

The Powers of the Union: Delegation in the EU

By Fabio Franchino

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The proper distribution of powers between the supranational institutions and the member states of the European Union is the object of many academic and public debates. By examining the distribution of powers between the Commission and national administrations in the implementation of EU law, Fabio Franchino makes a valuable contribution to these discussions. His book investigates why and to what extent the EU's legislative institutions delegate implementation tasks to either the Commission or the national administrations. Furthermore, given the delegation of an implementation task to one of these actors, the book asks how much discretion the actor is given to fulfil its tasks and what the underlying reasons are for the legislative institutions to grant more or less leeway to the implementing actor.

The book is divided into seven chapters and a conclusion. In the first chapter, Franchino makes a convincing case for the importance of the research topic by relating his research questions to the broader concepts of centralisation and bureaucratisation in the EU. More reliance on the Commission rather than national administrations to implement EU laws is equivalent to a higher degree of centralisation of the administration of policies. Similarly, more discretion for the implementing actor means a higher degree of bureaucratisation of policy implementation. Both centralisation and bureaucratisation lie at the centre of many normative debates about the legitimacy of EU policy-making. The larger part of the chapter is devoted to a review of the related literature from various fields and an exemplary discussion of the extent to which the book overlaps with, adds to or improves on existing research.

Chapter 2 presents the formal theory of delegation to be tested in the study. Despite considerable efforts to keep the exposition of the model simple, readers without a very thorough knowledge of game-theoretical modelling may find this chapter hard to digest. Yet, the basic argument is relatively simple: the legislative institutions have to choose the type of implementing actor and to decide about how much discretion to grant to it. In line with existing delegation theories, the model assumes that policy complexity and preference divergence between the implementing actor and the legislators affect the delegation calculus of the latter: legislators are more likely to delegate when policy complexity is high and when the preference divergence between the legislators and the more knowledgeable implementing actor is low.

Besides these general factors, the model also takes into account the peculiar features of the EU's legislative decision-making process: legislation is always initiated by the Commission and the decision-rule in the Council of Ministers and the involvement of the European Parliament varies depending on the legislative proposal's treaty base. A novel prediction arising from the inclusion of these institutional features states that the delegation choice and the extent of discretion depend on the decision-making rule in the Council. Under qualified majority voting, the Commission can influence the content of legislation in its favour. Thus, the Commission is more likely to be chosen for implementation and to receive greater discretion. In contrast, decisions under unanimity represent lowest-common-denominator solutions in which the interests of the most sceptical member state have to be satisfied. This member state is likely to prefer national implementation with ample discretion for the implementation through supranational institutions. Interestingly, Franchino's model leads to exactly the opposite expectation regarding the effect of the voting

rule on Commission discretion than the discretion model by George Tsebelis and Geoffrey Garrett.

Following the derivation of theoretical predictions and corresponding empirically testable hypotheses, the next two chapters are concerned with the data collection, the operationalisation, and the description of the key variables of the model. Chapter 3 discusses how the sample of 158 major EU laws adopted between 1958 and 1997 was selected and how the degree of discretion provided by these laws was measured. The descriptive analysis of the resulting data clearly shows that the EU relies much more on national administrations to implement law than on the Commission. Furthermore, even when implementation tasks are delegated to the Commission, this supranational institution is considerably more constrained by legal provisions than national administrations. Chapter 4 discusses the major independent variables of the study. Most attention is given to the measurement of policy complexity and actors' preferences. Through a comparison of the positions of the Commission and the Council over time, Franchino demonstrates in passing that the pro-integrationist bias of the Commission exists even when Commissioners can be treated as perfect agents of their national parties; no self-selection process or international socialisation of Commissioners is necessary for this result to occur.

The following three chapters are devoted to the empirical examination of the theory's predictions. Chapter 5 investigates the validity of the hypotheses through regression analyses of the quantitative data outlined in the previous two chapters. Chapter 6 presents a qualitative analysis of the legislative developments in terms of delegation and discretion in four issue areas over time. These case studies cover legislation on procedures for the award of public contracts, the management and conservation of resources in the field of fisheries, the establishment of the internal market in telecommunications, and the taxation of non-residents' saving incomes. The Parliament played no significant role in the adoption of most of the legislation considered in Chapters 5 and 6. Therefore, Chapter 7 focuses on a more recent time period. The chapter presents a quantitative analysis of amendments by the Parliament to test hypotheses on the discretion preferences of this institution. In general, Franchino finds most of the theoretical expectations supported by the empirical evidence. Of course, the reader might consider some of the results more convincing than others, but the consistent support from both quantitative and qualitative analyses lends credence to the usefulness of Franchino's theory to understand and explain delegation and discretion in everyday decision-making of the EU.

The book is logically structured and presents a clear argument. The extensive use of substantive examples to illustrate the coding and the effect sizes of quantitative variables adds much to the readability and the understanding of the quantitative chapters. Throughout the book, methodological choices are made transparent and their justifications are discussed. Overall, the study contributes to the theoretical literature on delegation and presents a wealth of empirical data on the discretion and constraints of supranational and national actors involved in the implementation of EU policies. But, more importantly, the book offers a convincing answer to the question of 'who does what and why' (p. 2) in the implementation of European policies. The book is therefore not only relevant for political scientists but for anybody interested in the extent of and the reasons underlying the distribution of powers among the multiple levels of government in the EU.

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