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Structuring the European Administrative Space

Channels of EU Penetration and Mechanisms of National Change

Eva G. Heidbreder

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STRUCTURING THE EUROPEAN ADMINISTRATIVE SPACE

CHANNELS OF EU PENETRATION AND MECHANISMS OF NATIONAL CHANGE

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Abstract

The author provides an analytical model to capture mechanisms of supranational impact on national public administrations. The aim is to understand how we can perceive a *European administrative space* given the persistent diversity between member states. In face of the overly complex subject matter, it is argued that a typology that presents ideal types of interaction modes between supranational and national levels of administration provides in fact a suitable pragmatic approach to understand the potential impact of European integration on national civil services. Scrutinizing which mechanisms of possible influence-taking the European Union (EU) invokes shows that administrative integration does actually not suggest overall convergence. Instead the shared administrative space works precisely because it preserves state-sensitive diversity. Only in the context of enlargement did the EU need to present a single model to the candidate states and thus the notion of an ever more converging single administrative space was invented. Despite the external promotion of a single model, the driving dynamic of the emerging European administrative space remains increased cooperation and common administration that respects and sustains differences between independent national public administrations. The theoretical framework and empirical application therefore provide a first step for further research to tackle how supranational integration changes national public administration.

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Contents

1. Introduction: Is There a European Administrative Space?	5
2. Theoretical Framework: Structuring the Dynamics of the EU's Administrative Space	7
2.1 <i>Channels of Interaction between Supranational and National Public Administration</i>	7
2.2 <i>Mechanisms of Supranational Impact on State-level Public Administrations</i>	10
3. Illustrating the Emerging European Administrative Space	11
3.1 <i>Supranational Principles and Subordinated National Public Administrations</i>	12
3.2 <i>Supranational Targets and National Brokers</i>	16
3.3 <i>Supranational Prescriptions for National Executing Bodies</i>	20
3.4 <i>National Responses for Independent Implementing Agencies</i>	23
4. Conclusion: Mechanisms of an Emerging European Administrative Space	25
Literature	27

1. Introduction: Is There a European Administrative Space?

An emerging *European administrative space* (EAS) has been acclaimed in various guises. The existing body of research poses vital questions, not least of which is the definition of a European administrative space as increasing “convergence on a common European model” (Olsen 2003: 506). More skeptical towards ‘a common model’ and based on the review of a wide range of articles that scrutinize the effects of European integration on national administrations, Goetz calls for “caution in treating European integration as a major independent source of executive change. This is not to suggest that European integration does not matter; but it might matter in a rather less straightforward manner than the Europeanisation literature tends to assume” (Goetz 2001: 227). By the same token, the term of a *single European administrative space* misleadingly evokes the connotation of trends of overall convergence. Empirical evidence shows that national systems are indeed very robust in sustaining the differences between EU member states (Jordan 2007: 947), thus notions of *Europeanized national administrations*, *networked administrative system* or *EU administrative community* have been suggested as more apt to capture the phenomenon (Siedentopf/Speer 2003: 23). More substantially than matters of terminology, there is a need for more empirical exploration of the specific features of inter- and transnational linkages (Goetz 2006: 484f), as well as more coherent theoretical conceptualization in light of the inconsistent empirical evidence on the domestic impact of EU integration (Knill 2001: 12).

The puzzle, this paper attends to, is to get a conceptual grip on the apparently contradicting evidence: an emerging European administrative space without convergence between national public administrations. National systems are indeed affected by European integration, yet there is no genuine EU type of public administration to replace the dissolving national models. The key argument is that a systematic categorization of the mechanisms of potential EU penetration of the member states’ public administrations offers a pragmatic approach to understand the impact of EU integration on national public administration. The focus is hence on mechanisms, on what and how the EU could influence, while the analysis of eventual outcomes remains beyond the scope of this paper and will be merely touched upon in the empirical illustration.

Two essential qualifications are necessary with respect to the focus of the paper, one regarding the explanandum and one the research strategy. First, the core interest is placed on the mechanisms of change of national public administrations instead of thinking processes from their eventual outcome. Precisely by ignoring whether convergence, stability or divergence will result allows a more impartial view on the dependent variable, namely the constitutive dimensions of national public administrations. The question is then: how can the EU potentially influence national public administrations? Unlike the bulk of current research, the question of convergence is explicitly disregarded. Not the increased approximation of national systems indicates the existence of a EU administrative space but strengthened mutually dependencies and integrated functioning of various bodies across the system – appealing coarsely to the motto of “unity in diversity.” As will be shown, an administrative space emerges not on the basis of universal convergence processes but, on the contrary, is fostered by various mechanisms that may equally preserve, maintain or even increase diversity. Consequently, legal analyses conclude that “the European administrative space is the area in which increasingly integrated administrations jointly exercise powers delegated to the EU in a system of shared sovereignty” (Hofmann 2008: 671).

The enlargement process ruptured this practice. Due to the special traits of the unstable, transforming public administrations in Central and Eastern Europe, the pre-existing mode of administrative integration has been challenged in the enlargement process. Since the demands of the candidate states clashed with the principles in practice, it is in this context that the notion of a *single* European administrative space was invented, first used and given the connotation of approximation toward a *universal* EU model. The EU approach to national public administrations as part of the enlargement strategy will therefore be referred to throughout the paper because it was in this context that the EU attempted for the first time to provide a positive definition of an alleged EAS. Furthermore, the way the specific instruments were applied highlights some of the features of the respective mechanisms because the actual strengths or weaknesses of supranational governance were reinforced when applied to the external candidate states. This notwithstanding, although enlargement has set off a vigorous academic debate on the EAS especially amongst legal scholars, this intervening episode has not fundamentally changed the processes and mechanisms through which EU integration adapts national public administrations.¹

Secondly, identifying relevant research desiderates, I agree with the above-cited diagnosis by Goetz (2001, 2006); the EU might matter much less straightforwardly than is often assumed. At the same time, in more normative terms, this article agrees with Olsen who affirms that despite the incontestable lack of concepts, methodology and data for a methodologically faultless analysis “[a] more pragmatic view, and the one upon which this paper is based, is that the questions are too important to be ignored. The challenge is to develop analytical models with explanatory power that improve our comprehension of administrative dynamics” (2003: 507). However, I depart from the strategies proposed by either author. On the one hand, Goetz calls for an attempt to start from a design that aims to control for and isolate Europeanization effects from other relevant sources of change (Goetz 2001: 227f). On the other hand, Olsen upholds the convergence hypothesis against competing explanations (globalization, institutional robustness) to dissect the development of national administrations inside the EU (Olsen 2003).

In line with what has been said concerning the explanandum, the pragmatic research strategy focuses instead on what the EU actually does. These practices are rendered analytically meaningful by placing them in a systematic grid that provides ideal types of patterns of administrative interaction, which are substantiated with empirical evidence of types of interaction between the supranational and national levels. Based on such an ideal typical classification of relevant EU actions, the underlying mechanisms can be theoretically deduced and their effect can be examined by limiting the focus on tracing their occurrence. Starting from ideal types of patterns of administrative interactions, the proposed approach differs in particular from the various approaches of Europeanization (Olsen 2001). Instead of expounding explanations from observable EU activities to describe actual phenomena and processes of change, I will start with a conceptual framework to first capture theoretically the range of potential supranational impact. This allows to cover a wider range of interactions, while for the purpose of this paper the focus is limited to the EU impact on national public administrations, paying almost no attention to bottom-up

1 This paper takes into consideration the enlargement rounds that led to the accession of 12 new member states in 2004/2007. On administrative capacity-building in the context of ongoing enlargements see Elbasani (2009).

processes from the national to the EU level as well as horizontal processes between member states.²

The remainder of the paper abides by this research strategy. The second section outlines the theoretical framework in two steps. A typology of the channels of interaction between supranational and national levels is introduced and the underlying mechanisms of potential change are attributed to each interaction mode, respectively. Part three depicts the actual political strategies in each channel of EU–member state interaction. It provides an empirical analysis of the specific contents that each of the abstract mechanisms stands for. Therefore, at this point some actual empirical outcomes are touched upon, while the focus is on identifying the modes of interaction and not the actual outcomes they produce. The article concludes that the European administrative space is indeed emerging; yet not as a process of convergence but in great part as coordinated divergence. There is one central tenet guiding through this paper: to understand what the European administrative space is, we should not think about where it will lead to, but how it is driven.

