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Over-efficiency in German EU policy coordination

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Abstract: The text refers to the controversial debate on the efficiency of German EU policy coordination. On the basis of a five month participant observation in the German Ministry of Foreign Affairs, the hypothesis of the over-efficiency of EU coordination is developed. Over-efficiency is characterized by a functionally organized but purely technocratic preparation of EU policy without the participation of the general public, political parties, and national parliament. By having considerably increased the efficiency of EU policy coordination in recent years, German policy makers have therefore potentially undermined the acceptance of European integration as a whole.

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1 Introduction¹

In recent years, a comparative body of literature has been developed on the "coordination of EU policy" in EU member states.² The term refers to the institutions and processes by which national governments organise themselves when trying to transform domestic demands into EU-level outputs. In this literature, the German case has been debated controversially with regard to the efficiency and problem solving capacity of its EU policy coordination regime.

On the one hand, several authors have put forward the hypothesis of an inefficient regime of German EU coordination that fails to cope with the challenges that arise both from the EU level and the domestic context.³ This line of argumentation, which can be called the "inefficiency hypothesis", identifies the segmentation of the German political system as the main reason for the frequent appearance of what is sometimes called "the German vote" in Brussels – the incapacity of the German EU mission to deliver a well-tuned and timely position on policy issues. In this argument, the segmentation of the German system goes back to its characteristic cultural and institutional mechanisms of power distribution and power sharing.⁴ In the literature supporting the inefficiency hypothesis, segmentation and inefficiency correlate because the existence of numerous autonomous political bodies of the German system – the federal and 16 Länder governments, relatively independent ministries, and competing political parties in coalition governments – makes EU coordination complicated from the very beginning.

On the other hand, a different line of argumentation attributes considerable effectiveness to the coordination procedure.⁵ The according "effectiveness hypothesis" insists on the fact that "German preferences are reflected to a surprising degree in the structural and institutional fundamentals of the EU",⁶ and to a somewhat lesser degree in the day-to-day political activities of the EU. While the occasional existence of the "German vote" is not denied, the hypothesis underlines the compatibility of the non-centralized structures of both the EU and the Federal Republic. The segmentation of the German coordination system therefore even contributes to its effectiveness; segmentation and effectiveness correlate. Accordingly, German EU coordination is from that perspective seen as "failing successfully".⁷

Obviously, the two hypotheses do not bear an antipodal but rather a frictional character. Efficiency and effectiveness are to be seen as related but not identical phenomena. Efficiency relates to a positive, or functional relationship between resources and outputs of a system whereas effectiveness stands for the capacity to reach given goals.⁸ Accordingly, a supposedly "inefficient" German EU policy coordination needs too many resources in order to reach results that could have been achieved with less time and effort. The same coordination system may however be effective if a satisfying level of preferences of German EU policy makers are pushed through in the EU system. In other words, the inefficiency hypothesis treats the accomplished output as secondary, whereas the effectiveness hypothesis does not focus on the question of the deployment of resources.

Sometimes, the relationship between effectiveness and efficiency may be reversed because the use of more resources may marginally hurt the efficiency and boost effectiveness of EU coordination (or vice versa). Still, the co-existence of the inefficiency and the effectiveness hypotheses reveals a puzzle. In general, low levels of efficiency should result in low effectiveness (and vice versa). If a domestic coordination regime is poorly organized, the actors should find it more difficult to plough their way through the complex processes on the EU level. Actors within an inefficient coordination system should therefore generally not have good chances of correctly targeting those issues which are of special importance for domestic preferences.

The aim of this text consists in relating efficiency and effectiveness of the German EU coordination regime in alternative ways than the existing literature. First, I try to reject the inefficiency hypothesis by showing that German EU coordination is today almost completely functional to the needs of the German system. As a consequence, the effectiveness hypothesis presents no puzzle but meets our expectation of correlating – or partly even being causally linked – with a by and large efficient coordination system. Replacing the inefficiency hypothesis, however, leads to a different problem dimension. The growing efficiency of EU coordination in recent years has been accomplished by circumventing the general public, political parties, and national parliament despite the ever growing importance of the EU level. It is therefore no surprise that the weak focus on the input-dimension of democracy⁹ is accompanied by a significantly falling sympathy of the German population towards the European project.¹⁰ By having considerably

increased efficiency in recent years, the actors of EU policy coordination have therefore potentially undermined the acceptance of European integration as a whole. In that sense, German EU coordination has become over-efficient.

