



Adjusting to Europe

*the impact of the European
Union on national institutions
and policies*

EDITED BY

Yves Mény,
Pierre Muller and
Jean-Louis Quermonne

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London and New York

First published 1996
by Routledge
11 New Fetter Lane, London EC4P 4EE

Simultaneously published in the USA and Canada
by Routledge
29 West 35th Street, New York, NY 10001

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Typeset in Times by LaserScript, Mitcham, Surrey
Printed and bound in Great Britain by
Mackays of Chatham PLC, Chatham, Kent

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British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data

Adjusting to Europe: the impact of the European Union on national institutions and policies/[edited by] Yves Mény, Pierre Muller, and Jean-Louis Quermonne.

(European public policy)

Includes bibliographical references and index.

1. Political planning – European Union countries. 2. European Union. I. Mény, Yves. II. Muller, Pierre, 1950– . III. Quermonne, Jean-Louis. IV. Series

JN32.A34 1996
327.4–dc20 96–19654

ISBN 0-415-14410-8 (hbk)

ISBN 0-415-14409-4 (pbk)

Adjusting to Europe

Adjusting to Europe provides lively coverage of the impact of Europe on national policies. With contributions from some of the leading writers on European politics and public policy, it delivers a new and exciting analysis of the policy-making process.

The impact of the EU upon its member states has been profound in terms of regulatory powers yet its redistributive functions are negligible. *Adjusting to Europe* confronts the paradoxes of policy-making at the EU level not only from an institutional point of view, but also with a consideration of the context and styles of the policies.

The book begins with an introduction analyzing from a theoretical and empirical point of view the ways and means, and the extent to which national policies have been Europeanized. It is followed by a section on policy-making and policy styles within the EU, by country studies of British, German and French administrations, and by a final section that looks at the European impact on domestic policy by reference to specific policy areas, including social and industrial policy.

Yves Mény is director of the Robert Schuman Centre, at the European University Institute, Florence. **Pierre Muller** is director of research at the Centre National de la Recherche Scientifique (Centre de Recherches Administratives), Paris. **Jean-Louis Quermonne** is professor of political science at the Institut d'études Politiques in Grenoble, director of studies at the Fondation Nationale des Sciences Politiques and president of the Association Française de Science Politique.

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Contributors

Giuliano Amato, formerly Prime Minister of Italy, teaches at the European University Institute in Florence and is the chairman of the Italian anti-trust authority.

Elie Cohen is Directeur de Recherche at the Centre National de la Recherche Scientifique (CNRS) in Paris. He is the author of *L'Etat brancardier* (1989) and *Le Colbertisme high-tech* (1992).

Christian Lequesne is Chargé de recherche at the Fondation Nationale des Sciences Politiques (FNSP) in Paris. He is the author of *Paris-Bruxelles: comment se fait la politique européenne de la France* (1994).

Giandomenico Majone is Professor of Political Science at the European University Institute in Florence. His publications include *Evidence, Argument and Persuasion in the Policy Process* (1989) and *Europe: un Etat régulateur?* (1995).

Sonia Mazey is Lecturer in Politics at the University of Cambridge and Fellow of Churchill College. Her recent publications include *Lobbying in the European Community* (edited with J. J. Richardson, 1993) and *The State of the European Union 3, Building a European Polity?* (edited with C. Rhodes, 1995).

Yves Mény is Director of the Robert Schuman Centre at the European University Institute. His publications include *Government and Politics in Western Europe* (1990) and *La Corruption de la République* (1992). He has authored or edited several books about public administration and policies.

Pierre Muller is Directeur de recherche at the Centre National de la Recherche Scientifique and teaches at the Institut d'études politiques de Paris. He has co-authored with Bruno Jobert *L'Etat en action* (1987) and edited several books on public policy.

Jean-Louis Quermonne is Professor at the Institut d'études politiques de Grenoble and Directeur d'études et de recherche at the Fondation Nationale des Sciences Politiques (FNSP) in Paris. Among his publications the most recent are *Les Systèmes politiques occidentaux* (1986) and *Le Système politique de l'Union européenne* (1994).

Jeremy Richardson is Professor at the University of Essex. He has authored or edited many books, among them *Policy Styles in Western Europe* (1982) and *Lobbying in the European Community* (with Sonia Mazey) (1993). He is editor of *The Journal of European Public Policy*.

Dietrich Rometsch is research assistant at the Institut für europäische Politik in Bonn. He has published on the European Commission in the *Jahrbuch der europäischen Integration*.

Philippe C. Schmitter is Professor at Stanford University. He has authored or edited many books on neo-corporatism and democratic transition.

Helen Wallace is Professor at the University of Sussex and Director of the Sussex European Institute. She has published extensively on the politics and policies of the European Community.

Wolfgang Wessels is Jean Monnet Professor at the University of Cologne and Chairman of the Trans-European Policy Studies Association (TEPSA). he has published many articles and books on the process of European integration, most recently, *The European Union and Member States* (with Dietrich Rometsch, 1996).