2. Theoretical Framework: Structuring the Dynamics of the EU's Administrative Space

How are the different loci of the entangled European administrative space linked? I will tackle this question in two steps. To structure the analysis, I introduce a typology of the modes in which the supranational level formally interacts with the level of domestic public administration. Each of the four types of channels of interaction implies different demands on the structure and functioning of national public administration. In a second step, the mechanisms underpinning each type of potential supranational influence are theoretically derived. Both, the *channels of interaction* and *mechanisms of change*, are conceptualized in abstract theoretical terms to capture how supranational organizations can affect structures and practices within public administrations within states.

2.1 Channels of Interaction between Supranational and National Public Administration

Channels of interaction capture what types of supranational measures affect a national public administration

2 *Europeanization* is a wider concept that captures both processes in which national administrations change in order to comply with EU legislation and processes in which member states feed into the formulation of supranational law and policies: Börzel (2002); Börzel (2003); Börzel/Risse (2000); Green Cowles et al. (2001); Héritier et al. (2001); Knill/Lehmkuhl (1999); Knill/Lehmkuhl (2002). It is, however, noteworthy that also a bottom-up perspective would differ systematically for all four cells – even if not elaborated here. In a wide definition, one could subsume all four cells of Table 2 under the concept of Europeanization. Conzelmann (1998), for instance, subsumes mechanisms beyond top-down coercion (change of preferences, mobilisation of new coalitions and alternative policy ideas) under the Europeanization concept. Also related issues of failed Europeanization due to non-compliance are not analysed here (for this, see Börzel 2001; Falkner et al. 2005; Héritier et al. 2001). In turn, Europeanization scholars have best distilled the relevance of national factors for EU-induced change. Some of the most prominent studies on Europeanization and the effects on national administrations triggered by the EU membership obligation focus on sectoral policy compliance (Börzel 2002; Börzel 2003; Börzel/Risse 2000; Dimitrova 2005; Falkner et al. 2005; Green Cowles et al. 2001; Knill 2001; Knill/Lehmkuhl 2002; Knill/Lenschow 2001; Lenschow et al. 2005)

in which way. A channel of interaction is defined by the legal effect of supranational decision-making (binding, non-binding), and the degree of specificity of the requested national adaptation (generic change, functional offshoot). Starting with the latter, this dimension distinguishes how supranational measures can impact national public administrations, namely (a) by setting *standards*, that is intersubjectively shared rules or norms of administrative functions, structures and organization, practices and behavior; or (b) by defining *policy goals* whose implementation through national administrations entails adaptations of national administrations in order to comply with specific policy objectives. While standards regard public administrations ‘horizontally’ – that is administrative organization and functioning irrespective of the policy content – the policy-induced impacts emerge as side effects from compliance obligations to achieve a particular policy outcome. Accordingly, when standards apply, change in public administrations is an *end* in itself. When policies have to be implemented nationally, changes in the public administration are the *means* to achieve specific policy results.

The second dimension concerns the liability and obligations, in other words the *degree of discretion of national actors* in the application of supranational agreements. Applicability can be (a) *direct* if the relationship between the supranational and national bodies is hierarchically ordered and the supranational authority is equipped with sanctioning tools to enforce compliance on the lower levels. In contrast, (b) non-hierarchical relationships do not grant either side sanctioning powers. Applicability is therefore *indirect* because modes of interaction like networks, negotiation or competition (Benz 2006) do not establish a direct prescriptive relationship between the supranational and national actors. In consequence, indirect applicability does not necessarily imply the promotion of a single preferred standard or implementation instrument but offers discretion to formulate and choose from a range of options.

Table 1 depicts the four types of legal instruments that ensue from the two dimensions. Note that this typology summarizes ideal types of how a supranational organization can influence the state level. To which extent and in which way the EU works through and diverges from these channels will be discussed subsequently and is, for the moment, left aside. In turn, these abstract categories adhere theoretically to all kinds of supranational organizations that influence state or sub-state units, be it the EU and its member states or any international organization and its participating parties. What kind of instrument does each channel of supranational – state interaction presuppose?

Table 1: Channels of supranational / state interaction

Supranational Influence		
Applicability to Public Administration	Standards <i>Generic change</i>	Policy Goals <i>Change as functional offshoot</i>
Direct <i>Hierarchical relationship between EU / MS</i>	PRINCIPLES <i>generally binding / horizontal</i>	PRESCRIPTIONS <i>sector-specific binding / functional</i>
Indirect <i>Non-hierarchical relationship between EU / MS</i>	TARGETS <i>voluntary / selective</i>	RESPONSES <i>results-based / instrumental</i>

Directly applicable standards establish **principles** and are in scope and content the most comprehensive channel of interaction. They are supranational rules of general reach on national public administrations and can be enforced hierarchically. Due to their formally binding character, the legitimacy of these standards relies on formalized legal procedures and democratic representation. Examples are general principles, such as the rule of law, that are universally valid for all public administrations and horizontally across all sectors and services. *Indirectly applicable standards*, in contrast, set out **targets** that are not formally binding. Hence, it is a matter of internal state decisions whether and which kind of administrative standard will be subject to voluntary coordination and how it will be considered within the national system. Indirectly applicable standards are not codified through legislative procedures but are formulated most prominently in informal communication networks. Communication networks can fulfill legitimizing functions to the extent to which they produce standards that are voluntarily taken up in independent national decision-making processes because they are judged a superior solution to political problems. As will be illustrated in the empirical discussion, an important factor for the effect of supranational standards is, however, how abstractly they are formulated. For example, the legally binding standard ‘rule of law’ has become a founding principle of international organizations – yet, due to the great extension of the standard, all kinds of empirical occurrences may be evaluated as (non-) compliant. More concretely, standardized targets, such as those promoted by ‘new public management’ (NPM), provide more concise measures and intense benchmarks – but, given extensive discretion for national application, variance in eventual outcomes prevails here as well (Pollitt 2002; Radaelli 2005). In essence, supranational influence through standards promotes specific models that are either binding for the states involved, or states can voluntarily draw from policy options according to their state-internal preferences.

Other than instruments that set supranational standards, policy-transmitted instruments build on the member states’ obligation to comply with shared supranational policy objectives. This does not mean that national public administrations are not under pressure for national administrative adaptations, quite to the contrary. The guiding logic is, however, that public administrations are merely means to achieve shared supranational policy goals. In this vein, *directly applicable rules for policy implementation* create sector specific **prescriptions** for national administrative structures and practices to deliver particular functional tasks. For instance, the creation of an ombudsman office is not a standard. It is a concrete attribution of a policy tool for the particular policy objective to achieve mediation of citizens’ concerns. If, on the other hand, a policy objective is formulated without specification of the policy instrument it is an *indirectly applicable rule* for national public administrations that has to comply with specific policy objectives. Yet, no specific supranational instrument imposes rules or prescriptions with respect to national public administrations, which however must develop adequate **responses** to deliver the compulsory policy goals. Staying within the example: whether citizens’ can voice their concerns via a minister’s internet blog or by seeing a priest does not matter, as long as the objective ‘mediation of citizens’ concerns’ is achieved. The insights, these general channels of interaction convey, highlight the logics through which supranational decisions are fed into national systems. To understand the processes at work, we need to unravel the causal mechanisms for each of these channels.

