DOI: 10.1177/0952076719886748

journals.sagepub.com/home/ppa



Martino Maggetti 

University of Lausanne, Lausanne, Switzerland

Fabrizio Di Mascio

Università degli Studi di Torino, Torino, Italy

Alessandro Natalini

University of Naples – Parthenope, Napoli, Italy

Abstract

This introduction to our special issue discusses the challenges related to the cooperative and competitive interaction between national regulators, regulatory networks, and European agencies within increasingly complex EU regulatory regimes. In this context, a special attention is given to the dynamic nature of multilevel processes. After presenting an overview of the contributions to the special issue, we conclude by offering three insights on possible avenues for further research, referring to (a) the governance structure of regulatory networks, (b) the micro-foundations of regulatory networks, and (c) their role in implementation and enforcement.

Keywords

Agentification, Multi-Level Governance, Networks, Regulation

Corresponding author:

Martino Maggetti, University of Lausanne, Géopolis, Lausanne 1015, Switzerland.

Email: Martino.Maggetti@unil.ch

Regulators in a multilevel setting

The growing internationalization of markets, the emergence of new risk areas and associated risk management techniques, and the widening and deepening of European Union (EU) integration create opportunities as well as challenges for regulators. It has already been observed that national regulatory agencies still retain crucial competencies, in a context shaped by strategic concerns, the persistence of national interests, dissimilar administrative traditions, and by competition among regulatory authorities. However, at the same time, a large number of regulatory networks and European agencies emerged as focal points in European regulatory regimes, creating a situation where regulators located at the local, national, and supranational levels have to coordinate their regulatory activities in many policy areas, such as telecommunications, finance, energy, pharmaceuticals, just to mention a few (Bach and Ruffing, 2017; Egeberg and Trondal, 2017; Maggetti and Gilardi, 2014; Ongaro et al., 2015). Can regulators cope with this complexity? Which variations do exist with respect to their role in the regulatory process? How do national regulators, regulatory networks, and European agencies interact in EU regulatory regimes? How do they relate to regulatory targets and regulatory beneficiaries?

The main goal and the original contribution of this special issue is to tackle these (and more) questions by connecting the dots between issues that have been mostly treated in separation, such as those that pertain to the articulation of multilevel regulatory governance across different levels, countries, and sectors (Mathieu et al., 2017; Ongaro et al., 2015); to the modes of change that shape the institutionalization of regulatory networks (Boeger and Corkin, 2017); to the role of transnational networks as drivers of agency autonomy and capacity at the national level (Danielsen and Yesilkagit, 2014; Maggetti, 2014; Vantaggiato, 2018); to the role of national regulators' support in building regulatory capacity at the EU level (Heims, 2018); to the cooperation and competition among different regulatory bodies (Busuioc, 2016); and to their relationships with public officials, elected politicians, business actors, and the public at large (Wood, 2017). We claim that such an integrative approach will offer new research avenues for the study of regulatory governance in the EU.

The articles presented in this special issue contribute to this discussion by examining the unfolding of regulatory processes at different levels, which are related to EU agencies, national regulators, firms–regulators relationships, and EU networks. In particular, it emerges that regulators are confronted with different dilemmas and trade-offs. EU agencies can become very influent on the EU policy process but then they face the risk of experiencing a reduction in independence by the Commission, especially when they lack their own expertise and resources (cf. Ruffing, this issue). Domestic regulators have to cope with multiple audiences and embody different forms of responsiveness to establish a fragile equilibrium which is nonetheless crucial to sustain their legitimacy (Besselink and Yesilkagit, this issue). The regulated firms, operating in multiple markets and facing

international competitors, engage in venue shopping with however still has a special focus on the national level (Coen et al., this volume). European regulatory networks offers opportunities but may also disrupt relationships among national regulators, also depending on the institutional structure. All in all, these findings support the claim that multilevelness is a dynamic feature, more specifically, that multilevel governance entails concomitant processes of problem-solving and problem-generation: by providing a solution to some policy problems, it also potentially creates institutional disequilibria, entails policy paradoxes, and opens up new spaces for political contention (Maggetti and Trein, 2019).