The arguments are derived from two sources. First, some recent incremental changes have enhanced the efficiency of the coordination system significantly. Because of their recent nature, most of the existing literature has not been able to take them into consideration. Second, the methodology of participant observation which has been employed for my study has led me to deepened insights on the relationship between resources and results of German EU coordination. Participant observation took place in the German Auswärtiges Amt (AA, Foreign Office) from September to December, 2005 and in the Permanent Representation of the Federal Republic to the EU in Brussels in March, 2006. During this time, I was able to participate in about 60 internal meetings of the EU policy coordination units and to see all internal documents except for those rated 'secret' or 'top secret'.

The method of participant observation bears some strengths and weaknesses that should be mentioned.¹¹ Its major advantage, of course, lies in the possibility to closely understand political processes by following paths of decision and having direct access to the voiced motives of the political actors involved. Only this closeness enabled me to identify a previously under-evaluated array of different conflict patterns and hierarchy implications from which the coordination process depends (see section 3). Concerning the disadvantages of participant observation, there is little scope for generalization beyond the direct object of observation. For example, whereas much of the literature on EU policy coordination bears an implicit comparative character, my observations in the German coordinating institutions give little extra knowledge for the coordination systems of the 26 other member states. Furthermore, one of the major difficulties of participant observation consists in the danger of over-identification of the observer and the observed.

Given these weaknesses of the methodology employed, I did use additional tools to participant observation. I extensively consulted the already cited pertinent literature which has much to offer to clarify the setup of German EU policy coordination. Moreover, I conducted about 30 interviews with persons involved in the EU coordination process; not only in the AA, but also in other ministries, the Bundestag, the Bundeskanzleramt

(the Chancellor's Office), and the Bundesrat. Unfortunately, neither interviews nor any of the various committee minutes or other internal documents I am relying on can be cited directly without giving up the confidentiality that was a precondition for obtaining my status as a participant observer. Whenever an information or conclusion relies exclusively on the methodology of participant observation, I therefore mark the according passage in my text with an asterisk ("*"). This should allow critical readers to roughly identify the sources of my hypotheses in order to cross-check them.

2 The setup of German EU policy: the coordination triangle Bundeskanzleramt, Auswärtiges Amt, Wirtschaftsministerium

For grasping the functioning of EU policy coordination, it seems crucial to understand the term 'coordination' in a distinct sense of the word as information transmission and problem identification. German EU coordinators are only to a limited extent problem-solvers or negotiators when trying to transform domestic inputs into EU level outputs. The principle inherent to German government organization is departmental responsibility (Ressortprinzip) which usually leaves much independence to the ministries in charge of any given piece of legislation. The role of the coordinating digits therefore consists in assuring a smooth handover of departmental positions and instructions to the Brussels arena and to the relevant German actors there. Coordination becomes a relevant influential factor a) when linking the strategic dimension in Brussels to domestic institutions is necessary, and b) if decision finding between domestic departments proves to be difficult and incoherent with the pace of events on the EU scene. Aspect a) ascribes to an ambitious information function; aspect b) is best described with the term troubleshooting.

Throughout the history of European integration, the basic setup of German EU coordination has remained similar.¹² Not the Chancellor's Office nor an intergovernmental agency, but a department/ministry was in charge of coordinating the German position on any given piece of EU legislation. From the Treaty of Paris to the Treaty of Amsterdam, German EU coordination was concentrated in the Economics ministry which consequently disposed of an important European affairs department coordinating all rele-

vant EC/EU-communication. Although that structure looks rather straightforward from today's perspective, EU coordination from the beginning had to deal with dispersed structures. First, the principle of departmental responsibility had generated strong ministries which were legitimately able to build up autonomous relationships with EU related actors. And second, of course, the German political system in itself is characterized by power dispersion in the federal state and between powerful political parties.¹³

In 1998, the coordination system itself underwent even further fragmentation, when one coordination unit was transferred from the Economics ministry to the Finance ministry (unit E A 1), and a second one was installed at the Foreign ministry (unit E-KR). Although the split-up looked odd at first glance, there was an underlying logic. In the early years of integration, EC/EU coordination indeed had to deal mainly with economic issues: the EC was primarily a zone of economic integration. With the additional pillars of the Maastricht Treaty, but also with the functional consequences of extending the Single Market to freedom of movement, more and more non-economic matters became important. At the same time, on the eve of the European Monetary Union, the centre of economic policy coordination seemed to be shifting towards the Finance ministry rather than the Economics ministry.

Beyond these functional arguments, there were perhaps even more important political ones. Besides the first Grand Coalition of 1966–1969, the small Free Democratic Party (FDP) had been not only part of all governments since 1961. It had moreover held both the Economics and the Foreign Ministry, and therefore the two core ministries of European integration, for decades. After the government turnover in 1998, the Green Party as the new minor partner in a coalition government with the Social Democrats (SPD) was not strong enough (and arguably lacked the personnel) to claim both ministries. It was the new SPD finance minister Oskar Lafontaine who pressed for the economic EU coordination unit from the Economics ministry which went to a SPD politician as well. On the other hand, it was part of the coalition power game of the small coalition partner not to cede all coordinating functions to the SPD. Furthermore, the finance ministry did not have a tradition of handling the more 'political' aspects of European integration. The division of labour between 'economic' and 'non-economic' aspects of coordination in 1998 therefore resembled a reasonable compromise.

