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# A Responsive Technocracy?

EU politicisation and the consumer  
policies of the European  
Commission

Christian Rauh



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## Chapter One

# Introduction

For large parts of its history, European integration has been an elite-driven project. Consecutive transfers of political powers to the supranational level and the resulting policy choices of European institutions were largely a matter of executive actors negotiating behind closed doors. For a long time, political elites could safely rely on a ‘permissive consensus’ among the wider publics, which were rather unified in their generalised support for the political unification of Europe (Lindberg and Scheingold 1970; Down and Wilson 2008).

But this permissive consensus eroded over time. The public referenda that defeated the European Constitution and the social unrest following the European Union’s (EU) responses to the financial and currency crises are but two challenges to a purely executive mode of European integration (Statham and Trenz 2012; Rauh and Zürn 2014). Analysts are increasingly concerned with the extent to which European ‘decision making has shifted from an insulated elite to mass politics’ (Hooghe and Marks 2009: 13). Various recent works attest a growing *politicisation of European integration* (e.g. Hutter and Grande 2014; Risse 2014; De Wilde and Zürn 2012; Statham and Trenz 2012; Zürn 2006). Following the seminal definition of De Wilde (2011: 560, emphasis added), politicisation refers to a ‘polarization of opinions, interests or values, and the extent to which they are *publicly* advanced towards the process of policy formulation within the European Union’. It is not the fact that the supranational decisions are highly political that is decisive here – this has been the case since the infancy of European integration. Politicisation rather refers to the increasing body of empirical evidence suggesting that European integration no longer proceeds outside the wider public’s main field of vision.

Supranational decision making is more and more visible in public media (Boomgaarden *et al.* 2010; Sifft *et al.* 2007; Peters *et al.* 2005). This media visibility reacts systematically to specific European events (De Vreese *et al.* 2006; De Vreese 2003: chapter 3) and increases particularly in those areas where most national competences have been transferred to the supranational level (Koopmans 2007; Koopmans and Erbe 2004). Also contemporary public opinion is neither unified nor generally supportive of European integration, but rather responds systematically to political decisions at the supranational level (Toshkov 2011; Ecker-Ehrhardt and Weßels 2010; Down and Wilson 2008; Eichenberg and Dalton 2007; Franklin and Wlezien 1997). And the public is not only watching; it also feeds its evaluations back into the political process. Contrasting the ‘second-order’ perspective (Reif and Schmitt 1980), voters progressively consider European elections and referenda as relevant political choices in their own right

(Lubbers 2008; Garry *et al.* 2005; Koepke and Ringe 2006; Ferrara and Weishaupt 2004). More intriguingly, the public relevance of supranational decision making transcends purely European ballots, and enters the domestic electoral arena as well (Hutter and Grande 2014; Adam and Maier 2011; Hooghe and Marks 2009; Kriesi 2007; Steenbergen *et al.* 2007; Marks *et al.* 2007; Netjes and Binnema 2007; Ray 2007; Tillman 2004). The emergence of Eurosceptic parties in almost every EU member state (Taggart and Szczerbiak 2002), a number of ‘Europrotests’ (Uba and Ugglia 2011; Della Porta and Caiani 2007; Imig and Tarrow 2001), and indications of a changing cleavage structure (Teney *et al.* 2014; Kriesi *et al.* 2012) underline that politicisation challenges the well-practised elite-driven paths to the ‘ever-closer union’ that the Treaty of Rome envisioned.

Politicisation thus has a prominent place in core debates about European integration. Scholars stressing national identities see a ‘constraining dissensus’ emerging (Hooghe and Marks 2009) that cannot be fully absorbed by the current EU institutions (Bartolini 2006a). Even more blatantly, intergovernmental accounts perceive insulation from short-term political pressures as a necessary condition for the output-driven cooperation of nation states in Europe (Majone 2005, 2000; Moravcsik 2002, 1998). In these views, it is actually the de-politicisation of transnational challenges – achieved through quiet-running intergovernmental bargains and the delegation of regulatory powers to insulated technocracies – that enables credible commitments to lasting cooperative policy solutions. Seen from this angle, public politicisation is a significant peril that threatens to undermine the very decision-making efficiency that has motivated European integration in the first place.

