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

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Review

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

Abstract

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

Keywords: bureaucratic politics, European Union, multilevel governance, transnational regulatory bureaucracies, administrative networks

INTRODUCTION

This symposium focuses on administrative power struggles as an explanation for the development, actual functioning and effects of transnational administrative networks in the European Union (EU) and beyond. These networks address transboundary policy problems, and they facilitate the functioning of the internal market of the EU. They are a fundamental component of modern regulatory governance in the absence of centralized coordination capacity at the global (Slaughter 2004) or EU level (Dehousse 1997). Such transnational networks are composed of specialized domestic officials and regulators who directly interact with each other, often with minimal ministerial supervision (Raustiala 2002). Recent research has addressed the emergence of networks of national regulatory agencies as a means to deliver coherent

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3 implementation of EU policies (e.g. Coen and Thatcher 2008; Eberlein and Newman
4 2008; Maggetti and Gilardi 2014). Moreover, the literature on EU agencies – which
5 often work as hubs for networks of national agencies – also provides insights into the
6 structures, processes and effects of transnational governance (Dehousse 1997;
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8 Egeberg 2006; Levi-Faur 2011).
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13 Yet, as much of the literature focuses on functional explanations, taking network
14 building and effective coordination for granted as a result of functional necessities
15 (e.g. Majone 1997), we still lack systematic empirical knowledge on the actual
16 development, functioning and effects of transnational networks (Kelemen 2002;
17 O’Toole 2015). The functional perspective has been complemented by recent research
18 highlighting the influence of political interests on transnational governing structures
19 (Groenleer 2011; Kelemen and Tarrant 2011; Blauburger and Rittberger 2014).
20 However, the strategic motivations of administrative actors have hitherto not played a
21 major role in theoretical and empirical research on transnational governance (but see
22 Thatcher 2011; Groenleer 2014). This is surprising, considering that bureaucratic self-
23 interest and resulting turf battles are considered major impediments to bureaucratic
24 coordination at the national level (Wilson 1989; Peters 1998; Heidbreder 2014). The
25 bureaucratic politics approach elaborated in this contribution synthesizes existing
26 research on the emergence, actual functioning, and effects of agency networks and
27 networked governance and suggests directions for further research. It builds upon and
28 further develops existing research viewing institutional design as power struggles
29 between national and supranational interests, and it provides theoretical
30 underpinnings based on the institutional interests of executive bodies regarding the
31 conditions under which transnational cooperation is likely to solve pressing policy
32 problems.
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48 The aim of this article is to systematically shed light on the ‘administrative factor’ in
49 transnational network governance. First, we uncover the role of bureaucratic politics,
50 i.e. the institutional interests of public sector organizations and networks thereof, in
51 the emergence and change of institutions of transnational governance. This
52 contribution argues that functional explanations which emphasize the need for
53 transnational coordination fall short of recognizing the role of bureaucratic politics in
54 shaping cross-level interactions. Transnational agencies (which usually are
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3 'networked agencies') emerge in a crowded environment consisting of various
4 organizations all pursuing their own distinct interests, which will affect the politics of
5 institutional design.
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10 Second, we claim that the actual functioning and the effectiveness of transnational
11 agencies and networks can be fruitfully analysed through an institutional rivalry
12 perspective. Much of the literature analyses EU agencies and transnational networks
13 as means to tackle coordination problems, such as dealing with interdependent policy
14 problems or ensuring a consistent implementation of EU policies across member
15 states. However, as evidenced by scholarship on coordination within and between
16 national bureaucracies, effective coordination across organizations seems to be the
17 exception rather than the rule. Arguably, this is especially relevant in the case of
18 voluntary coordination, as opposed to horizontal coordination 'in the shadow of
19 hierarchy' (Scharpf 1997). We therefore suggest considering the institutional interests
20 of national agencies to provide a more realistic picture of the effectiveness of
21 administrative coordination 'after delegation'.
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31 Third, there is a lack of systematic knowledge regarding the impact of the
32 'transnationalization' of executive decision-making on bureaucratic autonomy in the
33 national setting (Mastenbroek and Princen 2010; Yesilkagit 2011). Egeberg and
34 Trondal (2009) characterize national agencies as double-hatted, meaning that they
35 serve both ministerial departments and the Commission. As members of transnational
36 networks, national agencies keep fulfilling many of their traditional tasks and have to
37 deal with well-established political, societal and economic actors. At the international
38 level, though, they become part of an entirely new constellation of actors and thereby
39 potentially gain new channels of influence, but also have to face new restrictions
40 (Ruffing 2015). As a result, the agencies' parent ministries compete with the
41 Commission over who controls the agencies (Egeberg and Trondal 2009). Moreover,
42 the agencies' participation in EU administrative networks strengthens their role in
43 domestic policy making (Bach et al. 2015).
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54 Finally, an analytical perspective emphasizing institutional rivalry provides additional
55 leverage for the analysis of the EU's external governance, in particular with regard to
56 competition, diffusion and harmonization of regulatory standards in international
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3 trade. Diffusion approaches typically adopt a macro perspective and understate actor-
4 level explanations. Nonetheless, as shown by Schulze and Tosun (2015) in this
5 symposium, institutional rivalry matters in diffusion studies, in two ways. On the one
6 hand, rivalry exists at the international level, with respect to standards inspired by
7 different regulatory styles and politico-administrative traditions. On the other hand,
8 they highlight that a dynamic of rivalry can be at work across levels, whereby
9 domestic actors' interests are more important than international power politics in
10 affecting national regulations, even when the latter are enshrined in international
11 regimes. Before developing each of these four aspects (analysed so far in isolation) in
12 depth, the next section gives an overview of different regimes of organizing
13 transnational regulation
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22 23 **TRANSNATIONAL NETWORKS AND INTERNATIONAL REGULATORY** 24 **COOPERATION** 25 26