Overview of the papers

This special issue is composed of the following four papers.¹

What price to pay? The trade-off between independence and influence in European regulation

Eva Ruffing's article focuses on three European agencies: Agency for the Cooperation of Energy Regulators (ACER) in the domain of energy, European Securities and Markets Authority (ESMA) in the financial supervision sector, and European Medicines Agency (EMA) as regards pharmaceutical products. It argues that these agencies face a different trade-off between independence and influence in the new institutional setting and discusses several approaches that might explain this difference. In particular, Ruffing shows the more influential an agency becomes over time (e.g. ESMA), the more interested will be the Commission in interfering with their internal processes to block agency proposals are that not in line with the Commission preferences. However, as the case of EMA illustrates, it also appears that organizational resources and expertise strengthen the capacity of an agency to protect its prerogatives.

The gap between economic regulation and non-economic public values: Regulatory authorities and dilemmas of responsiveness

Tobias Besselink and Kutsal Yesilkagit examine regulatory authorities' dilemmas from the perspective of bureaucratic responsiveness. More specifically, they investigate how competition authorities strive to accommodate the strains between competition and sustainability values. In that regard, the case of the Dutch competition authority shows how this agency tried to combine several dimensions of responsiveness in order to maintain the agency and its decisions legitimate in the eyes of its multiple audiences. This has namely implied the need for balancing responsiveness towards the Ministry with the development of a more bottom-up deliberative approach to into account the values of the target groups and stakeholders.

The logic of regulatory venue shopping: A firm's perspective

David Coen, Mattia Guidi, Nikoleta Yordanova, and Adrienne Héritier's article draws on an original data set of 243 medium- and big-size firms' perceptions of regulatory venue shopping. This article provides an analysis of what incentivizes firms to interact with and influence multiple regulators. In doing so, it maps the regulatory opportunity structure and scrutinize their venue shopping logics. A key finding is that firms can identify where the locus of political and regulatory competence lies and that they concentrate their activities at this level, which corresponds to the national level. At the same time, firms tend to address more regulators in sectors characterized by higher international competitiveness to mitigate uncertainty when operating in multiple markets and facing rivalry from international competitors.

Multilevel regulatory coordination: The interplay between EU, federal, and regional regulatory agencies

Jan Rommel, Koen Verhoest, Joery Matthis, and Emmanuelle Mathieu examine the impact of European regulatory networks on inter-agencies relationship at the national level. The case of energy regulators in Belgium shows that networks can trigger conflicts at domestic level, but can also be an opportunity to develop coordination among the concerned Independent Regulatory Agencies (IRAs). This situation appears to be particularly delicate in federal states when the concerned IRAs are located on different governmental levels. In the case under investigation, the emergence of EU regulatory networks resulted initially in better cooperation between regional and federal regulators. However, recent evolutions suggest that their agencification and further institutionalization have increased the conflicts between regional and federal actors.

Future research

We identify three further avenues of research related to (a) the governance structure of regulatory networks, (b) the micro-foundations of regulatory networks, and (c) their role in implementation and enforcement.

The form of governance, management, and brokerage of regulatory networks has not been investigated in any depth until recently. By looking at the form of network governance from an organizational perspective, Iborra et al. (2018) have contributed to the advancement of existing knowledge on the structural complexity of network administrative organizations (NAOs) set up by European regulatory networks. This seminal contribution also identified factors that affect the configuration of NAOs but more research is needed to disentangle causal relations in this new field of inquiry.

Although the literature on regulatory networks implicitly or explicitly assumes that they are sites of deliberation, socialization, and learning, the concrete micro-

dynamics between individual participants in networks has remained a “black box” for researchers. Papadopoulos (2018) has lifted the veil on the circulation of knowledge in the European Platform of regulatory authorities in charge of regulation in the broadcasting sector and the causal claims arising from his qualitative inquiry are in search of validation by further studies taking into account different regulatory networks over a longer period.