2.2 Mechanisms of Supranational Impact on State-level Public Administrations

Which mechanisms of eventual change underlie each type of supranational penetration? In other words, which processes can we expect theoretically when supranational rules, targets, prescriptions or state responses are at play? As pointed out, the matter will not be tackled by asking whether change ultimately leads to convergence or not. The unit of analysis and dependent variable is the single national administration. The question dealt with, is which mechanisms of change affect the public administration of a state without assuming in parallel outcomes in terms of relational effects between states. The different logics by which the EU diffuses ideas (Börzel/Risse 2009) into national public administrations are best captured by the respective ‘ideas’ depicted by models of administration that are the political content in the above-outlined channels. Accordingly, each channel of interaction works by a logic that implies a particular role of national public administrations in relation to supranational rule along the two dimensions of potential influence.

Table 2: Mechanisms of change and role of state public administration

Supranational Influence		
Applicability to Public Administration	Standards <i>Generic change</i>	Policy Goals <i>Change as functional offshoot</i>
Direct <i>Hierarchical relationship between EU / MS</i>	Subordinate of Supranational Authority <i>Promotion of a single general model</i>	Executing Body of EU Administration <i>Mandatory adherence to a concrete model</i>
Indirect <i>Non-hierarchical relationship between EU / MS</i>	Independent Broker <i>Encouragement of a plurality of models</i>	Independent Implementation Agency <i>Consent to a range of models</i>

Table 2 summarizes the mechanisms for each channel of interaction, referring back the grid introduced in Table 1. Accordingly, where supranational *principles* (directly applicable/standards) are referred to, the EU actually promotes ideas on a single, broadly defined model, which places the national public administrations in the position of a **subordinate** of supranational authority. Likewise, directly applicable but sector-bound *prescriptions* (directly applicable/policy goals) obligate member states to adhere to specific administrative instructions. This is only possible in areas in which the EU has exclusive competences that attribute national public administrations the role of **executing bodies** under the lead of the European Commission. Where the EU has only indirect influence, it encourages certain models reflecting a plurality of models from which member states define particular targets (indirect/standards). National administrations are therefore **independent brokers** that are generally autonomous. Where the EU simply abstains from providing any definition of administrative ideas and national administrations are free to develop adequate *responses* (indirect/policy goals), national public administrations can be characterized as a kind of **independent**

implementing agency: the supranational control instances consent to whatever member states choose as long as they achieve common policy results.

3. Illustrating the Emerging European Administrative Space

The conceptual framework is sufficiently abstract to apply to a wide range of cases that focus on this question: what are the mechanisms through which supranational interactions induce change inside state structures and alter behavior of national actors? I will operationalize the abstract concepts and identify empirically to which extent the above-outlined mechanisms are of relevance in the European Union. What are the actual policies tools the EU applies in each of the four channels of interaction?

First, I will discuss which standards the EU refers to. The creation and enforcement of directly applicable standards is the most explicit way of changing key dimensions of national administrations. While the EU has competences to harmonize certain *policies*, it lacks such authority with respect to *public administrations*. Short of EU competences on national administrations, not much political scientific attention has been paid to the matter until the mid-1990s. This changed in the context of enlargement. Designed especially for the Central and Eastern European states, the member states introduced a new accession criterion: the condition of sufficient national administrative capacities to comply with the shared *acquis communautaire*. Amongst EU researchers, this led primarily legal scholars to summarize and clarify the formal and informal principles of EU administrative law that had emerged over the years. Regarding practitioners in the EU, the Commission had to come up with measurable benchmarks of shared standards to define the targets the candidate states' administrative capacities could be measured against. Second, we will turn to indirectly applicable standards. In addition and independent from the recourse to shared standards during the pre-accession phase, informal cooperation between national public administrations emerged in the 1970s and was revived in the early 1990s. Beyond this, targeting and open coordination have been promoted as alternatives to binding cooperation under the Community method.

Second, I will turn to administrative change induced as a functional prerequisite for the effective achievement of supranationally defined policy goals. Initially, the principles guiding implementation of Community law built on discretion of the member state administrations. The Community hence relied predominantly on *indirect administration*. Even though certain types of administration have always been subject to exclusive *direct administration* by the Commission on behalf of the Community, these areas have gained relevance with the expansion of policy areas in the *Single European Act* starting in the late 1980s (Chiti 2004: 40). As for general administrative principles, the European Court of Justice (ECJ) has played an important role in the elaboration of administrative procedure principles by clarifying specific proceedings for the implementation of sectoral policies. "The cross-cutting nature of such principles derives from the fact that they are all inspired by the very same concern: the need to guarantee the effective implementation of Community law." (Franchini 2004: 183)

While the distinction between direct and indirect administration corresponds well with the typology of channels of EU–member state interaction, this division has blurred increasingly in practice. Introduced in Council Regulation 1334/2000, the notion of *common administration* applies to particular policy areas in

which the Commission shares administrative tasks with national administrations and agencies with various compositions and missions. These procedures do not rely on a clear hierarchy of authority but divide authority for different stages or aspects of the implementation of a policy. Therefore, procedures have emerged that do not easily fit into the analytical grid, as much as they cause problems of accountability and the attribution of political responsibility. Generally, however,

“proposals privileging a division of tasks between the Community administration and national administrations abound. One suggestion is for the two entities to perform functionally different tasks in the policy chain, so that the Community administration makes decisions while the national authority execute them” (Franchini 2004: 193f).

Accordingly, I will deal with common administration as element of directly applicable policy-induced supranational influence.³

3.1 *Supranational Principles and Subordinated National Public Administrations*

The EU has no formal competences over national administrations; national public administrations have so far “remained strictly an area of national sovereignty, there cannot be any European *policy* since there is no community *competence* in this area” (Mangenot 2005: 4, italics in original). Ergo no comprehensive EU model of supranational standards exists and therefore hierarchical enforcement of a uniform EU administrative model is no major means of national administrative change: there is no single compulsory *European Administrative Model*. The EU has, nonetheless, incrementally established some fairly abstract standards that are backed by coercive supranational instruments that impose sanctions on member states that do not comply with EU administrative law principles. The formal basis for this can be found in the shared legal traditions of the member states that have been defined and refined by the jurisprudence of the European Court of Justices (Cardona 1999: 5). Directly applicable EU standards occur in two forms. For member states, they are limited to administrative law principles, which have been punctually substantiated by the ECJ. For the candidate states, in need to provide indicators to measure fulfillment of the accession criterion *administrative capacity*, these principles have subsequently been extended into tangible standards. These standards were not formalized within the EU *acquis* to amount to general EU benchmarks for harmonization but the notion of an emerging European administrative space was introduced to indicate a common framework and justify a supranational competence to impose and control these standards in the candidate states (Fournier 1998b: 125). Accordingly, the common EU framework was presented to the candidate states:

“Shared principles of public administration among EU Member States constitute the conditions of a ‘European Administrative Space’ (EAS). The EAS includes a set of common standards for action

3 The distinction remains an ideal type as empirical examples cut across these categories. An intermingling of the levels of administration however always occurs and also under strict direct administration, given the fact that the Commission always depends on the agency of national administrations – just as well as the latter are also always influenced by the Commission – even under ‘pure’ indirect administration. To clarify the potential channels of supranational organization on national administration, the analytical distinction is therefore of heuristic value; it allows for the identification of different factors that may cause change.