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28 The growing internationalization of markets and the interdependence of policy issues
29 require common policies and institutional arrangements to avoid negative externalities
30 and regulatory loopholes. In the absence of a global authority, international
31 organizations and transnational networks are set up to achieve regulatory coordination
32 among nation states (Slaughter 2004). In the EU, the question of coordination is
33 particularly pressing: the EU is facing the dilemma of being confronted with a weak
34 legitimacy of deeper integration while the necessity for European coordination to
35 reduce the negative externalities arising from diverging national approaches arguably
36 increases over time (Dehousse 1997; Eberlein and Grande 2005; Eberlein and
37 Newman 2008). In turn, domestic regulatory authorities are confronted with different
38 political preferences, institutional endowments, administrative traditions, market
39 structures and business cultures. To tackle these challenges, several types of sector-
40 specific regulatory regimes have been created for harmonizing standards and
41 regulations, and for ensuring multilevel regulatory cooperation.
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53 The first type of regime involves the creation of transnational agencies to facilitate
54 cooperation among national agencies. In the EU, the process of 'agencification' has
55 been on the political agenda for at least the last two decades (Rittberger and Wonka
56 2011; Busuioc et al. 2012). Agencification is often justified by the need to ensure
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3 uniform implementation of EU legislation and to ensure the long-term credibility of
4 regulatory policies, a crucial condition for investors and other market actors
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6 (Dehousse 1997; Majone 1997).
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10 The second type of regime consists of transnational networks of both EU institutions
11 and national administrations. Following Coen and Thatcher (2008), these networks
12 configure a weaker institutionalized solution to further the harmonization of European
13 regulation, provide expert-based advice and promote pro-competition rules, given
14 member states' unwillingness to disempower their domestic authorities and delegate
15 more power to the EU level in some key areas. Some such networks were created
16 'from scratch' by supranational legislation, a prominent example being the European
17 Competition Network (ECN), which comprises the Commission and national
18 competition authorities (see Wilks 2005; Kassim and Wright 2009). Other networks
19 were built on pre-existing bottom-up structures, with which they largely overlap, as in
20 the case of the European Regulators Group for Electricity and Gas (EREG). This
21 network was set up by the Commission in 2003, to provide a platform for further
22 developing the internal energy market within the framework of the second Internal
23 Energy Market Directive, in close association with an earlier, voluntary network, the
24 Council of European Energy Regulators. These networks have proved to be, perhaps
25 unexpectedly, remarkably influential, in particular in comitology (Vos 2005; Krapohl
26 2008). Furthermore, soft rules developed at the network level have been quite
27 consistently adopted as binding national regulations by member states' regulatory
28 authorities (Maggetti and Gilardi 2014). On the other hand, these networks have
29 allowed domestic regulators to gain new regulatory powers, through the opportunity
30 to play a two-level game (Yesilkagit 2011; Bach and Ruffing 2013; Maggetti 2014).
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46 The third type of regime is related to the role of the EU in promoting the
47 establishment of international regulatory cooperation through global networks (Stone
48 and Ladi 2015). A crucial element is the EU's external governance, through which its
49 eastern and southern European neighbours are 'associated', in a process designed to
50 manage interdependence on issues such as justice and home affairs, the environment
51 and energy (Lavenex and Schimmelfennig 2009). This form of governance,
52 exemplified by the creation of the European Economic Area and the 'European
53 neighbourhood' policy, represents a way to extend the scope of EU policies and
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3 regulatory reach beyond the EU's borders, notwithstanding the limited institutional
4 involvement of third parties in EU decision-making processes (Lavenex and
5 Schimmelfennig 2009). Other specific international regimes where the EU is actively
6 involved in fostering regulatory cooperation are constituted by bilateral agreements,
7 namely with Switzerland, and by several multilateral initiatives that are more or less
8 formalized, such as participation in the World Trade Organization and in the
9 negotiation of agreements concerning public health or human rights in the context of
10 inter-regional relations, for instance with the ASEM, Mercosur, ASEAN and the Gulf
11 Co-operation Council (Elgström and Smith 2006).
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20 By 'getting other actors to behave in a way that *generally satisfies or conforms to*
21 *European rules*' (Damro 2015 p. 1344, emphasis in original), externalization of EU
22 regulatory regimes occurs not only among neighbouring countries. The economic
23 power of the single market as well as the normative power of European governance
24 principles and values, such as democracy, human rights, rule of law and modes of
25 cooperation (Newman and Posner 2015), have enabled the EU to set rules and
26 standards for global markets (Young 2015). The size of the single market, the
27 stringency of its rules and the administrative capacity to enforce them allow the EU to
28 compete with other global standard setters. These mechanisms of external influence
29 are power resources that allow the EU to be a strategic actor which aims to attain its
30 policy goals within the global regulatory context (Newman and Posner 2015).
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41 **THE POLITICS OF INSTITUTIONAL CHOICE: FROM FUNCTIONAL TO** 42 **POLITICAL EXPLANATIONS** 43 44 45

