

EUROPEAN POLICY MAKING AFTER COVID-19: „GOVERNANCE WITH GOVERNMENT“

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Abstract

After 2008, the European policy process developed in the conditions of continuous crisis. This leads to a series of changes related to the specificities of the policy cycle, the role of the European Commission and national administrations, the involvement of expertise and public groups. This increases the Union's decision-making capacity, but also raises legitimacy risks.

Keywords: European policy making, crisisification of policy process

The policy process and its particularities in a specific polity are not simply a consequence of the form or model of governance. Behaviourism in political science complements the understanding of the factors of governance with the behavioral motivation, knowledge and attitudes of its participants, as well as with the relations between them. Such a perspective makes possible to explain why within the same polity, even without changing the formal institutions or the key actors, the policy style changes (Howlett 1991, Howlett and Tosun 2018). Such change is not necessarily temporary or situational. It often leads to significant and lasting shifts in representation in policy communities and in the policy cycle. This in turn prompts a change in policies. In a more distant perspective, such a transition may also lead to a change in formal institutions.

A similar transition in policy style was observed in the democracies of Western Europe in the 1980s, when a relatively centralised government moved to a predominant neoliberal governance that transferred the functions of provi-

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ding public services to private organisations (Bellamy and Palumbo, 2017.). This transition, in only some countries, begins with a change in the main stakeholders and the ideas that underlie their actions. At the same time, it proceeds with different speed and radicalism in all the countries of Western Europe, regardless of the lack of significant displacement in the policy communities. At the polity level, the mentioned transition in Western Europe is analogous to the transition in Central and Eastern Europe. The latter, however, has a far deeper scope because of the change in basic political and economic relations and cannot be explained as a shift in policy style.

Processes in European public governance very often precedes what happens in the member countries. It responds much more quickly to contemporary challenges and trends for two main reasons. On the one hand, the EU does not have the institutional tradition of the nation-state and political power in it is always shared. Even if there is an aspiration for centralisation and concentration of power resources at the supranational level, this aspiration is realised with difficulty – very slowly and in small steps. Network models of governance are therefore much stronger than hierarchical ones; coordination and consultations necessarily precede, even accompany the legislative process; common objectives are often achieved through executive measures and the process of their deliberation than through the legislation. Informal institutions matter at least as much as formal ones (Moravcsik 2010). The EU is much more horizontal than any other country where, despite modern paradigms of public governance, hierarchical power relations still prevail.

Policy style has at least three dimensions. The first, but not necessarily the most important, concerns stakeholders and the relationship between them. The second refers to the ideas and values around which policy communities are built and identified. The third cover the peculiarities of the policy cycle.

After Covid-19, the style of European policy making seems to have hanged. This change began much earlier - sometime around 2008, when the world was gripped by an economic and financial crisis. Covid-19 accelerates this change and makes it obvious. During this period, with the adoption of the Treaty on the Functioning of the EU and the consolidation of European law, the Union took a major step towards strengthening supranational governance. However, the change in governance style does not follow directly from the development of formal institutions. It is only one of the factors related to it.

In European Studies, the changing policy style in the EU is expressed by the term „crisisification“ of policy-making (Rhinard 2019). The clarification of this term implies at least two questions. On the one hand, it is necessary to distinguish it from crisis management. On the other hand, this is a slow, gradual change of policy making practices, which is not preceded, and even for the moment is not accompanied by a change in formal European law.

Crisis management can be defined as a set of specific tools that authorities take to deal with a crisis in the organisation (Pearson and Clair 1998). In the

last two decades, in parallel with „crisis management“, the concept of „crisis governance“ began to be used. A clear distinction between them is not made and they are even used as synonyms. However, the last concept enriches, even revises, the techniques of crisis management by taking into account the presence among those affected by the crisis of multiple groups with different interests and perceptions (Yan, Pang and Cameron, 2006). Another implicit difference in the use of the two concepts can be deduced: while crisis management is more of a technique, governance for its application (crisis governance) consists of formal structures and rules (Christensen, Laegreid and Rykkja, 2016). However, in both cases, and in the use of both concepts, we are talking about separate, structurally distinct activities aimed at dealing with crises.