The basic set-up holds until today, with exception of a recent fall-back of economic coordination to the Europe division of the Economics ministry in 2005/06. This backslide supports the importance of coalition politics to the coordination system: In the 2005 Grand Coalition the Finance and Economics ministry were split between the Christian Democrats (CDU) and the SPD. Chancellor Angela Merkel is a CDU politician; the Foreign minister (Frank-Walter Steinmeier) and the Finance minister (Peer Steinbrück) belong to the SPD. Consequently, leaving economic EU coordination in the Finance ministry would have meant leaving all EU policy coordination out of the chancellor's reach. Therefore, giving back the economic coordination unit to the Economics ministry should not least be interpreted as a matter of power equilibration.

Moreover, the split remains functional with regard to the variety of European political and economic issues. It corresponds well to the micro-structure of the Brussels polity, with the Committee of Permanent Representatives (COREPER) being differentiated into the more economic and 'technical' COREPER I and the more political and 'general' COREPER II. COREPER II covers institutional, financial, and trade policy as well as matters traditionally related to the second and third pillar, that is Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA). It is easy to see that the German domestic coordination structure almost completely represents this divide. Almost all topics being dealt with in COREPER I are coordinated by the Economics Ministry (by the Finance Ministry from 1998–2005) whereas preparation of COREPER II is a Foreign Ministry domain.

Despite the functional aspects of ever more splitting up German EU coordination, in the first years of the split-up of responsibilities it was widely felt that the fragmentation of the system hurt the coherence and flexibility of German EU policy as a whole. Therefore, since about the year 2000 several incremental reform steps have been taken in order to cope with the perceived negative consequences of fragmentation. One of them consists in internal reform. The principle of departmental responsibility gave the actors in the two leading coordination ministries some autonomy in organizing themselves. The two used it quite differently. Whereas the Economics ministry has established two more or less balanced subdivisions within its European Affairs division (the same applies to the Finance ministry from 1998-2005), the Foreign Office decided to differentiate more hierarchically in only one division. Regarding the Foreign ministry, this cer-

tainly is a consequence of its more 'natural' focus on international affairs which makes officials in almost all divisions deal with EU or European politics. The European affairs division is much more embedded into the rest of the ministry than is the case in the Economics ministry counterpart.*

As a result, policy makers in the Foreign Office in 1999 have been able to separate the tasks of providing general guidelines for European policy and the mere coordination process. The coordination unit (E-KR) is directly responsible to the head of the European Division who in turn is one of the highest-ranking officials in the ministry. At least the two most recent heads of the European Division have been officials with great in-depth knowledge of political processes in Brussels. Thus, the affiliation with administrative heavyweights equips E-KR with considerable trouble-shooting potential and makes the unit an active player, whereas the matching unit in the Economics ministry is more restricted to its relay and information function.*

Still, both units have to deal with the hierarchical predisposition of German public administration, to which EU coordination is no exception. Within that hierarchy, decisions are always solved on the lowest level possible. If no problems occur in areas where only one ministry is involved, this means that a low level civil servant may formulate a German EU position which later – sometimes by an official of the Permanent Representation, but sometimes even by that very same civil servant – will be carried forward in Brussels.* In cases like these, the coordination units mainly have a task in ensuring adequate communication. The operative advantage of the more coherently organized AA vis-à-vis the BMWi therefore only applies to areas where inter-departmental or other conflicts play an important role.

Another feature of incremental reform dates from 2002. Until then, the high level Committee of European Affairs State Secretaries (EStS) has been alternately chaired by State secretaries from the Finance and the Foreign ministries. Consequently, the grip on that committee was rather weak which resulted in Germany being one of the low performers in EU directive compliance. After the re-election of the coalition not least because of the foreign minister's (Joschka Fischer) popularity, the chair of the EStS was given to the AA with the clear task of getting the Federal Republic's compliance record back on track.¹⁴ However, the post went not to the regular State secretary but to a Parliamentary State Secretary, a position that is called Staatsminister in the AA. When the

reform was carried out, Chancellor Gerhard Schröder gave further significance to the process by nominating Hans Martin Bury, the former Parliamentary State Secretary of his own Chancellor's Office, to the new position. He had been a parliamentarian since 1990, with intermediary leading positions within the SPD faction of the Bundestag.