46 Having outlined the different types of international regulatory regimes, this section
47 addresses how supranational agencies and transnational networks emerge. There is a
48 growing body of scholarship studying the growth of supranational agencies and
49 transnational administrative networks. There are two noticeable trends in this area.
50 Firstly, whereas the early literature tended to focus on either agencies or networks,
51 more recent scholarship sees agencies and networks as functional equivalents or
52 complementary structures of multilevel coordination, which therefore need to be
53 jointly analysed (Groenleer 2011; Levi-Faur 2011; Blauburger and Rittberger 2014).
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3 For instance, in 2011, the ERGEG network was replaced by the Agency for the
4 Cooperation of Energy Regulators (ACER), in which senior representatives of all
5 national regulators are members of the Regulatory Board, which plays a key role in
6 ACER's decision-making (Ruffing 2015a). Since domestic agencies have not been
7 dismantled, the newly created EU agencies, although more formalized and powerful
8 than transnational networks, still function as networked organizations (Levi-Faur
9 2011). Moreover, formal and informal networks of regulators often continue to exist
10 side by side, allowing national regulators to coordinate also without the involvement
11 of the Commission.
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20 Secondly, whereas most early accounts of the emergence of agencies and networks
21 relied heavily on functional explanations (Dehousse 1997; Majone 1997; Eberlein and
22 Grande 2005), more recent scholarship has embarked on political explanations,
23 stressing the relevance of power struggles between supranational and national
24 interests (Kelemen 2002; Christensen and Nielsen 2010; Groenleer 2011; Kelemen
25 and Tarrant 2011), or has tried to reconcile the two types of explanation, political and
26 functional (Blauberger and Rittberger 2014). Most relevant for the claim put forward
27 in this article are recent accounts theorizing the effect of the pursuit of institutional
28 interests by existing agencies and networks for the politics of institutional choice
29 (Newman 2008; Thatcher 2011).¹ These explanations have the potential to account for
30 the emergence of both agencies and networks. The remainder of this section discusses
31 the concurrent theoretical explanations.
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41 From the perspective of a functional logic of delegation, elected politicians delegate
42 regulatory tasks to non-majoritarian institutions, most importantly independent
43 regulatory agencies, to signal a credible commitment to a chosen policy and to
44 increase policy-making efficiency (Majone 1997). Any alternative in which
45 politicians can exercise discretion would imply the risk of unpredictable changes in
46 the regulatory environment, following the electoral cycle, which is assumed to be
47 detrimental for effective regulatory policy. Another functional explanation for agency
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55 ¹ A third theoretical explanation for the creation of supranational agencies is rooted in sociological
56 theories of isomorphic change in organizational fields, claiming that agencies have become a standard
57 model of organizing and are therefore considered legitimate (Ruffing 2014; Van Thiel 2004). These
58 theories are not covered in this article but have been applied to analyze processes of institutional choice
59 for supranational agencies (Christensen and Nielsen 2010; Groenleer 2011).
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3 creation builds upon the notion that agencies can close the ‘regulatory gap’ which
4 results from the limited administrative capacities of the Commission to ensure a
5 harmonized implementation of EU legislation (Dehousse 1997). Indeed, a similar
6 argument is also prominent in scholarship on the emergence of transnational
7 regulatory networks (Slaughter 2004; Eberlein and Grande 2005; Eberlein and
8 Newman 2008).

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15 The relevance of political explanations for the institutional design of EU agencies is
16 underlined by Christensen and Nielsen (2010), who find that higher degrees of formal
17 powers of EU agencies coincide with stronger mechanisms of formal control by the
18 member states. Moreover, in terms of institutional design, they do not find any
19 significant differences between regulatory and non-regulatory agencies, whereas
20 Wonka and Rittberger (2010) provide evidence that economic regulatory agencies
21 have been endowed with higher levels of formal autonomy. Kelemen (2002) analyses
22 the creation of EU agencies since the early 1990s as a consequence of inter-
23 institutional power struggles between the Commission, the Council and the European
24 Parliament (especially since the latter institution became increasingly engaged in the
25 politics of agency design). Kelemen and Tarrant (2011) more explicitly address the
26 conditions under which agencies or networks are created. They argue that member
27 states will prefer to have more control over the implementation of EU policies
28 through administrative networks under conditions of strong distributional conflicts
29 (rather than see the establishment of a supranational agency, which tends to be the
30 preferred solution of the Commission and the European Parliament). In an attempt to
31 reconcile functional and political explanations, Blauburger and Rittberger (2014)
32 argue that functional explanations perform well in explaining the decision to create a
33 particular coordination structure (e.g. a transnational network rather than an EU
34 agency), whereas political explanations are useful in explaining variations in the
35 specific institutional design of transnational networks.