Others, in contrast, emphasise the opportunities that politicisation provides for European integration. Early neo-functionalists already anticipated the ‘widening of the audience [...] interested and active in integration’, but ultimately expected ‘a shift in actor expectations and loyalty towards the new regional center’ in response (Schmitter 1969: 165–6). In fact, the politicisation of European integration we have observed in the recent decade not only addressed intergovernmental conflict lines, but rather entailed the articulation of direct demands from the European public towards the supranational level (Zürn 2006). For those who argue that insulated policy making in Brussels challenges ‘even the “thinnest” theories of democracy’ (Follesdal and Hix 2006), public visibility and contestation promise to make the preferences of the wider public audible in the EU’s political system (Hix and Bartolini 2006; Mair 2005; Magnette 2001b, 2001a). While national and supranational executives care predominantly about economic competitiveness, the wider public prefers a market-flanking policy that ‘protects them from the vagaries of capitalist markets’ (Hooghe 2003: 296; see also Dehousse and Monceau 2009). In such a setting of deviating public and elite preferences, an insulated decision-making system is prone to bias. The absence of public control provides specialised interests with structural lobbying advantages that can lead to capture ‘with the consequence that regulatory outcomes favour the narrow “few” at the expense of society as a whole’ (Mattli and Woods 2009: 12; see also Posner 1974; Stigler 1971; Olson 1965/1971). Seen from this angle, politicisation helps

## Chapter Two

# The Public Politicisation of European Integration

Before analysing whether and how the European Commission responds to the politicisation of European integration, we need a clearer picture of this phenomenon. During the infancy of the European Community (EC) after World War II, the integration process was by and large an exclusive affair of national and European executives as well as economic leaders. These elites hardly had to fear something like widespread politicisation as they could safely rely on a ‘permissive consensus’ among the wider citizenry (Lindberg and Scheingold 1970: especially chapters 3 and 8). During the 1950s and 1960s, citizens of the European Community founding states did not see much immediate relevance of European integration to their daily lives, and were diffusely supportive of economic coordination at the supranational level. Tacit approval among the wider publics and a correspondingly low mobilisation potential did not constrain political integration beyond the nation state. Rather, pooling and delegation of national powers in the EC were mainly driven by the interactions of the directly involved and largely freehandedly operating political elites (*ibid.* 250).

But even in these early days of European integration, observers did not expect the permissive consensus to be projected indefinitely into the future. Lindberg and Scheingold (1970: 277–8) themselves warned that ‘the level of support or its relationship to the political process would be significantly altered’ if the supranational polity was ‘to broaden its scope or increase its institutional capacities markedly’. Likewise, neo-functionalists argued that the accumulation of powers at the supranational level would eventually lead to a politicisation of European integration (Schmitter 1969: 165–6). The expansion of supranational competences into more salient policy domains was expected to increase ‘the controversiality of joint decision making’ leading to ‘a widening of the audience or clientele interested and active in integration’ (*ibid.*). Similar claims can be found in recent sociological theory of international relations. Here, scholars argue that the accumulation of political authority beyond the nation state triggers increasing societal demands for the public justification of decision making in the inter- and supranational realm (Zürn *et al.* 2012). Since more and more national powers have been delegated to EU institutions, or were pooled in majority votes among European governments in the meantime (Biesenbender 2011; Börzel 2005), these perspectives lead us to expect that European integration has become much more politicised among the wider citizenry since its inception. In this spirit, recent integration theory claims that the permissive consensus is increasingly superseded by a ‘constraining dissensus’ in the publics of the European member states (Hooghe and Marks 2009).

Nevertheless, we should not too hastily conclude that European integration has finally and fully entered the realm of mass politics, or that politicisation is a stable background condition of policy making in Brussels. Even proponents of enhanced public contestation on supranational matters admit that politicisation has been subject to significant short-term swings in the recent history of the integration process. Widespread politicisation of supranational matters still seems to depend on favourable opportunity structures: for example, it is created by specific events such as the referenda or elections (De Wilde and Zürn 2012; Rauh and Zürn 2014).

Other accounts even doubt that European decision making resonates among the wider publics on a sustained basis at all. Scholars in this vein argue that the politicisation of European integration among ordinary citizens is of temporal nature at best, or even maintain that the EU still operates ‘in areas where most citizens remain “rationally ignorant”’ (Moravcsik 2002, 2006). European competences are seen as far too technical and far too irrelevant for the daily grind of ordinary citizens who would thus deliberately remain uninterested and inactive. Contestation would be limited to narrow societal segments that are directly affected by specific regulatory powers. Concerning the wider publics, these perspectives assume that European integration still enjoys a broad acceptance that is based on its welfare-enhancing orientation and its expertise-driven procedures. Authors in this vein believe that the ‘permissive consensus’ is by and large intact, and even promote the active de-politicisation of European decisions to maintain the technocratic basis on which the political unification of Europe has prospered so far (Hurrelmann 2007; Bartolini 2006a; Majone 2000). From these more sceptical perspectives, the politicisation of European integration is a very contained short-term phenomenon, but is hardly subject to an increasing long-term trend.