Finally, whereas recent research has tracked the expansion of EU’s competences in direct enforcement (Scholten 2017), the role of networks in EU enforcement is still under investigated. An emerging agenda for research in this field has been outlined by Mastenbroek and Martinsen (2018) but we need more comparative studies across policy domains to explain if and how networks matter in EU enforcement.


Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

ORCID iD

Martino Maggetti  <https://orcid.org/0000-0002-7263-3726>

Note

1. Earlier versions of these papers have been presented at the workshop “National Regulatory Agencies in a Multi-Level Setting: Towards a Synthesis” organized by the Osservatorio AIR in Rome on 31 March 2017.

References

- Bach T and Ruffing E (2017) The transformative effects of transnational administrative coordination in the European multi-level system. In: Ongaro E and van Thiel S (eds) *The Palgrave Handbook of Public Administration and Management in Europe*. New York: Palgrave Macmillan, pp. 747–763.
- Besselink T and Yesilkagit K (2019) Market regulation between economic and ecological regulation: regulatory authorities and dilemmas of responsiveness. *Public policy and Administration*. (this issue).
- Boeger N and Corkin J (2017) Institutional path-dependencies in Europe’s networked modes of governance. *Journal of Common Market Studies* 55(5): 974–992.
- Busuioc M (2016) Friend or foe? Inter-agency cooperation, organizational reputation, and turf. *Public Administration* 94(1): 40–56.
- Coen D, Guidi M, Yordanova N, and Héritier A (2019) The Logic of Regulatory Venue Shopping: a Firm’s Perspective. *Public policy and Administration*. (this issue).

- Danielsen OA and Yesilkagit K (2014) The effects of European regulatory networks on the bureaucratic autonomy of national regulatory authorities. *Public Organization Review* 14(3): 353–371.
- Egeberg M and Trondal J (2017) Researching European union agencies: What have we learnt (and where do we go from here)? *Journal of Common Market Studies* 55(4): 675–690.
- Heims E (2018) *Building EU Regulatory Capacity*. Basingstoke: Palgrave Macmillan.
- Iborra SS, Saz-Carranza A, Fernandez-i-Marin X, et al. (2018) The governance of goal-directed networks and network tasks: An empirical analysis of European regulatory networks. *Journal of Public Administration Research & Theory* 28(2): 270–292.
- Maggetti M (2014). The rewards of cooperation: The effects of membership in European regulatory networks. *European Journal of Political Research* 53(3): 480–499.
- Maggetti M and Gilardi F (2014) Network governance and the domestic adoption of soft rules. *Journal of European Public Policy* 21(9): 1293–1310.
- Maggetti M and Trein P (2019) Multilevel governance and problem-solving: Towards a dynamic theory of multilevel policy-making? *Public Administration* 97: 355–369.
- Mastenbroek E and Martinsen DS (2018) Filling the gap in the European administrative space: The role of administrative networks in EU implementation and enforcement. *Journal of European Public Policy* 25(3): 422–435.
- Mathieu E, Verhoest K and Matthys J (2017) Measuring multi-level regulatory governance: Organizational proliferation, coordination, and concentration of influence. *Regulation & Governance* 11(3): 252–268.
- Ongaro E, Barbieri D, Bellè N, et al. (2015) EU agencies and the European multi-level administrative system. In: Ongaro E (ed.) *Multi-Level Governance: The Missing Linkages*. Bingley: Emerald, pp. 87–123.
- Papadopoulos Y (2018) How does knowledge circulate in a regulatory network? Observing a European platform of regulatory authorities meeting. *Regulation & Governance* 12(4): 431–450.
- Ruffing E (2019) . What price to pay? The trade-off between independence and influence in European regulation. *Public policy and Administration*. (this issue).
- Scholten M (2017) Mind the trend! Enforcement of EU laws has been moving to ‘Brussels’. *Journal of European Public Policy* 24(9): 1348–1366.
- Vantaggiato FP (2018) Networking for resources: How regulators use networks to compensate for lower staff levels. *Journal of European Public Policy* 26(10): 1540–1559.
- Wood M (2017) Mapping EU agencies as political entrepreneurs. *European Journal of Political Research* 57: 404–426.