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60 In terms of institutional choice, such an analytical perspective highlights the
importance of the institutional interests of bureaucratic organizations. Moreover, it
explicitly considers that institutions are created in a crowded institutional space,
especially in the EU. For instance, the creation of agencies in economic regulation
occurred much later than in social regulation (Eberlein and Grande 2005; Thatcher

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3 2011). This empirical observation is at odds with the logic of credible commitment,
4 according to which delegation to independent regulators is most relevant for
5 economic regulation, in contrast to social regulation (Gilardi 2008; see Wonka and
6 Rittberger 2010 for a more nuanced discussion). The explanation put forward by
7 Thatcher (2011) is one of institutional rivalry, driven by existing organizations
8 defending their interests. He argues that the Commission initiated the establishment of
9 EU agencies only in sectors where it had limited powers, whereas it resisted the
10 creation of agencies in areas where it had accumulated substantive powers. Another
11 explanation is that national regulators tend to oppose the creation of supranational
12 agencies (and prefer the creation of less institutionalized transnational networks)
13 because they fear a shift of power to the supranational level. When EU agencies in
14 economic regulation have been created, national regulators and governments have
15 attempted to limit their powers, for example by integrating national regulators into
16 those new EU agencies' management boards. However, being able to rely on a
17 network of powerful national regulators may in fact increase the actual autonomy and
18 power of supranational agencies (Groenleer 2014). Moreover, the degree of
19 contestation of transnational agencies may also vary across policy sectors, with
20 corresponding differences in national agencies' assessment of the desirability of
21 transnational coordination (Heims 2014).
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36 A key insight from an institutional rivalry perspective on networks is to focus on the
37 interplay of national as well as supranational administrative actors' institutional
38 interests. The symposium contribution by Mathieu (2015) shows indeed that the
39 Commission created favourable conditions for the establishment of a transnational
40 regulatory network in the telecommunications sector by mandating member states to
41 set up independent regulators. This setting then created a functional necessity – also
42 driven by the (newly created) agencies' institutional interests – to create a
43 transnational regulatory network to facilitate the implementation of EU legislation.
44 Newman (2008) provides another example of how institutional dynamics at the
45 national level shaped institutional choice at the supranational level. He shows that an
46 informal transnational network of national agencies governing data privacy acted as a
47 successful policy entrepreneur in the process leading to the adoption of the EU's Data
48 Privacy Directive by imposing its preferences against initially strong opposition.
49 Moreover, this process entailed a formalization of the transnational network, which
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3 has had major repercussions on both the formal and informal powers of national data
4 protection agencies (Yesilkagit 2011).
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9 10 **THE COORDINATIVE CAPACITY OF SUPRANATIONAL AGENCIES AND** 11 **TRANSNATIONAL NETWORKS** 12