Crisisification is another thing. This is a significant change of policy-making under the influence of the state of crisis. This is again a response to the crisis, but in terms of the way policies are formulated and implemented. Crisis management – the use of crisis management tools, ends with the end of the crisis. Crisisification changes the policy process and could lead to significant shift in political relations.

In fact, crisis management and policy process crisisification are very close concepts. Distinguishing them as tool and process is true, but not quite enough. In practice, tool and process are so intertwined that the above distinction may seem misleading – the choice and application of a certain tool becomes possible only because the process allows it. However, crisisification is not simply the process that makes crisis management possible. Crisisification of policies in a substantive plan means centralisation, quick decisions on imperative measures, limitation of deliberation. If crisisification becomes a predominant feature of the policy process and exceeds the limits of crisis management, it means that informally, in practice, the political order acquires the above characteristics, regardless of formal institutions.

The crisisification of European policies began with the economic crisis of 2008, deepened with the Euro crisis, the migrant crisis and Brexit. The global Covid-19 pandemic is the latest step in this process for two reasons. On the one hand, there is no disagreement among the member countries, as well as among the European institutions, in relation to the perception of the crisis and the ways to deal with it. On the other hand – this crisis affects all individual activities and social spheres – from health, through business, culture and education, to politics and democratic representation. Covid-19 has centralised the EU and, in a sense, prepared it for the next crisis (the war in Ukraine) which comes quite unexpectedly. Toward the current crisis, the EU seems much more cohesive and with increased ability to take common decisions.

There are several manifestations of the crisisification of the European policy process.

Because of the acceptance of the need for a common response the European policy cycle becomes much faster. In fact, the „acceleration of time“ beyond

its physical dimensions is a process we are witnessing because of technological change and the rapid spread of information from competing sources. This leads to an increase in unpredictability and heightens chaos in the policy process at the expense of its rational course. As a consequence, policy selection becomes an almost unpredictable process. Crisisification works in a completely opposite way – it speeds up the decision-making process and shortens the time from creating the agenda to making the decision. Thus, the rationality of the process, oriented towards finding an optimal solution, is strengthened. However, the latter does not mean that it improves or worsens, because such an assessment is made on the basis of the extent to which the goals or desired results for which the measures are taken are accepted. The only obvious claim is that the process is changing, and because of the need for rapid response given by public authorities, the initial stages of the policy cycle almost coincide with decision-making.

The normal European policy making process is extremely slow. It involves many stakeholders who express different interests, have different types of behavior and stand behind different ideas about social development in general and the future of the EU in particular. The decision-making procedures themselves are extremely complex, due to the need to involve the key participants in the process of European policies in a way that allows finding the intersection between their positions. The institutional development of the Union is related to the search for a balance between democratic representation and rational management. The last should create minimum conditions for making and implementing shared decisions. Therefore, the process of European policies, as well as the decision-making procedures themselves, are accompanied by continuous horizontal processes: working groups, coordination mechanisms, consultations, meetings of experts, etc. They make it possible to unite the diverse political representation around a common decision and around a common idea of the development of the Union. The crisisification of EU policy-making limits the use of horizontal mechanisms, notably by reducing the time for consultation and feedback.

Along with this, the influence and role of the European Commission is growing. In times of crisis, it becomes the most powerful institution, without this being explicitly regulated in European law. According to European law, the Council of the EU, i.e. the member states, delegate executive powers to the Commission, but not in principle, but only for measures for which there is already an agreement. The only exception to this rule is competition policy, where the European Commission has direct executive power.

The „political“ role of the European Commission is not a new issue for the European studies (Nugent and Rhinard, 2019). Since it is the only institution with legislative initiative, its formal role in the process of European policies cannot be underestimated. In addition, it leads all horizontal processes of coordination and consultation with both member states' experts and influential public organisations. In some policy areas, where European law does not

provide for exclusive competence of the EU, the European Commission leads processes aimed at developing soft law and monitors and evaluates the process of its implementation in the member states (European benchmarking, Open method of coordination). Within the framework of the use of financial instruments to achieve the goals of European integration (European Structural Funds), the European Commission has a major role as the main representative of the EU in relations with both the member states and the beneficiary organisations on their territory.