*within public administration which are defined by law and enforced in practice through procedures and accountability mechanisms. [...] Although the EAS does not constitute an agreed part of the *acquis communautaire*, it should nevertheless serve to guide the public administrative reforms in candidate countries.”* (Cardona 1999: 5)

Not only was the very notion of an EAS constructed in the enlargement context, it is also here that we find a first systematic stocktaking of the underlying principles that had been harmonized by the jurisdiction of the ECJ.

“If we attempt to systemise the main administrative law principles common to western European countries, we could distinguish the following groups: 1) reliability and predictability (legal certainty); 2) openness and transparency; 3) accountability and 4) efficiency and effectiveness.” (Cardona 1999: 8)⁴

These fundamental shared norms represent *blank concepts*. They are elusive concepts that contain broad principles that are to be refined case-by-case by public administrations that apply them or courts, which have to interpret them in cases of conflict. Consequently, due to their elusive character, national administrations have considerable scope in interpreting the principles. Therefore, application across the different member states varies widely. In cases of conflict, however, the ECJ has had coercive harmonizing effects by providing an interpretation of the principles in a given case. The only formal recognition of administrative principles in an EU founding document was the inclusion of the *Right to Good Administration* (Article 41) of the *Charter of Fundamental Rights and Freedoms* into the Lisbon Treaty. The effect this clause will have on the ECJ’s practice remains a matter of speculation for the time being. To illustrate how shared norms of public administrations currently work in the EU, I will briefly review the diverging national models of compliance with the established general principles and review some of the ECJ’s case-specific harmonizing interventions.

First, how do member states adhere to EU administrative law principles? Depending on the national administrative and legal traditions of the respective member state, domestic compliance differs substantially. To provide but a few examples: ‘neutrality of the civil service’ in Britain, France or Spain signifies succession of political parties in government and opposition while in consociational democracies like Austria, Belgium or the Netherlands, neutrality means the mutual supervision of political parties. ‘Rule of law’ in form of judicial control of administrative action in states such as France, Germany or Sweden is executed by specialized administrative courts, while in the British or Danish tradition ordinary courts sign responsible. These are only two examples that show how key principles are differently interpreted across states. Overall “important differences remain between the civil services of different EU Members – even the oldest ones as the Benelux countries, France, Germany and Italy – mainly due to the impact of differing national traditions and differences in the pace and priorities of ongoing civil service reform”

4 Franchini (2004) provides the following list: “The Community legal system tends to distinguish between general principles, which are common to legal and administrative proceedings, and those principles that apply only to administrative proceedings. The common principles include: (1) legality; (2) impartiality; (3) subsidiarity; (4) proportionality; (5) the duty to motivate decisions; (6) legal certainty; (7) legitimate expectations; and (8) fundamental rights. Specific administrative principles are: (1) good administration; (2) the duty of sound financial management; (3) precision and completeness in presenting the relevant facts and interests; (4) the right of defence; and (5) the duty to state reasons and access to administrative documents.”

(Ziller 1998: 144). Given that some of the equally relevant principles find themselves in inherent conflict with each other – for instance providing rule of law and procedural fairness at the same time as efficiency and effectiveness – abiding by all the principles necessitates above all an internally coherent and balanced national system. Thus, shared standards in form of blank concepts work precisely because they leave room for context-sensitive national interpretation.

Second, to which degree have blank concepts been filled with tangible meaning across EU member states? Regarding other mechanisms at work, especially sectoral legislative activity of EU institutions and the interaction among officials of the member states have had an impact. Still, the ECJ “plays, by and large, the major role in shaping common administrative law principles within the European Union” (Cardona 1999: 17). While Community secondary legislation is predominantly sectoral, the Court’s case law points in sum to the development of more general administrative principles. Therefore, “the jurisprudence of the Court is the main source of general, i.e. non-sectoral, administrative law in the Union” (Cardona 1999: 17), even though the principles it refers to need to be derived from general administrative law principles as established by national administrative courts of the member states. Two rulings are of particular relevance to illustrate the impact of EC case law. The first concerns the organization of interlinked administration across the levels of governance. Introducing the claim for uniformity across the levels of the EU concerning access to juridical review for citizens, the *Francovich* case (ECJ 1991: C-6/90 and C-9/90) established the principle of direct state liability for compliance with EC law. This ruling marked a shift away from the principle of procedural autonomy, which the Court had invoked before.⁵ Setting the precedence for state liability marked a turning point. Since

“Francovich, the Court has found that national governments may be held liable for laws, judicial decisions, and, [...], administrative measures that infringe European law. The court has developed a law of administration which applies not only to the Commission, but also to national bureaucracies.”
(Bignami 2004: 5f)

Hence, Commission and national administration have a shared responsibility and in principle constitute an administrative unity whenever EC law is concerned. As will become evident in the discussion of directly applicable policy-induced EU impact, in the implementation of sectoral policies setting the principle of a single administrative law, according to which Commission and national bureaucracies are equally responsible and therefore competent, does not only blur the separation of competences but leads to an extension of shared administration.

The second case regards employment in national administrations and has been referred to as a case in which “the Court has intervened to define the very concept of ‘national public administration’” (Nizzo 2001: 3). In the late 1970s the problem of interpretation of the basic freedom of movement of workers first appeared. Until then, member states were free to define the scope of ‘employment in public administrations,’ which has a special status because it is exempt from the basic Community freedom of worker mobility. This

5 Procedural autonomy granted member states the freedom to implement Community obligations according to their domestic public law and criminal and civil justice under the condition that two basic principles were met, namely the principle of equal treatment (same vindication of Community as national rights) and the principle of effectiveness (possibility for individuals to exercise Community rights in national courts) (ECJ 1976: 33/76, Rewe-Zentralfinanz EG v. Landwirtschaftskammer für das Saarland).

scope for national interpretation allowed combating national unemployment by reserving specific posts in national administrations for nationals. In 1980 the ECJ (149/79 Commission v. Belgium) stated that

“for the purpose of reserving a post to nationals, ‘employment in public administration’ had to be defined as employment ‘characteristic of the specific activities of public administration’ as implying the ‘exercise of powers of public law and safeguarding the general interests of the state’ or local authorities” (Ziller 1998: 140).

This decision entailed a number of national reforms and most states opened up public posts and careers. Although no EU-wide provisions in terms of binding law have ensued, the general principle induced further unforeseen consequences.

“The first consequence is the obligation to proceed to a classification of jobs and careers in order to determine whether they should be opened up or not. Then a series of steps have to be taken in order to ensure mutual recognition of qualifications and professional experience in public services, which can lead to a reappraisal of existing systems of training and mobility. Furthermore possibilities have to be created for international mobility of civil servants within the Union: this has an impact on the organisation of secondments, social security and pension schemes.” (Ziller 1998: 141)

These subsequent effects of the judgment have direct implications on national policies on public administrations (for a comprehensive overview: Bossaert et al. 2001). In sum, although the legislative procedures of the EU have not established a common policy on public administrations, the ECJ’s case law has produced functionally equivalent effects.