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14 After highlighting the relevance of bureaucratic politics for the institutional design of
15 supranational agencies and intergovernmental networks, we now turn to the dynamics
16 of multilevel coordination in practice. The argument is that analysing processes of
17 inter-organizational coordination through the lens of bureaucratic politics is
18 particularly relevant, considering that both EU agencies and transnational networks
19 are composed of national agencies that may have divergent interests (Dehousse 1997;
20 Levi-Faur 2011; Groenleer 2014). This approach is based on the insight that formal
21 structures and procedures do not determine actual practices of decision-making. Once
22 created, public bureaucracies pursue distinct institutional interests and become
23 ‘political actors in their own right’ (Moe 1990, p. 143). As with other public
24 organizations (Carpenter 2001), this may even go as far as EU agencies being able to
25 set the agenda and impose their preferences on elected politicians and other
26 stakeholders. In other words, a bureaucratic politics perspective highlights
27 institutional interests as potentially driving or inhibiting inter-organizational
28 coordination. More specifically, national agencies’ institutional interests are likely to
29 be threatened by coordination in the EU multilevel setting, in which supranational
30 agencies and networks potentially take over tasks from the national level.
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45 A key lesson from research on bureaucratic coordination at the national level is that
46 effective coordination between public sector organizations is the exception rather than
47 the rule (Peters 1998). The virtual impossibility of allocating every policy problem to
48 a single organization leads to a situation of structural interdependence, which makes
49 coordination between bureaucratic organizations necessary (Scharpf 1997). However,
50 coordination with other organizations may imply changes to an organization’s
51 standard operating procedures and may compromise its preferred course of action.
52 Also, task specialization leads to selective perception or ‘silo mentalities’, which
53 occurs when organizations develop a biased view of policy problems. Although
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3 selective perception tends to be viewed as inherently problematic, it is a precondition
4 for government based on expertise (Heidbreder 2014). As a consequence of selective
5 perception, inter-organizational conflict will be fiercest among organizations within
6 the same policy area that 'lack common ideas about service delivery' (Peters 1998 p.
7 304).
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12 Against this background, the conditions for effective supranational coordination
13 through networks of national agencies seem rather favourable, as the latter do not
14 compete for the same budgetary resources, usually have similar competencies and
15 adhere to common professional standards (Eberlein and Grande 2005; Maggetti and
16 Gilardi 2011). This argument is backed by the notion of shared worldviews among
17 national agencies, but it tends to underestimate that supranational coordination is
18 costly in terms of time and resources, and may impinge upon national agencies'
19 institutional interests or turf (Heims 2014). More specifically, institutional interests
20 resulting from organizations striving to maximize their autonomy (Wilson 1989) are
21 considered as major impediments to effective inter-agency coordination. A high level
22 of autonomy is characterized by relatively undisputed jurisdiction and a coherent
23 mission of the organization, i.e. 'a widely shared and approved understanding of the
24 central tasks of the agency' (Wilson 1989 p. 182). As a result, agencies will try to
25 match their mission with their jurisdiction and defend their turf in order to ensure
26 political support, as well as to minimize the need for monitoring their employees.
27 Accordingly, bureaucratic organizations will coordinate with others only if this will
28 contribute to the accomplishment of their core mission, or at least does not threaten
29 their turf. In a recent empirical study covering several sectors and countries, Heims
30 (2014) shows that national agencies will engage proactively in (mandated)
31 supranational coordination only if it adds value to their core (national) business.
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48 Another body of literature expands the turf perspective and emphasizes the
49 importance of reputational concerns as a driving force of bureaucratic behaviour
50 (Carpenter and Krause 2012; Maor 2014; Gilad 2015). Accordingly, bureaucratic
51 organizations are driven by the desire to create or maintain their distinct reputation,
52 which is considered as a key source of power and which ultimately ensures
53 organizational survival. Put differently, an agency's distinct reputation is a political
54 resource to ensure autonomy (Carpenter 2001) and therefore also its turf. This kind of
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3 reputation-sensitive behaviour becomes visible in various ways, such as through the
4 timing and type of agency decisions or strategic responses to public allegations (see
5 Maor 2014 for a recent review of the literature). An important element is that public
6 bureaucracies have multiple audiences, which place potentially conflicting demands
7 upon them as they value different aspects of an organization's activities (Carpenter
8 and Krause 2012). As a result, reputation-sensitive organizations have to trade off
9 reputational risks against each other when taking decisions (Gilad 2015).
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16 For the study of coordination in a multilevel setting, this approach implies that
17 reputational calculations of national agencies will strongly influence their propensity
18 to cooperate. In the study of transnational coordination, this is largely untrodden
19 territory. In her contribution to this symposium, Busuioc (2015) shows that
20 reputational concerns drive the willingness of national agencies to cooperate with
21 supranational agencies. The supranational agency in the field of police cooperation
22 (EUROPOL) is provided with insufficient information by national law-enforcement
23 authorities, which fear losing cases because of the associated reputational costs in
24 their domestic context. The situation is different for joint border control (FRONTEX),
25 where national authorities are dependent on the efficient working of their sister
26 organizations, due to a high level of problem interdependency, and hence are willing
27 to contribute actively to supranational operations. That said, they tend to oppose
28 strengthening the administrative capacity of FRONTEX, as it might then become a
29 rival institution, pursuing its institutional interests by demonstrating its added value,
30 similar to EUROPOL (Busuioc 2015).
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43 In a similar vein, Groenleer (2014) shows that the supranational medicines regulator,
44 the European Medicines Agency (EMA), gained substantial powers by co-opting
45 national regulators into its decision-making structures and thereby protecting their
46 institutional interest of organizational survival. In contrast, national agencies are less
47 integrated into the (formally more autonomous) supranational food safety agency, the
48 European Food Safety Authority (EFSA), which is hence perceived more strongly as
49 a rival institution by national authorities. Therefore, taking the institutional interests
50 of already existing national authorities into account can be seen as a key condition for
51 supranational agencies to gain power by adding value to 'an environment replete with
52 other organizations, in particular national authorities' (Groenleer 2014, p. 283). This
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3 type of supranational networking will be eased if national authorities have comparable
4 task portfolios and formal powers (Eberlein and Grande 2005). As we have seen
5 above, supranational legislation can play a decisive role in establishing such
6 conditions (Mathieu 2015). Before turning to another instance of institutional rivalry,
7 namely multilateral agreements, we look at the effects of supranational coordination
8 on relationships between national administrative actors.
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13 14 15 16 **DOMESTIC EFFECTS OF TRANSNATIONAL NETWORKS AND** 17 **INTERNATIONAL COOPERATION** 18