Besides enhancing compliance, the step was therefore seen to have the further aim of ensuring a better inclusion of the parliamentary arena into the core of EU coordination.*

The attempt more or less failed, however. When conflicts between parliament and government concerning EU affairs arise, they are more likely to be brought to the Cabinet through faction heads than through an administrative committee headed by a Parliamentary State secretary (who is a government member, after all). Moreover, when the coordinating units are acting in their trouble shooting function, it is not the Parliamentary but the regular State Secretary who is responsible to his minister. In consequence, resources are mainly directed to the regular hierarchy, leaving the parliamentary Chair of the EStS in the position of a successful moderator at best, and of a toothless tiger at worst. In return, the Parliamentary State Secretary is most effective when relying on his administrative functions by bypassing parliament. With other words, the Parliamentary State Secretary heading the EStS may, if acting smartly, enhance effectiveness but not parliamentary participation.

EU coordination usually does not consist in effectuating explicitly coherent positions. Usually no 'German interest' is defined pre-emptively by the coordination units. German policy-makers have to face the fact that there is hardly any EU decision-making subject that does not directly or indirectly touch German interests; this is the consequence of the still existing wide diversification of the German economy which means that almost all aspects of the Internal Market involve German (economic and political) subjects. Against this background, officials of various levels usually make up the positions to be presented in Brussels autonomously.* One should, however, not derive incoherent German interest articulation from this heterogeneous input structure. Public officials are in principle well able to deduce precise positions from general guidelines even when autonomously keeping contact with interest or other pressure groups. The documents they use are public statements by their ministers, the coalition agreement, and of course directly related internal and official documents from past EU decision-making.* Once an issue becomes relevant on a more than technical basis, the perceived intention

of the ministry leadership, coalition implications and economic interests are then weighed against each other.* In that sense, the civil servants making up the coordination system in fact act like political figures.

Of course, the highest source of authority in the German system rests with the Chancellor or, in administrative terms, with the Chancellor's Office (ChBK; standing for "Chef des Bundeskanzleramts"). The German Chancellor disposes of a guideline competency (Richtlinienkompetenz) which makes him/her able to claim responsibility for any subject under discussion. In principle, in cases of contradicting positions the ChBK may therefore very well use its authority to topple the decision/position into one or the other direction. In practice, this is however rarely done.* Despite its impressive building across the Reichstag, the Chancellor's Office is not equipped very well with staff; the European Affairs division consists of not more than 15-20 members that have to cover the whole of EU policy-making (there were more during the German EU presidency in 2007, but that is a different story). The division is organized in reflecting units (Spiegelreferate) which are administrative units following what is going on in the ministries rather than taking an active role. In fact, many officials in the Chancellor's Office are borrowed from the various ministries and have limited interest of getting into conflicts with the heads of those departments they return to at a later stage of their career.*

Consequently, the ChBK is not able to actually steer European policy despite for subjects of special relevance to the Chancellor. Typically, as domestic political issues these interfere with coalition politics which makes commands from the top a most sensitive task. During the Schröder chancellorship from 1998–2005, decisive interference by the ChBK or even the chancellor himself at a late stage of decision-making were a rare occasion – the most prominent probably his decision to tackle the used cars directive which had been prepared by the Green Environment minister Jürgen Trittin.¹⁵ Doing things like that systematically would, however, result in regularly overriding coalition partners which are needed for a stable government. In fact, it is not unlikely that Schröder's attack on Jürgen Trittin was tacitly supported by Joschka Fischer because of internal struggles within the Green party. Under these circumstances, the step did not constitute a coalition threatening potential but strengthened both Schröder and Fischer in their role of guardening the coalition.

Altogether, the extensive distribution of coordination power in the coordination triangle hints at an excessively complex setup only at first sight. At second sight, most or even all decisions concerning the institutional setup of the coordination regime reflect functional needs of both the German and the EU political systems. The strict hierarchy is a precondition for the high levels of effectiveness that are stated by the existing literature. Leaving interest aggregation to professional ministries (instead of shifting it to a EU oriented agency) ensures openness to the wide variety of German preferences to the EU. Splitting up EU coordination between ministries, with the ChBK figuring as a potential problem solver of last instance, reflects the needs of German coalition politics. The precise division of labor between the AA and the BMWi mirrors the different layers of EU decision-making in the COREPER. It therefore seems premature to link the occasional problems of policy fragmentation and permanently high exigencies of communication to the coordination structure itself. During the several months of my participant observation, I was indeed not able to detect a single case where a "German vote" could predominantly be linked to misguided coordinating activities.¹⁶ What was to be observed, however, were typical conflicts within the German system that spilled over onto the EU arena. These conflicts will be elaborated in the following section.