The absence of a genuine administrative *acquis* has hence not been a hindrance for the ECJ to establish a number of general administrative law principles. In contrast to these developments inside the EU, this lack in Community law was an obstacle *vis-à-vis* external states. In order to provide direction in the ongoing transformation processes and with regard to the necessity to define clear benchmarks required to measure whether a candidate state had met the accession criteria, the ‘blank concepts’ that worked precisely on context-sensitive diversity had to be filled with specific meaning. The notion of a European administrative space was therefore invented as placeholder and metaphor (Meyer-Sahling 2009: 10) for an actually non-existent single model and collective term of those implicit rules ensuring administrative coherence in the EU.

During the pre-accession phase the EU increasingly recognized that, in order to assure the new member states’ compliance with Community law, it was not only necessary to develop the sectoral administrative capacities but administrations in more general terms, that is *horizontal administrative capacities*. Accordingly, the criterion *administrative capacity* was introduced by the European Council of Madrid in 1995 and was first referred to as a “criterion in its own right” in the Commission’s 1997 *Avis* that evaluated the candidates preparedness for accession (Verheijen 2000: 16). The subsequent annual Regular Reports filled the notion of ‘horizontal’ administrative capacities with meaning. Whereas “sectoral capacity was linked to particular parts of the *acquis*, horizontal capacity, emerged as synonymous with administrative reforms” (Dimitrova 2005: 80). Yet, in the absence of an *acquis* on horizontal administrative capacities, the Commission lacked standards to translate the criterion into measurable benchmarks. Instead of

developing binding EU standards on national administrative capacities, the EU relied on external sources. Cooperation with the *Support for Improvement in Governance and Management* (SIGMA) program, operating under the OECD *Public Management Service* (PUMA) and financed by EU funds under the pre-accession program *Phare*, provided the tool for the assessment and support of administrative capacity in the candidate states. The main instrument was the so-called SIGMA baseline assessment that provided tangible criteria in “response to the lack of specificity in horizontal administrative capacity assessment, combined with the perceived lack of accuracy by candidate states of previous assessments” (Verheijen 2000: 17). The SIGMA baseline criteria outlined minimum standards for horizontal administrative capacities for the first time. The weak links between the pre-accession standards and the general *acquis* showed also during the formulation of accession standards because internal cooperation within the Commission was remarkably weak. Thus, in Directorate General (DG) Enlargement “the Commission sought expertise not from within the organisation (we certainly did not consult our Directorate General for Administration!) or from other EU organisations, but from a non-EU source, OECD’s SIGMA” (official DG Enlargement, written exchange September 2007). Although founded on harmonized general principles, the imposition of tangibly operationalized standards on the candidate states drew on benchmarks that were developed in collaboration with other international organizations and “none of the above SIGMA defined ‘principles’ can be identified as common EU norms” (Dimitrova 2002: 182). Thus, although their content was defined for external application and had *de facto* binding effect on candidate states, the EAS remains of metaphorical status because it has not been converted into legally binding general horizontal standards that grant coercive supranational rule over its member states.

In short, under the heading of a European administrative space, the Commission filled general administrative law principles with specific meaning. Standards were made tangible in terms of horizontal administrative capacities necessary to comply with the obligations of EU membership for states eager to enter the EU. Backed by accession conditionality, the EU had coercive means and with it power to foster change along these specific standards regarding national public administrations – even though these remained formally outside the EU’s own legal framework and therefore do not establish a genuine EU administrative *acquis* and policy. Within the EU, member states retain full formal authority over their public administrations and are bound only by a set of general abstract principles that leave considerable scope for interpretation. Beyond this, the ECJ case law has established some core principles. The shift from the principle of procedural autonomy to uniformity in legal interpretation and the opening up of national administrations’ recruitment systems have leveled the ground for shared responsibility and competences across the levels of governance when applying EU law.

3.2 *Supranational Targets and National Brokers*

Regarding administrative standards over which the EU has no authoritative power, it encourages voluntary national exchange and communication while preserving domestic specificities. Given the EU’s strong institutional structure to enforce standards, it is precisely the non-binding quality of un-coordinated voluntary standardization – in contrast to binding supranational harmonization – that makes it attractive for member states as it creates venues for cooperation without a formal transfer of competences. The unambiguous evasion of binding EU harmonization is reflected, on the one hand, in the composition,

functioning and legal status of the network-based body, the *European Public Administrative Network* (EUPAN). On the other hand, it shows in the initiatives that have resulted from this cooperation, the most prominent being the creation of a *Common Assessment Framework* (CAF), a self-assessment tool available to all kinds of administrative organizations on a voluntary basis. I will briefly discuss both EUPAN and CAF to illustrate in which way which administrative standards are diffused across the EU member states. Moreover, network-based or so-called 'new' modes of governance, as advocated prominently in the *White Paper on Governance* (Commission of the European Communities 2001a) and associated with the 'Lisbon' process as well as the 'Better Regulation' agenda (Council of the European Union 2006), have evolved as a goal in itself which the Commission tries to apply in its own processes and promote in the member states. In view of weak state capacities of the candidate states, "the EU has externalized this governance paradigm to its enlargement policy asking accession countries to bring society in to make the *acquis* work" (Börzel 2009; Sissenich 2007). Yet, precisely because of weak administrative and societal capacities this strategy has also proven to be of limited success.

EUPAN defines itself as an "informal network" and a "platform for exchange of views, experiences and good practices to improve the performance, competitiveness and quality of European central public administrations" whose "vision" is to support the implementation of the Lisbon strategy by "placing the citizen at the centre of public management, by working in different areas (human resources, innovation, quality, e-government) and with different actors in order to support efficiency and customer orientation in European public services".⁶ EUPAN was founded in the second half of the 1970s. Since 1991, it convenes biannual meetings on the managerial level of national director generals who represent the member states' ministers responsible for public administrations. On the technical level, EUPAN's work is subdivided into three thematic working groups: (1) the HRWG – *Human Resources Management Group* was set up in 1987 and is a platform to discuss basically all issues of personal policies of public service and chosen matters of reform programs, a sub-group of HRWG connects the NCP – *National Contact Points* that are to help the diffusion of CAF and its implementation; (2) the IPSG – *Innovative Public Services Group* discusses quality improvement of public services and signs responsible for the development of new tools and activities in this direction, accordingly, the CAF is subordinated to the IPSG; (3) the E-GOV – *e-Government Working Group* promotes the exchange of views, experiences and practices among member states, especially regarding the public administration aspects of e-government. To this end, it liaises with the EU Commission in various initiatives on the EU-level. Furthermore, the DISPA – *Group of Directors of Schools and Institutes of Public Administrations* works under the EUPAN umbrella, as well as the DBRR – *Working Group of Directors and Experts for Better Regulations* whose objective is (a) to facilitate the exchange of good practices and experiences through benchmarking projects with voluntary participation, and (b) to provide a forum for strategic discussion on the Union's *better regulation* agenda to complement the work done in the various EU Ministerial Councils. To underline DBR's informal character, its biannual meetings are not necessarily hosted and chaired by the Presidency in office.

In order to enable cooperation without unintended pull-effects towards formalized harmonization, the member states keep emphasizing that all actors involved "acknowledge the informal nature of the

6 See EUPAN website <http://www.eupan.eu/3/70/> (last accessed 25 March 2009). Free for download on the same page is the EUPAN Handbook, initiated by the Finnish EU Presidency in 2006 and redrafted by the subsequent Portuguese Presidency in 2007, that provides more detailed information.