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21 How network building on the international level would impact on national
22 administrative systems is a largely unexplored topic. In her seminal book *A New*
23 *World Order*, Anne-Marie Slaughter (2004) argued that networks are ubiquitous in
24 the international system and that the process of network building goes hand in hand
25 with a disaggregation of nation states, meaning that they are no longer represented by
26 diplomatic corps only but also by regulators, courts and parliamentary committees.
27 However, Slaughter was concerned with the question of whether this network
28 building process might enable a legitimate political order in the international system
29 and not with how it might impact on nation states. Whereas regime theory
30 acknowledged as early as the 1980s (Keohane 1984) that expert networks gain far-
31 reaching influence in and on international organizations, the fact that these experts are
32 mostly national administrative actors was often reported but not discussed (e.g. Adler
33 and Haas 1992; Gehring and Ruffing 2008). Trying to gain ground against the
34 formerly predominant (neo-)realism, regime theory was mainly concerned with
35 demonstrating that international organizations (and their administrations) are able to
36 gain any kind of influence on policies and implementation at all (Barnett and
37 Finnemore 2004; Joachim et al. 2008). Current research on the bureaucracy of
38 international organizations tends to follow this tradition, by focusing on whether and
39 how such administrations gain autonomy from their member states (Biermann and
40 Siebenhüner 2009; Ege and Bauer 2013). However, if they are able to increase their
41 autonomy, and if they are based on networks of national administrative actors,
42 international relations theory might have much to learn from research on European
43 integration (Stone and Ladi 2015).
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With regard to the EU, there are two strands of research on the effects of network-building on member states. First, there is research on whether national administrative procedures and structures are changed by European integration (Börzel and Risse 2000; Knill 2001; Ruffing 2015b) or even converge within the EU member states (Trondal and Peters 2013), leading to the emergence of a European administrative space. Börzel and Risse (2000) developed the nowadays well acknowledged misfit thesis. This thesis assumes, *inter alia*, that ‘Europeanization leads to domestic change through a differential empowerment of actors resulting from a redistribution of resources at the domestic level’, or an internalization of changing norms (Börzel and Risse 2000, p. 2). These processes of change are triggered by a certain degree of misfit between European and national processes, policies and institutions, whereas adaptational pressure increases with the degree of misfit. Esmark (2008) demonstrates that a misfit between the European and Danish polity led to a change in administrative structures, establishing new coordination structures within and between ministries. In contrast, Knill (2001) shows, by comparing British and German implementation of European environmental policy, that even a high degree of misfit does not lead to change in administrative structures if adaptational pressure impinges on the core of well-established national administrative structures. This finding is in line with the research on the convergence of national administrations towards a European administrative space that delivers repeatedly mixed results, showing that some convergence processes are underway even while, on the other hand, differences remain quite persistent (Olsen 2003; Trondal and Peters 2013).

The second strand of research is more focused on the effects of networks on the autonomy and role in the policy process of their members – national agencies. One by now well established empirical finding is that membership of European networks affects the formal and *de facto* autonomy of national agencies from their parent ministries (see Bach and Ruffing 2013 for a discussion of formal and de facto autonomy in this context). Domestic agencies not only are more independent from elected politicians when they are part of EU networks, but their network membership also increases their independence from the regulated industries (Maggetti 2012). Studying the implementation of the European Data Protection Directive, Yesilkagit (2011) finds that the Dutch data protection agency gained a high degree of formal

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3 independence due to initiatives of and resources provided by the European network of
4 data protection agencies. In a similar vein, Ruffing (2014) demonstrates that the
5 creation of an independent German utilities regulator was to a great extent induced by
6 network building dynamics on the European level. Maggetti (2014) shows that
7 national agencies involved in European networks enjoy a reinforcement of their
8 regulatory powers, granting them also more formal autonomy.
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15 However, even if the formal configuration of ministry-agency relations remains
16 unchanged, agencies may gain *de facto* autonomy. Egeberg and his colleagues found
17 that national agencies involved in European decision-making become ‘double-hatted’:
18 that is, at the same time serving their parent ministry and the Commission (Egeberg
19 and Trondal 2009). This allows them to bypass their ministries and influence
20 European policy-making directly (Egeberg 2006). Yesilkagit (2011) shows that the
21 formally empowered Dutch data protection agency could use the resources of its
22 supranational network to decisively influence national policy-making. Ruffing
23 (2015a) shows that the German energy and financial market regulators gained *de*
24 *facto* autonomy in policy development due to the increasing information asymmetry
25 between agencies and ministries resulting from the multilevel character of European
26 decision-making. Moreover, several large-n studies indicate that participation in
27 transnational networks in general results in more *de facto* autonomy of national
28 agencies (Bach and Ruffing 2013; Bach et al. 2015). What remains to be done is to
29 operationalize cross-level interactions from a rivalry perspective, that is, to focus not
30 only on the benefits of playing in a multi-level arena, but also on the constraints
31 deriving from it.
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45 **THE EFFECTIVENESS OF THE EU AS A TRANSNATIONAL REGULATOR**