3. The currency of German EU coordination: conflicts and their internal treatment

The idea that interest formation on the EU level goes back to a wide array of domestic preferences stems from liberal intergovernmentalism.¹⁷ In Moravcsik's work, national preferences are predominantly treated as results of domestic processes; their phase of formation is not extensively looked at. Other research on EU interest origination is mostly targeted at the EU level and asks for the character of pluralism and interest representation in the EU multi-level polity.¹⁸ Although these elements were also present during my participant observation, I identified another mechanism – internal conflict – as being most basic for the interest formation within German EU policy coordination. Conflicts, understood as contestations of actors with perceived incompatible goals for opposed goods or values, serve different functions. While they reflect antagonistic structures between out-groups, they help structuring in-groups and therefore fulfil an

important role in group identity development. While close relationships may be a place of hostile internal conflicts, they usually increase internal cohesion when transferred to an external arena.¹⁹ Therefore, the extensive existence of conflict within an interest formation body should not be seen solely as an element of dysfunctional pressure group action. Rather, the German EU coordination regime functions as a relay to a variety of societal, regional, economic, and political preferences. The government as a collective actor has to fulfil the task of balancing underlying interests in order not to exclude or discriminate against a structural minority. Single or particular interests and their enforcement are accepted as long as the majority of actors sees opportunities to prevail on another occasion. In that sense, strong internal conflicts may actually strengthen external coherence as long as the conflict resolution institutions are able to produce outcomes that by and large represent the segments of society.

During my observation, four areas of conflict have been most prominent in the German coordination system: the socio-economic conflict, the centre-periphery conflict,²⁰ the ecological conflict and the conflict between domestic security and the realization of political/human rights.²¹ In all cases, either organised interest groups or political actors try to use their formal or informal power in order to push documents under discussion into their preferred direction.

- On the socio-economic dimension, it is mostly the Economics ministry (BMWi) that competitively deals with employee interests from the Ministry for Labour and Social Affairs (BMAS) or from the various Unions. Especially the BMWi has some reputation of primarily acting as a spearhead for entrepreneur interest groups like The Umbrella Organization of German Industry (BDI) or The Confederation of German Employers' Associations (BDA). Sometimes, the ministry even uses BDI or BDA positions on a word-to-word basis.* Still, the more important dossiers go to the public and the parliamentary arena, the more the issues are taken over by actor groups beyond the vested interest system. The EU coordinators then have the task to balance preferences in a way that does not frustrate any of the groups/institutions in the long run.
- The same is true for environmental conflicts. Other than in social policy however, environmental policy has been supranationalized quite thoroughly on the EU level. The involved BMWi and the Environmental (BMU) ministries can be

seen as equal sparring partners (whereas in the socio-economic dimension supranational single market issues often receive more weight than the intergovernmental social ones). Consequently, conflicts between the BMWi and the BMU belong to the most frequent the EU coordination units have to deal with.

- The centre-periphery conflict is mostly reflected in the distributive policies of the EU, most of all in regional policy. Both sectoral (e.g. of industries that have invested in East Germany) and territorial (e.g. regional politicians of the German Länder) actors try to convince the federal government in securing their interests in Brussels negotiations. Because in the EU the main course in regional policy is set during the Financial Perspective negotiations, the peak of this conflict appears infrequently (e.g. every seven years).
- The conflict between domestic security and political rights is rather new, as many transition rules regarding Justice and Home Affairs in the Treaty of Amsterdam have ended only in 2004. Mainly in the area of judicial and policy cooperation, the frictions between state sovereignty and EC/EU competence create a domestic coordination problem. There are two typical conflicts.* One is between the Justice Ministry (BMJ) and parts of the AA, notably in the European Affairs division. The BMJ tends to insist on an overarching state sovereignty, e.g. with regard to the European Arrest Warrant, whereas positions more friendly to the integration of judicial affairs can be found in the AA.* The second conflict concerns domestic security. The Ministry of Internal Affairs (BMI), especially under its law-and-order SPD minister Otto Schily from 1998–2005, frequently insists on higher standards on domestic security than other ministries (BMJ, AA) are ready to propose.*

In order to overcome these and other conflicts, actors need to bring in line the arena of internal conflict moderation with the administrative structure of EU policy coordination. This set-up of this structure reflects the general German public service hierarchy. Within the principle of departmental responsibility, working units of different departments first have to settle conflicts among themselves on a bilateral basis. In recent years, the so-called 'Tuesday Committee' with officials from all ministries has lost its function of decision generation. Other than indicated in some sources,²² these civil servants meeting every Tuesday only fulfil the communication function of correctly pass-

ing on positions from Berlin to Brussels.* The decision-making function has mainly shifted to the group of Heads of European Divisions (Europa-Abteilungsleiter, EU-AL) which meets about every 4–6 weeks.* Unresolved matters go on to the already mentioned Committee of State Secretaries on European Affairs (EStS), which was formally founded already in 1963. That Committee meets less regularly than the EU-AL, depending on the number of conflictive issues.* Only matters that have not been solved in these two committees move on to the Cabinet of ministers, although all important positions are formally agreed there.