The institutional development of the Commission includes the tendency to expand its direct powers as an executive body of the Union. This became particularly clear in the change of Comitology procedures with the adoption and implementation of the Consolidated Decision on Comitology in 2011. With this change in European law, some practices that varied before between formal control over the actions of the Commission by the representatives of the member states and the constructivist debate between experts on the occasion of common policies, become regulated in a way to increase the Commission power to take own decisions about the executive measures of the Union.

Crisisification reinforces these trends. In practice, the Commission becomes the sole author of the decisions, which descend to the national representatives rather as information and are accepted by the relevant authorities with little or no corrections (Rhinard 2019). This is not necessarily unfavorable because the process reorients itself towards a rational type of governance, neglecting to some extent the political debate. At the same time, such a change leads to the possibility of undesirable consequences related to legitimacy.

Crisisification-related acceleration of the policy process has a dual effect on the inclusion and use of expertise in policy-making. On the one hand, the professional administration expands its participation and influence on the initiatives. On the other hand, the participation of external expertise and public organisations is decreasing. Policy making becomes much more closed to public pressure. The effect is the same as when the role of the Commission increases – the probability of decision-making and the emergence of problems with legitimacy simultaneously increases.

Probably the most evident consequences of the crisisification of policy-making in the EU is the limitation of deliberative processes. Traditionally, the inclusion of public interests has been an institutional feature of the European policy process. There are many studies that identify the different methods of European policies. Apart from their specific institutional design, these methods also differ in the way they involve public groups. In practice, there is only one sphere in which public groups exert only external pressure on policies – that is the sphere of activity of the European Central Bank. In all other spheres, in solving all other problems, social groups based on formal powers or more often as a result of repeated practices have a reserved place (Yee 2004). The same studies explain this fact with the behavior of the Commission, which promotes

inclusion in order to increase support for European integration and common policies implementation. In the conditions of crisisification, the deliberative search for legitimacy becomes to some extent unnecessary – it is replaced from the perception of the common threat.

At least ostensibly, the crisisification of policy-making leads to a state that resembles polities with a strong central executive. The increased role of the European Commission and of expertise in the policy-making process support the above statement. Does this make the EU stronger? The answer is not obvious. Centripetal forces are a consequence of natural unification around an understanding of a common threat. There is a high probability that upon its eventual passing, centrifugal forces will emerge and that will return the EU to its traditional state of political union, in which bargaining as a result of inter-institutional and inter-organisational consultations is the necessary basis for decision-making. In any case, however, the solution to the main problem of the institutional development of the EU – the distribution of power between the supranational and the state level – currently seems to weigh in favor of the former.

The changes related to the crisisification of policy-making in the EU also affect the member states. The growth of the role of administration spans both the supranational and state levels. In condition of crisisification the inclusion of national interests in European policy process depends on national administration. If political debate gives way to expert debate, then it is the national administration that must find the place of national priorities in the process of making common policies. This is also not new for the EU. In areas where, due to a lack of common EU competence, transnational coordination is the main policy-making method, the responsibility for representing national priorities falls on the experts who participate in it. The experience of participating in similar coordination mechanisms (European Strategy for Employment Strategy, social inclusion, pension insurance, etc.) show that national administrations (not only Bulgarian one) very rarely take advantage of this opportunity. The prevailing attitudes of national administrations to implement and not to make the decisions reduce the possibilities for adequate inclusion of member states in the making of European policies. In conditions of crisisification, when expert debate dominates policy-making, a potential opportunity arises to alienate states from common decisions. This problem, and the potential risk associated with it, has no obvious solution. The situation now only strengthens the relative influence of the European Commission in making European policies.

In the 1970s, when the political unification of European countries was still only a mirage, a definition of the European Community as „governance without government“ was spread in European studies. Metaphorically speaking, at the moment, as a result of the crisisification of policy-making, the EU is becoming „governance with government“. Regardless of the complex structure of political power, in which multiple interests and representations are intertwined, the EU succeed to make policies in very complex situations. It behaves

as a real polity. This is the only good thing about crisisification of European policy process. Otherwise, the informal centralisation of European policy-making raises many questions that European studies are not yet ready to answer (KreuderSonnen 2016).

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