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48 Having discussed the domestic effects of transnational networks and supranational
49 agencies, we now turn to the external effects of EU network governance. The process
50 of Europeanization and its impact on domestic institutions situated beyond the EU
51 borders is not a novel research area. An emerging literature focusses on public policy
52 making on a global scale (Stone and Ladi 2015) and argues that Europeanization
53 research can be regarded as a special instance of policy and institutional diffusion
54 (Börzel and Risse 2011). However, research on Europeanization and diffusion beyond
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3 the EU is mostly limited to processes of policy transfer, institutional emulation and
4 models for regional integration (Jetschke and Murry 2011; Lenz 2011). Empirical
5 analyses of regulatory competition and interdependence between transnational
6 regulatory orders are now emerging (Birchfield 2015; Kissack 2015; Schulze and
7 Tosun 2015).² Furthermore, the impact and effectiveness of EU-orchestrated
8 transnational regulatory networks and institutions need to be assessed *vis-à-vis* other
9 transnational legal and regulatory orders. Ultimately, transnational norms and
10 associated institutions gain force and effect when they are embedded in national legal
11 systems (Shaffer 2012).
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19 Transnational regulatory orders are interconnected (Abbott and Snidal 2001) and
20 interdependent (Lazer 2001). They are a reflection of either international regulatory
21 competition or international regulatory coordination that affects the choices of
22 national policy makers. At the global level, legal orders and norms are sometimes
23 complementary and sometimes incompatible. In the former case, transnational
24 regulatory institutions provide another means to pursue harmonization for obtaining
25 market access and achieving economies of scale (Raustiala 2002). An example of the
26 first type of interdependence is the transatlantic cooperation through which
27 transnational networks are negotiating treaties for harmonizing policies and rules
28 (Raustiala 2002).
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37 In the latter case, jurisdictions are called to choose one among several models of
38 economic and institutional cooperation for achieving regulatory harmonization
39 (Zielonka 2008). An example of the second type is transnational regulatory
40 interdependence regarding competition law, where jurisdictions are called to embrace
41 an international treaty based on US or EU norms and practices (Raustiala 2002).
42 Another example are environmental multilateral agreements, as analysed in Schulze
43 and Tosun's (2015) contribution to this symposium. Moreover, EU agencies interact
44 with pre-existing international organizations aimed at solving transnational issues and
45 governing global markets. This implies that EU agencies often conform to
46 international organizations' norms and values in order to enhance the effectiveness
47 and legitimacy of their performance. Similarly to the argument that involvement in
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56 ² Transnational regulatory orders can be conceptualized as 'a collection of more or less codified
57 transnational legal norms and associated institutions within a given functional domain' (Shaffer 2012,
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3 EU agencies or transnational networks benefits national agencies, the interaction with
4 international institutions may further the autonomy of EU agencies towards their
5 stakeholders (Busuioac et al. 2012).
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9 As a global actor, the EU is seeking to promote its environmental and trade regulation
10 also among non-member states. A measure of the effectiveness of the EU as a global
11 standard setter is the ratification of international agreements that overlap with its own
12 governance style on environmental and trade issues. Schulze and Tosun (2015)
13 emphasize that there is now an institutional marketplace composed of poles of
14 influence, i.e. the economic superpowers, which are able to set international standards
15 for all other countries. The US and the EU are the main producers and exporters of
16 transnational norms. Accordingly, they play an essential role in the construction and
17 diffusion of transnational legal norms (Shaffer 2012).
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21 Cooperation and competition between transnational regulators have different
22 implications. The choice of transnational actors to cooperate leads to the global
23 standardization of products and services, as well as to economic and social
24 regulations. Contrarily, the choice of regulatory players to compete with each other
25 results in a division of the world, in a set of clubs in which national jurisdictions
26 adhere to and comply with one of several standards set by hegemonic global
27 regulators through regional integration processes and multilateral and bilateral
28 agreements and institutions.
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32 What is striking from the strand of comparative and international political economy is
33 the impact on global regulation of the institutional features and administrative
34 capacity of the EU as a regulatory state. Policy-making processes and decision-
35 making rules contribute to the EU's external dimension of the regulatory state. The
36 regulatory expertise, internal cohesiveness and sanctioning authority of EU regulatory
37 networks and agencies are necessary conditions for the external influence of the EU
38 as a regulatory state (Damro 2015). Furthermore, similar to the bureaucratic politics
39 approach, the literature on the EU as a global regulator and market power is also
40 characterised by interest contestation of domestic actors (Damro 2015), the
41 bureaucratic interests of cooperating actors (Legrand 2015) and by the density of
42 regulatory institutions within a global regulatory context (Newman and Posner 2015).
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3 Accordingly, one can maintain that administrative power struggles are common
4 across all the institutional manifestations of EU regulatory networked governance. In
5 other words, institutional rivalry is an analytical perspective that can be applied in
6 explaining variation in regulatory governance within EU networks, as well as
7 variation in the extent of the externalization of such networks.
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11 12 13 14 15 **CONCLUSION**