Given the hierarchy of the system, all units and departments involved are aware of the sword of Damocles in the form of the guideline competency of the Chancellor. Only in rare occasions do ministers risk losing a quarrel on the Cabinet level where an unforeseeable mix of rational arguments and political considerations may make the Chancellor's decision quite unpredictable. Once conflicts emerge on such a high level, the public will take notice and most probably have the opportunity to identify at least one 'loser' of an internal governmental fight. This, however, is well known by the top officials in the ministries; State secretaries are 'political' public servants and may at any point be dismissed without further reasoning. One step lower, heads of divisions as experienced and politicized officials have to fear for their careers if they repeatedly send their State secretaries into losing fights with competing departments.*

This whole logic is accepted by all relevant players and assures that usually not more than about a dozen issues are 'open' on the EU-AL and EStS level at a time. Sometimes, these may be 'technical.' Usually, however, they concentrate on publicly relevant dossiers which are currently under discussion both in the domestic and the EU arena. For example, in December 2005 issues on the agenda of the EStS were the Financial Perspective 2007–2013, the Services Directive, the Financing of the African Peace Facility, and preparation of the German EU presidency in 2007; the same topics plus a handful others were discussed at EU-AL.*²³ The character of those meetings is quite discourse oriented; actors do not follow the aim of settling internal conflicts at all costs but rather aim at ensuring a coherent and realistic German position in EU affairs.* All this resembles the work of a parliamentary committee, with the exception that no relevant policy maker has ever been elected by the people.

In sum, the EU policy coordinators in the German system have to deal with political, societal, and federal conflicts. Political conflicts do not only concern disagreements between coalition and opposition forces in the Bundestag; sometimes even more prevalent are political conflicts within coalition governments. Societal conflicts evolve between interest groups or between one interest group and non-organized interests of society. Finally, federal conflicts are relevant between the Länder and federal government in numerous policy areas where both levels share competence. A look at this list reveals that the most relevant elements of both substance and structure of the German national polity can be found again at the level of EU coordination. One major difference between the arenas, however, consists in the character of the political actors taking decisions. In EU legislation, it is administrative committees that do most of the interest aggregation that in a purely national political system would undoubtedly fall under parliamentary competence. This leads to the question of a lack of participation in EU affairs by the public which is the subject of the following section.

4 The consequences: over-efficiency and technocratic rule

The weakness of the inclusion and participation in German EU coordination – of individuals, groups, the public, political parties, and parliament – mostly concerns the level of real politics. Formally and legally, neither interest groups nor parliament are excluded from the coordination system. The German constitution in art. 23 and 45 grants consultative and participating ("mitwirken", art. 23) functions to both chambers of parliament. Two implementing laws regulate the interlink of parliament with government and the EU: the Law on Cooperation between Federal Government and the German Bundestag Concerning European Union Affairs (EUZBBG, Gesetz über die Zusammenarbeit von Bundesregierung und Deutschem Bundestag in Angelegenheiten der Europäischen Union) and the Law on Cooperation between Federal Government and the Länder in European Union Affairs (EUZBLG, Gesetz über die Zusammenarbeit von Bund und Ländern in Angelegenheiten der Europäischen Union).²⁴ More recently, a law on strengthening the cooperation between the Bundestag and the Bundesrat in EU affairs²⁵ and an Interinstitutional agreement between the Bundestag and government on

EU affairs²⁶ have been concluded in order to enhance the control function of parliament in EU politics.

However, other relevant functions like the inclusion, consultation and participation of representative actors are barely working.* No domestic law or interinstitutional agreement can change the basic problem that the strongest complicating element of including the parliamentary arena into EU coordination is time. Many proposals to be discussed in working groups of the Council are released by the respective EU Presidencies one or two days prior to the group meetings. The Bundestag, which works on a Committee basis, is in itself not organized efficiently enough to reach quick decisions. Already the tradition of only sitting together during about 20 weeks of the year ("Sitzungswochen") is highly incompatible with the pace of decision in the EU arena. However, it is hard to imagine any organization of a working parliament that would be able to react within the short time frames given by EU actors. That is the main reason why the Constitutional Treaty (in its Protocol on the Role of National Parliaments) established a six-week period that shall elapse between legislative proposals by the Commission and its first placement on the Council agenda. In the current situation, however, an active participation of the Bundestag in EU policy-making is barely possible.*

What are the consequences? In an article from 1994, Robert Dahl hypothesised an inverse relationship between 'system effectiveness' and 'citizen participation' in transnational regimes like the European Union.²⁷ From that perspective, the more recent steps taken to strengthen the efficiency of German EU coordination have led to ambivalent consequences. The aim of eliminating conditions for a "German vote" has withdrawn many conflicts from their broader political and societal contexts. Of the issues coordinated by the government, very few are present in the German public or in the parliamentary sphere. Rather, there is a long list of issues and areas where participation and contestation are limited.