Series editor's preface

There is still considerable debate and conflict about the nature of the European Union (EU) and its future direction. One only has to reflect on the difficulties encountered in many member states in ratifying the Maastricht Treaty to realize that this particular phase of the European integration process was a 'marketing disaster', as one observer put it. Europe's political elite had moved too far and too fast for the peoples of Europe. There is now a sense of gloom about the state of the EU and its economies. Conflict rather than consensus seems to be the norm, with serious divisions between member states and within member states, a growing sense of retreat into the defence of pure national interest and a reassertion of intergovernmentalism.

Yet the history of European integration has always moved in 'fits and starts', episodically moving between 'Europhoria' and 'Eurosclerosis'. We, therefore, need to take a longer-term view. In so doing, it is apparent just how much integration has taken place, despite no basic agreement about such fundamental concepts such as federalism and subsidiarity. Somehow, Europe seems to muddle through and to create gradually a rather 'productive' (in the sense of legislative output) policy-making system. Whether one is a Euro-sceptic or Euro-enthusiast, the fact is that there is an enormous corpus of European law. Even without monetary union and the further political integration that it would undoubtedly bring, Europeanization has had a major impact on the policy processes at the national level, on the behaviour of different policy actors, both public and private, and on the institutions of the member states. Even so, it would be silly to argue that national sovereignty has all but gone. The degree of Europeanization varies across sectors, and even in those policy areas where Europeanization has obviously gone very far the member states are still central actors and are deeply embedded in the Euro-level public process. Hence one of the most interesting questions today is how a balance is struck

between continued integration and continued national sovereignty. Somehow both trends exist side by side.

In many ways this very broad question lies at the heart of this edited volume, which explores the nature of European public policy itself, the nature of the policy process and the various actors within it, and the possible emergence of a European political agenda. As the editors argue, the convergence of public policies in Europe is leading to 'a kind of co-operative federalism without a state'. Just how this rather odd political animal functions is addressed in the three parts of the volume, discussing the general processes by which Community and national interests can be articulated, the impact of Europeanization on three main national administrations, and the impact that Europeanization can have on domestic policies. Our hope is that the volume will make a significant contribution to our understanding of a key phenomenon reflected in the volume's title – namely how do different types of policy actors *adjust* to Europe?

Jeremy Richardson

Acknowledgements

The editors of this book wish to thank for their help and assistance in producing, translating and editing this book Adrian Favell, François D. Lafond, Julian Lindley-French, Martin Rhodes and Simon Towle. Our gratitude goes also to the staff of the Robert Schuman Centre of the European University Institute in Florence and in particular to Monique Cavallari and Annette Merlan, who were so helpful in the process of making this volume.

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1 Introduction

Yves Mény, Pierre Muller and Jean-Louis Quermonne

In current debates about the transformations of the public sphere, public policy has come to take a pivotal role. Public policy is at the heart of the challenges which post-industrial societies now face: of how to make politics, as politics becomes increasingly identified with the craft of making policy and how to combine the conflicting requirements of efficiency and democratic legitimacy? On the one hand, the growing complexity of the problems to be addressed requires greater expertise. On the other, there is pressure from more and more individuals or groups to be involved in the process of decision-making.

From this point of view, the functioning of the institutions of the European Union casts light on a paradox in the domestic politics of its member states. The more public policy develops and diversifies as a means of regulation, the more the gap between society and government – between the citizens and the ‘machinery’ that implements policies – appears to widen.

The construction of Europe in particular exposes the transformations occurring in the public sphere. The peculiar form of European Community politics is, indeed, the product of specific types of policy-making. One might even suggest that the European Union is the by-product of the policy process in its most ‘prosaic form’, insulated for a long time from party politics. This raises two main questions, which are the guiding concerns of this volume:

- 1 Is a European sphere of public policy emerging as part of an embryonic European public sphere? This question can be phrased another way: is there a convergence taking place in the styles, modes of operation and content of public policy in the various member states? Is there, in other words, a ‘common market in public policies’?

- 2 In what way are national policies (in their formula as much as their content) influenced by the policies of the European Union? Or, if some form of convergence can be established, is there a model of public policy

2 Introduction

that is used as a reference? Is the policy style which is emerging in the European Union a precursor of the way in which future policies will be made in member states?

PUBLIC POLICIES IN EUROPE: A NEW DIVISION OF LABOUR?

How can unity be created from multiplicity? How can a common will be found from a starting point of different if not divergent interests? The founding fathers of Europe tried to respond to these questions – and these ambitions – by drawing on the most classic repertoire of political action: creating institutions, putting procedures into place and establishing principles of action (the ‘four liberties’) – all of which were directed predominantly towards the formulation of public policies. But not any kind of policies. As the European Economic Community was not a federal super-state, but a *sui generis* construction, and because it disposed of a budget that was only a tiny fraction of national budgets, the Community was bound to privilege regulatory policies. Using the classic typology of public policies developed by Ted Lowi (which distinguishes between constitutive, regulatory, distributive or redistributive policies), it is clear that regulatory policies constitute the core of EC political action. This choice – or one might say, constraint – is well explained by Giandomenico Majone, who shows how the characteristics of regulatory policies are the best adapted to the structure and properties of the European institutions:

An important characteristic of regulatory policy making is the limited influence of the budget on the activities of regulators. The size of non-regulatory, direct-expenditure programmes is constrained by budgetary appropriations and, ultimately, by the size of government tax revenues. In contrast, the real costs of most regulatory programmes are borne directly by the firms and the individuals who have to comply with them.¹

On the other hand, even if redistributive policies have recently become more important, they are still of modest size and are limited to certain sectors (notably agriculture and regional policy).² It is significant that, in contrast to the national governments, the social policy of the Community is quite marginal in terms of budgetary allocations, even if its regulatory dimension has a major impact – an influence that has been actively encouraged by some states (France and Germany, for example) but feared or rejected by others (Great Britain). The regulatory option is also strengthened by the juridical and structural weakness of the Community, and now the Union, when it comes to the implementation of the policies elaborated and decided in Brussels.³ The European institutions may take

decisions (or choose not to); but, while they can exert some control, they are prohibited from putting them into action.

This limitation of the room for manoeuvre of Community institutions is sometimes considered a congenital weakness, both because the Community budget appears derisory in comparison with the income and expenditure of each of the member states and because the limited scope for redistributive policies weakens the visibility and the legitimacy of the Parliament, Commission and Council of Ministers. In stark contrast with national *welfare* states, the Community is hardly more than a *regulatory* state. Moreover, the separation of the decision-making process from the process of policy implementation – a separation which has practically no equivalent in national systems of government – is the source of novel difficulties which have been well captured in Fritz Scharpf's discussion of the 'Joint Decision Trap'.⁴

However, before passing final judgement on the restricted nature of Community decisions, it would be useful to consider the full range of implications – both positive and negative – of these budgetary and institutional constraints. At least five consequences can be highlighted:

1 The 'confinement' of Community action to the field of regulatory policies invests the Brussels institutions with a crucial role which is not only substantive but also symbolic. The traditional division of the political process between decision-making and implementation privileges an elite which thinks and decides over and above the indistinct mass of subordinates or civil services: the policy-makers prevail over the implementers. The noble part of political work thus seems to have been elevated to the Commission or the Council of Ministers, to the detriment of the nation states, which, however, are no longer so willing to accept this loss of influence. Whatever the reality, the dominant perception at the national level (both in parliament and in public administration) is that nowadays national institutions are heavily constrained.

2 The exercise of *regulatory power* is made all the more possible by the fact that – in contrast to redistributive policies – it does not encounter budgetary limitations. For regulation hardly costs any more than the spending required for the functioning of the service and the publication of decisions. Regulatory decisions, in essence, are carried by the Official Journals of the EU and other administrative bulletins. From then on, the costs and expenses are externalized on to other actors: national public institutions generally, but above all economic actors and consumers, which have to transform a legal decision into concrete public policy. The examples of this are legion, but one will suffice. When the Community announced a number of norms concerning atmospheric pollution and imposed the catalytic converter on cars to reduce emissions of toxic gases,

4 *Introduction*

it not only externalized the implementation of this policy but imposed all the costs on the car industry and, ultimately, consumers. The budgetary impact on the Community of a policy which convulsed an industry and redistributed benefits and costs among the actors involved was practically nil. This is something which Laura Cram has aptly labelled 'calling the tune without paying the piper'.⁵

3 The fact that regulatory policies are increasingly devised in Brussels profoundly transforms the process of decision-making and, in consequence, the way in which interests are structured. The search for the harmonization of rules within a community of states with disparate traditions and policies is an inexhaustible source of work for the Brussels regulatory machine. But since the legal harmonization of rules has turned out to be almost impossible, the Single Act has taken up the principle of jurisprudence adopted by the Court of Justice in the famous 'cassis de Dijon' case – the principle that any product circulating freely in one of the producing states must be accepted in all the member states. By sweeping away the jungle of protectionist regulation the Court of Justice shifted the onus of regulation at the Community level. The autonomy apparently given back to each national system (each may regulate as it wishes, provided that its rules are not in conflict with the principles and regulations of the Community, and provided that products and services are able to circulate freely) has created such problems for economic agents that they have become the most pro-active lobbyists for European regulation, thereby seeking to remove the uncertainties of fragmented markets or discordant national regulations. Thus the development of regulatory policies is not simply a by-product of bureaucratic expansionism. That said, the flow of regulations from the Commission remains impressive.

4 The central role of the Commission in the development of Community policies (in principle the Commission has a monopoly of the 'supply' side) does not derive exclusively from the institutional arrangements in Brussels. In fact, the pressure of demands for common regulations places it at the centre of the game, strengthens its position and reinforces its legitimacy – at least in the eyes of political elites and groups who see in the Commission a solution to their problems. (This is not to say that there are no costs attached to this 'centrality': notably the risk of being made a scapegoat by groups which lose their niche or their comparative advantage, or by governments only too happy to pass the blame for unpopular policies on to a technocratic authority.)

Community institutions in general, and the Commission in particular, therefore, play the role of a clearing house, where economic, political and social actors and interests converge. Thus European policy-making structures are characterized by a high degree of pluralism (Philippe C.