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18 This article – together with the other contributions to this symposium – points to the
19 crucial role of bureaucratic politics in explaining the emergence and change of
20 institutions of transnational governance. We also explored the impact of bureaucratic
21 interests on cooperative behaviour within administrative networks and the effect of
22 transnational governance on national administrations. Finally, we investigated power
23 struggles that might influence the diffusion of EU regulatory models. Thereby, we
24 suggest that studies of EU agencies and transnational networks which take into
25 account the institutional interests of national agencies and of the EU as an actor in the
26 international arena provide a more realistic picture of the effectiveness of
27 administrative coordination on the European level. In addition, we have shown that
28 European network structures also impact on national administrative structures and
29 actors, empowering them with respect to their formal structures, capacity and
30 autonomy.
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42 However, a major research gap relates to the extent of any interaction between such
43 processes on the European and the national levels. Most studies focus either on the
44 question of how ‘Europe hits home’ (Börzel and Risse 2000) or on how national
45 actors influence European network building and coordination. One could assume,
46 however, that those processes become mutually reinforcing or, on the contrary, inhibit
47 each other. For example, if national agencies are empowered by their involvement in
48 European networks, as discussed above, this might change their bureaucratic interests
49 and their preferences with regard to the creation of a supranational agency. Further
50 research needs to account for the bureaucratic politics that affect coordination within
51 and across different levels, which includes feedback processes in the cross-level
52 interactions that span all these levels. This symposium is a first step in this direction
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3 by relying on three different case studies of transnational regulatory cooperation,
4 brought together by the theoretical framework of institutional rivalry. Taking this line
5 of thought a step further, the institutional rivalry perspective on administrative
6 networks may be 'scaled up' to the study of transnational networks at the international
7 level, e.g. within international organisations, but it may also be 'scaled down' to study
8 administrative networks spanning different levels of government at the national or
9 regional level, comprising regional and local actors, respectively.
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16 All in all, we maintain that regulatory agencies pursue their own interests across all
17 levels of transnational governance. National regulatory agencies are in need of
18 achieving autonomy and legitimacy within their domestic institutional and political
19 environment. This pursuit is facilitated by the process of agencification at the EU
20 level that may enhance the autonomy of national regulatory agencies vis-à-vis
21 domestic institutions. However, emergent EU and supranational regulatory
22 institutions may also control national agencies, limiting their operational autonomy.
23 Once an institutional equilibrium among divergent interests has been reached, for
24 instance at the level of EU single market regulation, the EU may become a 'model
25 power' for tackling market, environmental and social issues at the global level
26 (Zielonka 2008). In other words, regulatory governance institutions designed and
27 implemented within the EU, such as the precautionary principle and mutual
28 recognition of products and services, may be adopted and consequently legitimated by
29 other non-EU actors. The EU can act as a legitimate actor and as a model power only
30 if it can display externally its capacity of effectively governing its internal market and
31 environmental and societal issues. At the global level, where different models
32 designed by the US and other regional powers are in competition for acquiring the
33 status of global standard, the EU may be able to play a distinct role as an international
34 actor (Groenleer and Van Schaik 2007; Zielonka 2008). By putting forward a general
35 hypothesis that bureaucratic actors are willing to cooperate internationally only if the
36 shift of their competences to a higher level of governance does not endanger their
37 autonomy, reputation or legitimacy, this special issue is a first step towards an
38 integrated analysis of multilevel regulatory governance.
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56 The literature review in this article and the articles in the symposium suggests that the
57 actual autonomy of agencies may differ quite substantially from their formal
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3 autonomy, a finding which is consistent with research on national agencies
4 (Yesilkagit and van Thiel 2008; Maggetti 2012; Bach 2014). Due to their nature as
5 networked agencies, the actual autonomy of supranational agencies needs to be
6 assessed in conjunction with the formal and actual powers of those national agencies
7 incorporated in the decision-making structures of the supranational agencies (Mathieu
8 2015), as well as with the institutional interests of national agencies (Heims 2014;
9 Busuioc 2015). Having strong linkages to a vertical network of national agencies and
10 a co-optation of national agencies into the decision-making process may provide
11 supranational agencies with important power resources (Groenleer 2014) and this may
12 not be reflected in measures of formal agency autonomy. Hence, the perspective
13 proposed here may also provide analytical leverage to explain variation between
14 different networks (including supranational agencies) in terms of their autonomy, and
15 ultimately their problem-solving capacity.
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26 More generally, we should pay more attention to within- and cross-level interactions.
27 To understand the establishment and functioning of transnational networks, we should
28 examine horizontal and vertical relationships involving cooperation but also conflict
29 among actors that aim at expanding their organizational power. At the same time,
30 intense cooperation at the transnational level is likely to limit the potential for
31 cooperation among domestic actors, and vice versa (Egeberg and Trondal 2015). This
32 would imply that well-functioning agencies or networks could also have negative
33 effects on the cohesion of national policy-making capacity, although they would be
34 able to improve policy effectiveness from an essentially sectoral, EU perspective.
35 This 'dark side' of networks is however an empirical question that should be
36 investigated further.
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46 Finally, we believe that an institutional rivalry perspective on transnational networks
47 and the diffusion of regulatory standards beyond the EU itself have a strong potential
48 for cross-fertilization. However, the type of rivalry may vary. In the case of
49 transnational networks and EU agencies, we focused on rivalry in terms of
50 institutional interests, which were assumed to be consistent across national agencies.
51 The willingness to cooperate with EU agencies, as studied by Busuioc (2015), is a
52 case in point. In contrast, our discussion of the diffusion of regulatory standards
53 essentially focused on diverging institutional preferences related to policy substance,
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rather than on questions related to institutional design or the functioning of international trade regimes in practice. We therefore suggest that studies of transnational networks and agencies should examine the dynamics of interests related to policy substance more closely (e.g. Maggetti and Gilardi 2011). This includes issues on which national agencies manage to ‘upload’ policy preferences to transnational settings, but also issues relating to the general mode of functioning of networks, e.g. whether they are dominated by bargaining or problem-solving (Scharpf 1997). At the same time, we suggest that studies on the diffusion of regulatory standards need to pay closer attention to the ‘administrative factor’ underlying such processes. As Newman and Posner argue, there is a close relationship between administrative capacities and the ability to assert policy preferences, as ‘a polity must have the institutional expertise, internal arrangements and governance mechanisms to develop a set of rules, identify breaches in those rules and sanction non-compliance’ (Newman and Posner 2015, p. 1323). In this sense, the symposium is an important step to link the European and the global debate on bureaucratic politics.

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