One consequence is an eroding political consensus of Germany following the road of an 'ever closer Union'. In 2005, the Party of Democratic Socialism opposed the ratification of the European draft constitution. Even more debated is the issue of further enlargements, where in the 2005–2009 legislative period only the Grand coalition helps overcome fundamental conflicts on the finalité of the EU and the role of a potential Turkish member state in it. Arguably, also more than just a few EU policy areas suffer

from a lack of political and societal embeddedness. It is hard to see where consumer interests are represented in agricultural policy both on the EU level and in the German system. The financial perspectives team preparing the 2007–2013 budget functioned on a strong administrative bias, with parliamentary actors barely involved.

In all these areas one may well speak of the *over-efficiency* of German EU policy coordination. The general participation of non-organised interests is low, the technocratic quality of the coordination process is high. Issues are technically well prepared, the isolation of a German position occurs rarely. However, much of the decision-making that historically belonged to the sphere of parliamentary authority has in recent years been transferred to the transnational arena. As has been shown by Fritz W. Scharpf,²⁸ this leaves national governments in the uncomfortable position of having to deliver on domestic demands that can only in exceptionally favourable circumstances be met in the transnational arena.

The analysis of German EU policy coordination has shown that the enforcement of effectiveness actually strengthens the existing dilemma of inclusion and efficiency. Instead of better balancing the input and output dimensions, government actors have been concentrating on the output dimension while they have not been able to open the decision-making arena to players other than ministries and pressure groups. In the short run, the critics of inefficient EU coordination have been silenced. In the long run, the lack of public, party and parliamentary participation in many areas EU decision-making may well add to the growing discontent with the European integration process as a whole.

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² Hussein Kassim/B. Guy Peters/Vincent Wright (Eds.), *The National Co-ordination of EU Policy: The Domestic Level* (Oxford/New York: Oxford University Press, 2000); Hussein Kassim/Anand Menon/B. Guy Peters et al. (Eds.), *The National Co-ordination of EU Policy: The European Level* (Oxford: Oxford University Press, 2001); a similar contribution is Wessels/Maurer/Mittag (Eds.), *Fifteen into one?* (Manchester: Manchester University Press, 2003).

³ For example, see Elfriede Regelsberger/Wolfgang Wessels, 'Entscheidungsprozesse Bonner Europa-Politik: Verwalten statt Gestalten?', in: Rudolf Hrbek/Wolfgang Wessels (Eds.), *EG-Mitgliedschaft: Ein vitales Interesse der Bundesrepublik Deutschland?* (Bonn: Europa Union Verlag, 1984); Simon Bulmer/Charlie Jeffery/William E. Paterson, William E., 'Deutschlands europäische Diplomatie: die Entwicklung des regionalen Milieus', in: Werner Weidenfeld (Ed.), *Deutsche Europapolitik: Optionen wirksamer Interessenvertretung* (Bonn: Europa-Verlag, 1998); Josef Janning/Patrick Meyer, 'Deutsche Europapolitik - Vorschläge zur Effektivierung', in: Werner Weidenfeld (Ed.), *Deutsche Europapolitik. Optionen wirksamer Interessenvertretung* (Bonn: Europa Union Verlag, 1998); Roland Sturm/Heinrich Pehle, *Das neue deutsche Regierungssystem* (Wiesbaden: VS Verlag, 2006); Simon Bulmer/Andreas Maurer/William Paterson, 'The European Policy-Making Machinery in the Berlin Republic: Hindrance or Handmaiden?', *German Politics* 10/1 (2001); Charlie Jeffery/William E. Paterson, 'Germany and European Integration. A Shifting of Tectonic Plates', in: Herbert Kitschelt/Wolfgang Streeck (Eds.), *West European Politics* (Portland: Frank Cass, 2004).

⁴ The best known positions are, among others, from Peter Katzenstein, *Policy and politics in West Germany. The growth of a semisovereign state* (Philadelphia: Temple University Press, 1987), Arend Lijphart, *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999), Gerhard Lehbruch, *Parteienwettbewerb im Bundesstaat: Regelsysteme und Spannungslagen im politischen System der Bundesrepublik Deutschland* (Opladen: Westdeutscher Verlag, 2000), Manfred G. Schmidt, 'Immer noch auf dem "mittleren Weg"? Deutschlands Politische Ökonomie am Ende des 20. Jahrhunderts', in: Roland Czada/Hellmut Wollmann (Eds.), *Von der Bonner zur Berliner Republik. 10 Jahre Deutsche Einheit* (Opladen: Westdeutscher Verlag, 2000).