European Public Administration Network (EUPAN)” (European Council 2008). Such formal affirmation of the informal legal status of EUPAN is relevant because in practice there is great overlap with the institutionalized bodies of the European Union. Most importantly, the respective EU Presidency Troikas (together with the Secretariat) are responsible for the development of the EUPAN agenda and the biannual meetings are convened by the EU presidency in office. Moreover, the European Commission is the 28th member of the “informal network” besides the national directors general. For the day-to-day work, however, not the Commission but the *European Institute for Public Administration* (EIPA) provides EUPAN with scientific, technical and financial support. EUPAN therefore actually maintains some critical independence from EU policy-making – the core of the informal character it underlines. There is little assessment of the actual effect the exchange in the open platform of EUPAN has for the performance of national public administrations. As EUPAN states itself, despite the multiple activities “until now, the public awareness of the network, as well as the practical impact of its work for the governments and public administrations of the Member States cannot be considered satisfactory.” Thus the network sees its future challenge in “making more effective use of the results produced [...] to better benefit of this comprehensive knowledge by strengthening the visibility of EUPAN as a network and by improving the dissemination of results” (EUPAN 2008: 4).

As mentioned before, the *Common Assessment Framework* (CAF) has been initiated within EUPAN. CAF is a self-evaluation tool available to organizations of all parts of the public administration on a voluntary basis. The assessment framework

“is a Total Quality Management (TQM) tool inspired by the Excellence Model of the European Foundation Quality Management (EFQM) and the model of the German University of Administrative Sciences in Speyer. It is based on the premise that excellent results in organisational performance, citizens/customers, people and society are achieved through leadership driving strategy and planning, people, partnerships, and resources and processes. It looks at the organisation from different angles at the same time, the holistic approach of organisation performance analysis” (European Institute of Public Administration 2006: 2).⁷

After a pilot phase in 2000, a revised version was launched with the support of the *CAF Resource Centre* based at EIPA, a second revision followed in 2006. About 900 customers within and beyond Europe participated in the period from 2000 to 2005. The actual diffusion and relevance of CAF may be judged as limited given that the approximately 1000 customers at date are made up of all kinds of organizations in customs/tax/finance, economy/agriculture, education/research, regional/local administration, and social services/security. Examples range from the Polish Tax Office to the Austrian Study Grant Authority, a Spanish Nursery School, Swedish Music and Art Schools, the Estonian Animal Recording Centre, or the Italian Municipality of Faenza and the British Birth and Children Office (Bundeskanzleramt Österreich 2006). By virtue of national decisions, the use of CAF is obligatory for state administrations in the Czech Republic (central level), Slovakia (central level) and Romania. In the majority of the member states it is recommended by the national government, whereas in the remaining states Austria, Estonia, Finland, Ireland, Italy, Latvia, Netherlands, Portugal, and the UK it is completely voluntary. The degree to which the use of CAF is binding for governments does however not correlate with the number of participating

⁷ EFQM is also used as an alternative tool to CAF, same holds true to an even bigger extent for the ISO 9000.

organizations in the respective states (Staes/Thijs 2005: 43f). Moreover, the self-evaluations do not mandate compulsory reforms or sanctions in case of bad performance, which further limits the potential for actual change of administrative organizations across the member states.

The instrument of targeting is applied more widely in policy areas in which member states aim for coordination without conferring policy competences under the traditional Community method (Citi/Rhodes 2007). Open coordination involves a stronger involvement of the Commission than EUPAN or the CAF. Yet it works with the same mechanism of target-setting, whose actual realization puts considerable demands on all levels of public administration (Schout/Jordan 2008). Directly concerned with civil services is the *Regulatory Impact Assessment (RIA)*, which the EU promotes under the *Better Regulation Initiative* and is inspired by NPM ideas. In their analyses of the diffusion of RIA both Radaelli (2005) and Pollitt (2001) arrive at similar conclusions in terms of actual effects on national outcomes.

“To sum up then, the language of RIA has produced a community of discourse for policy-makers and has stimulated the introduction of some instruments which are labelled ‘impact assessment’ but which in some cases exist only on paper and in other cases disguise different practice under the same label. Diffusion at the level of ‘talk’ has not yielded convergence in ‘actions’ and ‘results’ – to use the classic terms suggested by Brunsson (1989) and, more recently, Pollitt (2001).” (Radaelli 2005: 930)

More fundamentally still, Idema and Kelemen (2006) raise theoretical doubts about the effectiveness open coordination and new modes of governance can produce because, even measured by its own standards, the procedures lack the resources and incentives for monitoring and the authority for shaming the member states. From this perspective, the absence of a shadow of hierarchy also explains why network-based governance involving civil society in the pre-accession strategy was even less effective under conditions of “double weakness” (Börzel 2009), or even triple weakness on the supranational, candidate state and societal levels.

In sum, despite the arguably limited reach and impact, EU member states have developed informal communication networks and single initiatives to promote administrative standards in some chosen areas. The guiding objective that links these activities to the overall goals of the Union are the aims of the Lisbon Strategy that define improvement of services for citizens as a necessary stepping stone to achieve economic growth and welfare effects. The guiding method is aimed at creating communicative networks between governmental and other agencies involved in public administration matters. These networks draw only in part on institutional resources of the EU without promoting explicit harmonization objectives but emphasizing vigorously the informal and voluntary nature of cooperation between national public administrations. More generally, the instrument of targeting is promoted as being an alternative to the Community method, which builds on network governance and involves public and private actors. The questionable effectiveness of these instruments has been exacerbated in the enlargement context where, in the absence of a shadow of hierarchy, weak supranational instruments met weak national administrative and societal capacities.

3.3 *Supranational Prescriptions for National Executing Bodies*

Already the Treaty of Rome endowed the Commission with enforcement powers that establish *direct administration* through supranational bodies in the core areas of European integration, competition and internal trade (Bignami 2004: 4). Direct administration implies that not only policy goals but also the respective implementation modes and tools are defined on the supranational level. In essence, where the EU has exclusive powers it also implements them. Executive and national administrations are a limp in the Union's implementation chain; in other areas, national administrations remain independent entities. Due to the limited resources of the Commission to implement 'on the ground,' direct administration entails that the Commission issues administrative circulars for sector specific implementation. These are explicit ordinances regarding administrative structures, institutions, practices and behavior is promoted across the states along the model defined uniformly by the supranational authority. Hence,

"Community law is clearly making its way into national administrative systems. In some cases the impact is a direct one, having a direct effect on how public administrations function: the institution of new bodies; stipulation of the composition of such bodies; imposition of clearly defined procedures (for example for public procurement); redefinition of the very concept of public administration in order to apply certain Community provisions." (Nizzo 2001: 7)

Despite an increase of direct influence due to the growing range of EU policies, direct influence through policy-making remains mostly limited to the Community's core competences or new political responsibilities in which the formulation of policies on the EU level precedes the national level and therefore supranational models are directly transferred.

