

Europeanizing legislatures (and beyond)

by Francesco Zucchini and Marco Giuliani | Published in issue7 / Research

This international research project is a follow up to a previous research involving a European network of scholars in the field of legislative studies. This network has just released its first collective product – an edited volume for Springer – and is now looking for new avenues of research complementing its past accomplishments. The Italian team is mainly based at the University of Milano Statale.

It is worthwhile to go back to the origins of the research network and to its main research goals. Everything started in 2008 as a sort of side-product (or search for synergy) of the bigger comparative study on policy agenda-setting (<http://www.comparativeagendas.org/>). At the margin of one of its regular annual meeting, it was proposed to organize a supplementary and informal seminar. This seminar was held in Bordeaux, and included European scholars from a wide range of countries, some of whom not directly involved in the “mother-project”.

The starting idea was extremely simple. According to the so-called “Delors-prophecy” the European union would soon be at the origin of 80% of the domestic normative production. The research network wanted to test empirically this prediction in a number of countries for some twenty years (in Italy the exact period was 1987-2006, with a clear overlap with the legislatures from the 10th to the 14th). Further specifications would have included the type of law, its origin (government or private member bills), the policy sector (taken from the twenty macro-categories used in the comparative policy agenda project) and other variables according to the datasets available in the different member states.

The research design seemed at first only explorative but the ongoing cooperation and discussion among the research teams offered the opportunity to think about several methodological problems, test different techniques (including alternative coding protocols), gain insights on unexplored topics, and contribute indirectly to the literature on Europeanization and to the field of legislative studies.

In fact, the research question is far more tricky than it appears at first sight. First of all, the choice of the unit of analysis, the law, is not an unproblematic decision. In spite of the apparent formal similarity, “law” is an intrinsically ambiguous concept when applied to different constitutional setups that offer varying degrees of freedom to the action of executives and parliaments. For explicit comparisons this problem of equivalence should be tackled directly, but in our explorative analysis, once acknowledged, each national team had the opportunity to extend its own analysis in different directions. The Italian team did it by exploring secondary legislation, i.e. analyzing ministerial decrees, government regulations etc., for a collective article published in an Italian journal, and it paid a specific attention to legislative decrees for the Italian chapter in the edited international volume.

Secondly, the operationalization of the so-called “EU-link” deserves a careful investigation. In other terms how to trace back the European origin of a domestic act? The research network, agreed on twelve keywords (e.g. European union, Single market, European Monetary system, etc.) and some abbreviations (like EU, ECSC, EMU, etc) that had to be present either in the whole text (as in the Italian case) or in the summary/preamble of the law which, in some countries, was extensive enough to sufficiently represent the entire act.

Thirdly, but not the least important aspect, it has become increasingly clear over time that our empirical test ended up underestimating the effect of the European Union and the far reaching consequences of Europeanization for member states. In fact, we are able only to recognize the impact of the EU on laws (i.e. positive integration law-making), but we cannot observe law prevention (i.e. the impossibility of adopting norms contrasting with the Treaties or the *acquis communautaire*) and the effects of negative integration (e.g. liberalizations due to rulings of the European Court of Justice)¹.

The results confirmed that the amount of legislation originated by EU acts is far from Delors' target (it is irregularly increasing, but only in two years overcomes the threshold of 25%), but that the EU impact is more relevant for secondary legislation and, most of all, for legislative decrees (always between 40% and 90%, on a yearly basis, since 1991). The Europeanization process seems to empower the executive as a result of information asymmetry and direct formal competencies. In the Italian case, the annual community act – which largely delegates the implementation of EU directives to the executive – and a reluctant parliament further contributed to that process. All the chapters compared the presence of the “European link” for policies belonging to different sectors. In addition the Italian one explored the role of the initial sponsor of the bill and the differentiated presence of amendments.

For a more explicitly comparative approach, the final chapter of the volume took the legislative national data in order to build-up a cross-country time-series dataset, and test some institutional hypotheses regarding the variable distribution of the EU-links across countries, sectors and years.