⁵ Hans-Ulrich Derlien, 'Germany. Failing Successfully?', in: Hussein Kassim/B. Guy Peters/Vincent Wright (Eds.), *The National Co-ordination of EU Policy: The Domestic Level* (Oxford/New York: Oxford University Press, 2000); see also Andreas Maurer, 'Germany: fragmented structures in a complex system', in: Wolfgang Wessels/Andreas Maurer/Jürgen Mittag (Eds.), *Fifteen into one? The European Union and its member states* (Manchester: Manchester University Press, 2003).

⁶ Andreas Maurer/Wolfgang Wessels, 'The German Case: A Key Moderator in a Competitive Multi-Level Environment', in: Hussein Kassim/Anand Menon/B. Guy Peters et al. (Eds.), *The National Co-ordination of EU Policy: The European Level* (Oxford: Oxford University Press, 2001).

⁷ Derlien, 'Germany. Failing Successfully?'

⁸ Ingolfur Blühdorn, 'Democracy and Efficiency: Contested Objectives of Societal Reform', in: Ingolfur Blühdorn/Uwe Jun (Eds.), *The Third Transformation of Democracy: On the Efficient Management of Late-modern Complexity* (Lanham: Rowman&Littlefield, 2006)

⁹ Fritz W. Scharpf, *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press, 1999).

¹⁰ Rudolf Hrbek, 'Europa', in: Martin Greiffenhagen/Sylvia Greiffenhagen (Eds.), *Handwörterbuch zur Politischen Kultur der Bundesrepublik Deutschland* (Wiesbaden: Westdeutscher Verlag, 2002).

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- ¹¹ Roy F. Ellen (Ed.), *Ethnographic Research. A Guide to General Conduct* (London: Academic Press, 1984); Alan Bryman (Ed.), *Doing Research in Organizations* (London/New York: Routledge, 1988).
- ¹² For an overview, see Sturm/Pehle, *Das neue deutsche Regierungssystem*.
- ¹³ Peter Katzenstein, *Policy and politics in West Germany*.
- ¹⁴ This information is from an interview because the events dates back to a time before my participant observation started.
- ¹⁵ Norman Wojak, 'Von alten Autos und neuem Recht. Für mehr Transparenz und Partizipation in der europäischen Umweltpolitik', *Forum Recht Online* 1 (2000), <http://www.forum-recht-online.de/2000/100/100wojak.htm>.
- ¹⁶ Of course, this statement represents a classical problem of participant observation because my internal perspective on all procedures may have deprived me of my potential to "objectively" see the weaknesses of the system observed. As a safety net, I asked interview partners from other institutions explicitly for examples of inefficient German coordination (in the Bundestag, in two Länder representations in Brussels, in the Council secretariate, in the Commission, in the Austrian EU embassy in Brussels). Nobody was able to mention examples, which in the end convinced me that my own observations coincide with external views.
- ¹⁷ Andrew Moravcsik, 'Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community', *International Organisation* 45/1 (1991); Andrew Moravcsik, *The Choice for Europe. Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press, 1998).
- ¹⁸ Sean Greenwood, Sean, *Interest Representation in the European Union* (Houndsmills: Palgrave, 2003).
- ¹⁹ For these proposition, see Lewis J. Coser, *The Functions of Social Conflict* (New York: The Free Press of Glencoe, 1956).
- ²⁰ Both according to Seymour M. Lipset/Stein Rokkan, *Party Systems and Voter Alignments. Cross-National Perspectives* (New York: The Free Press, 1967).
- ²¹ Müller-Rommel, Ferdinand / Poguntke, Thomas (eds.) 1995: *New Politics*. Aldershot: Dartmouth.
- ²² Sturm/Pehle, *Das neue deutsche Regierungssystem*, p.54.
- ²³ Readers will notice that I indirectly cite an internal document here. In this case, it does not pose a problem of confidentiality leak because the content of coordination committee results are widely spread specifically *because* working level civil servants need the guidance of high level decisions in order to formulate future positions.
- ²⁴ EUZBBG: see BGBl. 1993 I, p. 311-312, 1780. EUZBLG: see BGBl. 1993 I, S. 313-315.
- ²⁵ BGBl. 2005 I, S. 3178-3180.
- ²⁶ BGBl. 2006 I, S. 2177-2180.
- ²⁷ Robert A. Dahl, 'A Democratic Dilemma. System Effectiveness versus Citizen Participation', *Political Science Quarterly* 109/1 (1994).
- ²⁸ Fritz W. Scharpf, *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press, 1999).