So, is the public politicisation of European affairs a rather constant background condition of contemporary policy making in the European Commission, or is it mainly limited to particular short-term episodes? This chapter sheds light on this question, and aims to disentangle the short-term and long-term dynamics in the politicisation of European integration among the wider citizenry. It reviews prominent approaches in the recent literature and proposes a time-consistent operationalisation along three major components of politicisation: public visibility, polarisation of public opinion, and public mobilisation on European issues. These conceptual choices enable a continuous, monthly measurement of the aggregate politicisation potential that European integration has unfolded in the six founding states of the EC between 1990 and 2009. A composite index shows that public politicisation is indeed subject to a robust long-term trend. However, this long-term tendency is mainly driven by the polarisation of public opinion while the public visibility of European integration and active mobilisation on supranational matters exhibit more stationary patterns with contained short-term bursts. These patterns suggest that the European Commission nowadays faces a much stronger politicisation potential of European integration than during its founding days, which, however, is still subject to significant variation in the short term.

## 2.1 Where, how and when to measure the politicisation of European integration?

Most generally, politicisation refers to ‘the demand for, or the act of, transporting an issue into the field of politics’ (Schmidt 2004, author’s translation). This rather generic meaning accounts for the prominence of the concept, but for empirical comparisons it often remains underspecified. Yet several scholars have recently invested heavily in rendering the concept operational, although they focus on different societal arenas.

In the realm of international relations, Zürn *et al.* claim that politicisation occurs in a broad range of societal arenas, and define it ‘as growing public awareness of international institutions and increased public mobilisation of competing political preferences regarding institutions’ policies or procedures’ (Zürn *et al.* 2012: 71). This definition rests on two major insights. First, politicisation is more than just a synonym for declining support of inter- or supranational governance. Both resistance to specific international institutions *and* the formulation of pro-active demands for more or other international policies are expressions of politicisation (see also Ecker-Ehrhardt 2012). Second, politicised and de-politicised elements of international authority can be delineated by drawing on discourse and systems theory (see also Zürn 2013). International authority enters the political sphere only where its collectively binding decisions are publicly communicated and contested. In contrast to authority that is only exercised in intergovernmental negotiations, technocratic agencies, or specialised expert fora, politicisation means that inter- and supranational decisions are pulled into the public spotlight so that those societal interests without a reserved place at the negotiation table can also have a say.

In a similar spirit, Statham and Trezn (2012: 3) argue that ‘politicization is distinct from conflicts and bargaining that remain behind closed doors within institutions, and between governments, because it is publicly visible’. In their view, politicisation means that supranational issues become subject to debates and controversies in the public sphere. For Statham and Trezn, the most important societal arena to capture politicisation is thus the mass media, because it is where disagreement about supranational issues is conveyed to the wider public. While they share an empirical focus on mass-mediated debates, the politicisation concept employed by Hutter and Grande (2014) concentrates more narrowly on conflict among political parties that compete for votes in the national electoral arena. For them, politicisation of European affairs is a combination of how salient respective issues are for parties during election campaigns, how strongly partisan actors differ on these issues, and how many different actors take part in the corresponding mass-mediated debates. Other authors share this party-based focus and analyse how European affairs are politicised by partisan factions in national parliamentary debates (Wendler 2013; De Wilde 2014; Rauh 2015).

Yet again, others warn that a sole concentration on such highly institutionalised arenas of political competition in EU member states is insufficient to understand whether politicisation affects the democratic quality of supranational decision

## Chapter Three

# Politicisation and Consumer Policy Formulation in the European Commission

The European Commission is at the heart of the EU's political system. Besides its significant powers in overseeing compliance with the Union's treaties, in implementing community policies, and in representing the EU on the international stage, its most distinguished feature is its monopoly in initiating European legislation. In most areas, neither the Council nor the EP can enact binding law without a legislative proposal from the Commission.<sup>1</sup> Along this institutional feature, Europe's central bureaucracy controls significant agenda-setting powers, which provide it with high leverage in influencing the contents of supranational policies (see for example Tsebelis and Garrett 2000; Schmidt 2000; Princen 2009).