Where are we going from here? The first steps took us approximately four years, from the initial informal seminar to the publication of the edited volume. It has been a minor involvement for all the partners, without any explicit funding. In June 2012 some members of the original network and some new ones, took the opportunity of the ECPR research sessions organized at the European University Institute for some brainstorming and for planning further stages of the research. All national teams agreed that it's impossible to replicate the “no-funds” experience of the past, and it's probably too early to draft a new “big” European project (even because we fall between the last tenders of the FP7 and the future Horizon 2020 program). Nevertheless we decided to refine and extend our first experience in order to prepare for a major submission.

If the initial thrust was to test what has been then dubbed “the Delors Myth”, our further steps will be to investigate into the Europeanization of legislatures more in general, by paying attention to features different from the laws. The general idea would be always to perform some country-specific analysis on EU influenced parliamentary behavior and then to test comparatively the factors affecting the observed variance between countries, sectors and periods. However in the next investigations we will take into consideration bills and, above all, parliamentary questioning. If information asymmetry, mixed with the direct presence in EU legislative arena, lies at the origin of the uneven role of executives in EU influenced domestic policy-making, then MPs may try to regain the control (and activism) they seem to have lost in law-making by a different type of behavior. We will explore this hypothesis through an analysis of written questions advanced to the executives.

These explorations would be just an intermediate step towards a much more complex and ambitious research design that could involve in the future all the traditional (Bagehot's) functions of national parliaments. Differently from the already existing studies our approach to the Europeanization of legislatures (and parliaments) would be based on a systematic comparative quantitative analysis of parliament's tasks in a longitudinal perspective. We believe that the result of our analysis could further provide an empirical basis to the debate on the sovereignty issues and the democratic deficit. Is it a zero-sum game between member states and EU or not? What is the role of elective assemblies in the EU ? Is the institutional position of the European Parliament really the main problem ? or rather the loss of influence of legislatures ?.

If the research direction is clear it is nevertheless impossible up to now to draw a coherent and wide-range research design without knowing if we could rely on an appropriate funding. The research network is expanding (see below), and shares the same attitude towards data collection and analysis. We believe we have the opportunity to provide major insights on how in a multi-level political environment we are governed and how the public problems are tackled. We hope that also the potential financing bodies share the same firm belief.

Notes

¹ The same reinforced rules of the Monetary Union, including the new European Fiscal Compact treaty, via budget limitations, may deeply influence non-decisions-making in each and every domestic policy sector. Furthermore, even the impact of EU soft laws and of voluntary coordination (like the Lisbon's OMC) may be difficult to trace with the chosen proxies.

The Italian research group includes: Enrico Borghetto, Marco Giuliani, Francesco Zucchini and, prospectively, Federico Russo.

The Network included scholars from: University of Milano, University of Mannheim, Sabanci University of Istanbul, University of Bordeaux, University of Vienna, University of Turku, University of Tampere, University of Luxembourg, University of Leiden, Wageningen University, University of Barcelona and University of Geneva. Some other scholars, e.g. from the UK, participated to the working seminars without contributing with a chapter but will be included in the next steps, as well as scholars with expertise in the "new" EU member states (such as Malta, or Central-Eastern European countries) or in other non-EU countries (e.g. Norway, and some candidate country).

Next meetings will be in Mannheim in November 2012, and probably Amsterdam in June 2013.

Relevant Italian publications:

- E. Borghetto, M. Giuliani and F. Zucchini, Quanta Bruxelles c'è a Roma? L'europeizzazione della produzione normativa italiana, in "Rivista Italiana di Politiche Pubbliche" (2009), n. 1, pp. 135-162.
- E. Borghetto, M. Giuliani and F. Zucchini, Leading Governments and Unwilling Legislators: The European Union and the Italian Law-Making (1987-2006), in S. Brouard, O. Costa and T. König (eds), The Europeanization of Domestic Legislatures, New York, Springer 2012, pp. 109-130.