Other than the direct impact through the harmonization of standards, discussed above with regard to the free movement of workers, the two core areas linked to Community policies are directives on *public procurements* and *competition law* that grant the Commission control on direct or indirect state subsidies to the private sector (Ziller 1998: 140). Areas that are sensitive to the protection of the *Community's financial interests* as well as some *newer EU policies* have also incrementally been added and extend the list of sectoral policies for which the "Commission defines the characteristics that certain administrative bodies should possess" (Fournier 1998a: 113).⁸ Although direct administration plays a role in the administration of some newer Community policies (e.g. environment) and horizontal principles (e.g. anti-discrimination), due to the dominance of economic integration

8 The list includes "the bodies responsible for ensuring the free circulation of goods (regulations, standardisation and certification) and services (in particular, banking, insurance and security transactions); the bodies responsible for monitoring competition; regulatory bodies for telecommunications; the departments dealing with indirect taxes; the bodies responsible for veterinary and plant health inspection and those that implement the CAP; the transport authorities; the departments responsible for health and safety at work and social affairs; the bodies responsible for the environment; consumer protection bodies; the administrations responsible for home affairs and justice, to the extent that they are in charge of the enforcement of immigration laws, border control and international police and judicial co-operation; customs; financial control, in particular to ensure the fight against fraud and the monitoring of the use of Community funds. In this regard, the Commission stresses the need to make a clear distinction between internal and external control and to strengthen the means for fighting transnational financial crime." (Fournier 1998a: 114)

“an asymmetry between the regulation of market-related administrative proceedings and other types of administrative proceedings has developed. Significant differences have emerged, depending on the area of law applicable, differences which demand common general principles, able to serve a unifying function and ensure systematic coherence and uniformity” (Franchini 2004: 196).

This asymmetry is best reflected by the notion of *Services of General (Economic) Interest* (SGEI/SGI) which was already enshrined in the Treaty of Rome. A reference to SGEI/SGI was introduced in the Treaty of Amsterdam (Article 16, EC) highlighting the fundamental character of the values underpinning such services (see also Commission of the European Communities 2001b). As a term for public services that cannot be equally well-provided by private services “the very concept of services of general interest was developed by the European Community” (Mangenot 2005: 4). Obviously, the authority to define what falls under national authority of SGEI or rather the Community’s competition laws is crucial for the actual responsibilities of national public administrations in areas such as water management, telecommunications or energy supply (services of general economic interest), but also security or education (services of general interest). For the Commission, SGI generally also includes social services (Commission of the European Communities 2006). In essence, the delimitation of national SGEI/SGI by the Commission or the ECJ does not only impact the structure and practices of national administrations but their very functions to the extent that it implies the prohibition of public monopolies in certain areas. The Commission recognizes that the mission to fulfill a general interest takes precedent over the competition rules of the EC Treaties and that, in particular, many social and health services imply obligations that differ substantially from those offered on a commercial basis (Commission of the European Communities 2004). This notwithstanding, short of a precise definition of the distinguishing line between SGEI/SGI and the EC founding principles of anti-trust and competition, there is considerable scope to demark the actual functions of national public administrations.

This leads us to the field of *common administration*, in which the Commission and national administrations share competences and functions, in some cases also involving specialized agencies. Three different modes of shared administration can be identified that differ regarding the locus of authority and implementation responsibilities: (1) *joined administration* (single supranational policy objective/hybrid implementation across levels), (2) *decentralized administration* (parallel, non-exclusive legal powers between levels/implementation by an agency), and (3) *regulatory concert* (single organization composed of supranational and national authorities) (Cassese 2004: 22). It applies to each of these joint ventures that they directly shape national administrations that participate because implementation is restricted to a specified single model. Accordingly, common administration consciously promotes convergence which is necessary for mixed implementation between the Commission and 27 member states (1), or which follows by definition when delegating implementation to a single agency for all member states (2 and 3). In turn, also national

“agencification’ opens up for new partnerships and autonomous contracts between executive bodies and the EU level (particularly the Commission) and semi-detached (from ministerial departments) regulatory authorities at the national level. Thus national agencies become, as regards their policy formulation and implementation activities, to some extent parts of two administrations; on the one hand their respective national governments, on the other hand an emerging ‘Union administration’” (Egeberg 2007: 2).

Notably, common administration rather than direct administration is the most relevant field in which the Union is likely to further extend its direct influence on national public administrations. It may therefore be seen as the core element of a network-based European administrative space. As Curtin and Egeberg (2008: 655) argue, these developments “have placed the development of the European executive on a radically different trajectory”. On the one hand, because the Commission has developed into an executive centre and, on the other, because national governments are increasingly fragmented and lead to an increase of national agencies that establish direct networks with the supranational level.

Administrative capacity building in the enlargement context was first and foremost concerned with ensuring that the incoming member states would comply with the *acquis*, which the principles developed in SIGMA were to complement (Meyer-Sahling/Goetz 2009: 6). Therefore,

“[t]he main requirements associated with the ‘bureaucracy criterion’ emerged as sectoral capacity to implement sectoral acquis; the development of European integration co-ordination structures; horizontal reform of the administrations including civil service laws and a strategy for comprehensive public administration reform; and, finally, ‘ability to implement’” (Dimitrova 2002: 179).

In other words, they focused on the candidate states’ ability to achieve policy goals. In areas in which member state administrations act as direct executing bodies guided by the Commission, leverage over candidate states was strongest, one core area of administrative capacity building was accordingly environmental policy where the Commission imposed specific implementation structures and styles (Beckmann and Dissing 2004: 142f; Schmidt/Knopp 2004). To prepare the candidate states for participation in the Common Agricultural and Structural policy, SAPARD and ISPA served as specialized assistance programs. Notably, administrative capacities to administer funds were made a condition for the disbursement of funds. In consequence, implementation of the pre-accession rural development scheme SAPARD was considerably delayed for most states by about two years.

In a nutshell, with the extension of the Union’s competences, the areas in which it can hierarchically define particular implementation modes and instruments, and thus advance a single administrative procedure in the management of sectoral issues, have also increased. Direct administration remains concentrated on the EU core competences in which supranational influence stretches even into the delimitation of public functions. Similar effects of single models for sector specific implementation procedures occur in policy areas in which formulation on the EU level precedes the establishment of policies on the national level. In the enlargement context, leverage on administrative capacity building was also highest in these fields and supported by sectoral assistance instruments. The most relevant realm in which mandatory adherence to concrete EU models has advanced since the turn of the millennium has been common administration. It divides administrative authority among the levels in a single implementation procedure and thus creates shared rights and responsibilities. These shared rights and responsibilities create functional needs to establish a coherent procedural model, which in turn ensures accountability and liability of administrative acts within the intertwined system of EU governance.

3.4 National Responses of Independent Implementing Agencies

The indirect supranational influence on national administrations based on the obligation to implement EC policy goals is not bound to prescriptions on national administrative means. Adaptation is hence variable and depends on a broad range of possible causes. This mechanism, in contrast to direct, networked, compound or common administration, has for a long time been the most relevant one because it represented initially the only mode in which European integration impacted member state administrations (Trondal/Egeberg 2007: 293). It is thus also not surprising that the bulk of political scientific work that focuses on *Europeanization* processes has predominantly focused on this mechanism. Any prediction of the supranational impact on national administrations is most difficult under this mechanism because no direction in terms of standards or instruments is uniformly defined for all states. Consequently, adaptations depend on the features of the national administration in place and the policy-characteristics at stake. In the words of Knill:

“[t]he level of administrative adaptation cannot be directly deduced from the respective policy (where one regulation facilitates the national adaptation more than another) nor do systematic differences exist in the countries regarding their capability to adapt. In other words, domestic change and persistence follow no simple ‘country-based’ or ‘policy-based’ logic. As a consequence, we not only observe administrative convergence, but also (and to a similar extent) divergence – or persistence of administrative differences across member states” (2001: 5).

Whether and how the need to comply with EU policy objectives by choosing adequate national means has been studied with regard to different administrative and policy types. I will therefore merely refer to this rich body of research which offers far more sophistication than can be provided in this paper. The following outline remains limited to some basic points in relation to the definition of a European administrative space.

Domestic impacts of EU-level institutions (Olsen 2002), short of concrete procedural prescriptions, correspond with the logic of policy implementation by *indirect administration*. This has been the dominant mode of policy implementation for the first decades of EU integration. It is based on two general principles.