Broad strands of the literature on supranational decision making in the EU assume that the Commission exploits these powers, not the least to its own benefit (most explicitly, e.g. Franchino 2007; Cram 1997; Pollack 1994). Also the argument on the Commission's policy responses to enhanced politicisation of European integration developed in this chapter rests on the assumption that the 'utility function of the Commission is positively related to the scope of its competences' (Majone 1996: 95). In line with the classical theory of bureaucracy (e.g. Downs 1966/1967: chapter III; see also Tullock 1987), the Commission is expected to strive for more competences where regulatory powers are particularly attractive, given tight budgetary constraints and the ever simmering question of subsidiarity (cf. Dunleavy 2000).

This is clearly a simplifying assumption, given that the Commission is made up of individual officials with varying attitudes and preferences (Kassim *et al.* 2013). However, attitudinal research also shows that Commission officials tend to assess their organisational environment along rational calculations (Bauer 2012) and seem to realise that the public politicisation of European integration challenges the transfer of national competences to the supranational level (Bes 2014). Against this background, it should be noted that theoretical model developed here also

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1. In some policy areas, the Commission shares the right of initiative with the Council. In addition, one of the major innovations of the Treaty of Lisbon was to extend the public's right to ask the Commission to come forward with proposals from the Parliament and the Council (Article 225, 241 and 11 TFEU, respectively). Under the European Citizens' Initiative, one million citizens who are nationals of a significant number of member states can ask the Commission to submit a proposal. Both of these more recent rules curtail the Commission's monopoly of initiating legislation in some policy areas, but they still rely on Europe's central agenda setter when it comes to formulating the actual contents of the respective policies. Without doubt, then, no other body determines the substance of EU legislative proposals in the way that the Commission does.

works if we relax this assumption and only expect that Commission officials will usually hold a preference to retain at least the current supranational competences of the organisation they work in – be it from competence-seeking, problem-solving or even ideological motives (see also Hartlapp *et al.* 2014: chapter 12). How, then, should we expect a thus conceptualised European Commission to respond to the long-term increases and short-term fluctuations in politicisation uncovered in the preceding chapter?

### 3.1 Commission policy making under varying levels of EU politicisation – a theoretical model

On the most abstract level, the increasing politicisation of European integration challenges the Commission with new legitimacy demands (Zürn 2006; Hooghe and Marks 2006a, 2009). The more the broad public becomes alert to supranational decisions and the more it ascribes relevance to them, the more the Commission's exercise of power comes under public scrutiny. And the more the Commission's authority is publicly questioned, the more it is rational for a competence-seeking organisation to care about the broad acceptability of its policies. Otherwise, the Commission jeopardises the further transfer of national competences to the European level, as the 2005 referenda and the accompanying debates on the services directive in France and the Netherlands have forcefully demonstrated. But how can the Commission influence the public's evaluation of the legitimacy of supranational competences?<sup>2</sup>

Following the seminal distinction of input and output legitimacy (Scharpf 1999a; Krapohl 2007), we must first acknowledge that the input-oriented route – that is, legitimation through increasing participation of the public – appears more or less blocked at the moment. The history of the European Constitution, its mitigated version in the form of the Lisbon Treaty, and the conflict-laden attempts of a more or less direct election of the Commission president in the EP elections in 2014, have underlined once more that further democratisation and a more direct bonding of Commission action to public preferences can hardly be expected in the near future. Likewise, a more differentiated and systematised

2. Note that I use the term 'legitimacy' here as a descriptive rather than a normative concept (cf. Peter 2010; Tsakatika 2005; Zürn 2004). Following the Weberian conceptualisation, the legitimacy of a political order such as the EU is understood as a subjective belief in the acceptability of that political order (Weber 1925/1978). In other words, legitimacy is considered as an empirical social fact, and refers to the degree to which those governed accept the authority of the political order even if it contradicts their individual preferences at times. This empirical understanding is intentionally distinct from normative conceptualisations of legitimacy, which address the (moral) rightfulness of political authority against theoretically chosen benchmarks and justifications. While the choice of such benchmarks can indeed be politically relevant as discussed further below, this book does not intend to judge whether the Commission should live up to a particular normative benchmark. Furthermore, legitimacy is related but not equal to political support for an authority (cf. Easton 1975: 450–3). While the absence of legitimacy as defined here implies the absence of political support, the fact that those governed accept an authority does not necessarily imply that they also support it when being faced with a choice.