“The first principle is the autonomy of national administrative systems, and thus ‘structural subsidiarity’. Day to day management of Community law – its concrete application – is conveniently entrusted to the appropriate national administrative laws and relevant authorities, which become the outer branches of the Community’s administration.” (Nizzo 2001: 5)

This first principle is complemented by the second that requires results,

“i.e. efficient, effective and uniform enforcement of Community provisions. Domestic administrations, by virtue of a duty of loyal co-operation under the Treaty (article 10), are required to take all necessary steps to ensure full implementation of these provisions. Effective implementation of EC Law (the principle of effectiveness) is an obligation imposed to Member States by the Treaties and its fulfilment is verified by the European Court of Justice on a case-by-case basis.” (Nizzo 2001: 5f)

These principles stand in contrast to direct Community administration. Indirect administration is still the dominant mode of integration as far as national administrative change is concerned. Accordingly,

“in the first thirty years after the Treaty of Rome, the common wisdom was that European administrative law did not exist. [...] Implementation of directives, regulations, and other forms of Community legislation was the responsibility of national administrations subject to their unique traditions of constitutional and administrative law, in what is known as ‘indirect administration’” (Bignami 2004: 3f; see also Chiti 2004).

Indirect administration does not presuppose change of national administrations *per se*. On the contrary, it seeks to accommodate domestic differences. The way policy implementation is coordinated in the complex comitology procedures is a practical reflection of the autonomy / effectiveness principles.

“Taking a closer look, then, at the enforcement of Community law, there is no convergence on the means of application [...]; what counts is to ensure that application meets certain standards of effectiveness. That this is both a radical approach and an effective one hardly needs emphasis.” (Nizzo 2001: 6)

It should hence be of little surprise that empirical analyses show some shifts in the resource and personnel allocation as well as decision-making cycles due to Europeanization, while overall national administrations prove rather stable.

“[A] main finding (although with many nuances) is that there has been no revolutionary change in any of the national systems and no significant convergence towards a common institutional model, homogenizing the domestic structures of the European states.” (Olsen 2001)

Supranational consent to a multitude of national models instead of developing a single unified model has actually proven to be

“compatible with the maintenance of distinct national institutional arrangements and there is even reconfirmation and restoration of established national structures and practices. In sum, structural diversity persists among the core domestic structures of governance in spite of increasing contact and competition between national models. Established national patterns are resistant but also flexible enough to cope with changes at the European level” (Olsen 2001).

Unlike the direct leeway the Commission had on candidate states through SAPARD and ISPA, the bulk of sectoral administrative capacity building had to somehow evolve within the national administrations as it had incrementally evolved in the older member states and in absence of anything resembling a uniform model. The *Twinning* instrument was developed as the main tool to respond to this challenge. Also due to the absence of a genuine EU model, the strengthening of administrative capacities was assisted by secondment of national administrators from EU member states to the candidate states in order to promote direct learning and socialization processes (Tomolová/Tulmets 2007). A difficulty in this was, obviously, that the seconded officials (usually from two different member states) often did not share the same model and thus did not always hold the same opinion. Therefore, also for the use of twinning that was to assist in developing adequate national responses, the

“absence of a clear ‘EU preference’, coupled with the fragmented and diverse manner in which the EU has chosen to ‘police’ administrative reform in central and eastern Europe, reinforces the significance of domestic factors mediating the Europeanization of the accession applicants” (Papadimitriou/Phinnemore 2004: 536).

In essence, the effect of EU integration on national administrations as a result of policy-induced national adaptations depends primarily on the type of administration and specific policy that is intended to be met. Therefore, differences between member states persist and one cannot deduce generalizable expectations for cross-state approximation. Still, the high commitment and strong mutual dependency concerning shared policy goals create strong interdependencies between national administrations. This may lead to competition or socialization effects between national administrations and therefore change within the individual states. Changed opportunity structures may adapt preferences of actors; and socialization may adapt norms of actors and therefore even lead to fundamental changes inside each state’s public administration in absence of a unified single EU model of public administration. Institutional mismatch to implement certain policies may trigger far-reaching change of public administrations that form part of the EU’s multi-level governance. Enlargement mirrored these processes within the twinning instrument that promoted the exchange between national state officials to trigger learning and socialization, which in absence of a single model, however, did reinforce domestic factors.

4 Conclusion: Mechanisms of an Emerging European Administrative Space

This paper set out asking: why do more and more observers claim the existence of an emerging European administrative space while empirical evidence is rich in illustrating that convergence across the EU member states’ public administrations is not increasing? The question that ensues is whether European administrative space should exist at all given that “there are no European policy programmes with an exclusive focus on national administrations. Nothing equivalent to national administrative policy can be found on the supranational level” (Knill 2001: 36). This paper has shown that despite the absence of a proper EU administrative policy, multiple mechanisms through which the EU can trigger change are at work. Given the empirical complexity of the subject matter, I argued that the most pragmatic way forward is indeed to identify ideal type modes of interaction between supranational and national units and the respective mechanisms at work. Building on this typology, the actual ways in which the EU interacts with public administrations of the member and candidate states were offered by empirical illustration. In conclusion, it shows that the EU has indeed developed multiple instruments that, depending on the policy field or administrative standard at stake, put the supranational and national administrative units in a variety of different actor relationships that range from hierarchical submission to independence in implementing EU policy goals. The most relevant area that seems to be emerging is that of shared responsibilities in which authority is not allocated to one or the other level of governance but administrative responsibility is shared. Integrating the EU’s impact on national public administrations, both as an *end* in itself through standards or merely as a *means* to achieve common policy goals, the framework offers a more comprehensive conceptual angle than most Europeanization approaches, which focus mainly on the latter.

Even if the article only touched upon outcomes, the discussion of the mechanisms at work and instruments applied showed that the processes should not be expected to produce overall convergence. Only prescriptions for the sectoral implementation of policies suggest a creation of equivalent processes and structures across the member states, yet, the areas in which the Community has such administrative powers are limited. Therefore, theoretically we should actually rather expect a process of increasing *differentiated coherence* than either increasing convergence or divergence between member states.

The only instant in which underlying principles of differentiated coherence did not fit supranational policy goals was Eastern enlargement. Faced with public administrations in the candidate states, apparently incapable of ensuring their internal coherence and therefore compliance with supranational policies, the EU declared administrative capacities an end in themselves. In consequence, a European model for a standard public administration had to be provided in order to set benchmarks and a fair process which each candidate had to go through in order to comply with the accession criteria of horizontal administrative capacities. To create something equivalent to national administrative policy was, however, never a subject of debate, and therefore, so the main conclusion of this article, neither a feasible nor a desirable option. The Commission escaped the dilemma by developing tangible standards outside the EU and applied these exclusively to the candidate states. It is here that the all-embracing notion of a European administrative space was first used to give a name to a diffuse but needed concept. "The EAS is a metaphor with practical implications for the Member States and embodying, inter alia, administrative law principles as a set of criteria to be applied by candidate countries in their efforts to attain the administrative capacity for EU Membership" (Cardona 1999: 6). Outside the particular enlargement context, a European administrative space emerges from diffusion processes that cause change in domestic public administration without an imperative for assimilation across states.

Obviously, if one agrees that the questions of administrative dynamics are too important to be ignored, the ultimate purpose of this analytical framework spans much wider than this paper to the actual effects that result in and across member states. The theoretical grid and pragmatic approach to scrutinize the diffusion of supranational ideas by tackling these processes from the mechanisms which they invoke are a first step towards answering the vital larger question.

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