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Phedon Nicolaides*

The Role of Member States as Rule-makers in the European Union

Although the Treaty of Amsterdam has not lived up to the expectations of those who wanted a substantially stronger and more active European Union, it has expanded considerably the competences of the Union. In some policy areas such as social policy, it has added significantly to the obligations of the member states. By implication, the policy discretion of member states has been reduced further. The reasonable question that arises is whether the Union will and whether it should keep encroaching on the policy discretion (some use the word sovereignty) of its member states? The aim of this paper is to provide an answer to that question with respect to the economic functions of member states.

The nation state has a chameleon-like presence in economics. It appears in many different colours. From the earliest formulation of trade theory to the latest debates on exchange rates, some aspect of the nation state and its activities have always come under discussion. In this context, the nation state has been held to denote many different things such as an endowment of factors of production, a set of policy rules, an area within which income is redistributed, a group of individuals with similar preferences and a market with homogeneous conditions and characteristics.

Of course all these descriptions are neither completely true, nor completely false. They are convenient concepts that allow economists to analyse the causes and effects of transactions between different countries whose boundaries are often the result of bloody conflicts and historical accidents rather than the outcome of a peaceful and agreed design. Political scientists see the nation state in different terms and for their purposes they emphasise things such as sovereignty, system of governance, popular legitimacy, identification with ethnic background and shared sense of history among the citizens.

Two of the economic roles of the nation state that have recently become the subject of extensive public

debate in the European Union are the ability of European countries to influence the allocation of resources in world markets and the extent to which they should have responsibility for both stimulating and regulating economic activity within their territories. The concern about the ability of the state to influence the allocation of resources stems from the fact that world markets and in particular European markets are becoming increasingly integrated not by design but by the force of international transactions. Goods, money, services, labour and companies move more freely from one country to another. It is almost a cliché now to talk about the phenomena of globalisation and the internationalisation of economic activity.

At the same time, however, that EU countries complain about national markets and policy-makers being at the mercy of global economic forces, somehow paradoxically they also consider the implementation of measures that can attract foreign investors, support the development of new technologies and products and raise the competitiveness of those companies and industries which are situated in their territories.

The issues of globalisation, national competitiveness and the effectiveness of activist trade, industrial and technological policies have been analysed exhaustively.¹ By and large, the conclusion of the literature on these issues is that there is not much that

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¹ For a summary of the relevant literature see, for example, the special issue on national competitiveness of the Oxford Review of Economic Policy, Autumn 1996, Vol. 12, No. 3.

governments can do apart from providing general support for activities such as basic research and training and a stable economic environment with little bureaucratic clutter. In the eyes of multinational companies, whose intra-group transactions are estimated to account for more than half of world trade, the nation state is probably already in a moribund condition.

This paper focuses on the second issue of current concern: the economic role of the nation state which is a member of a regional group that aims to integrate the economies of the partner countries. This also is not a new issue. The literature on economic integration has examined extensively the effects of joint policy-making on partner countries. The division of policy tasks between the member states and the supranational institutions has received relatively less attention but by no means has it been ignored.

The literature on the assignment of policy tasks between the member states and the supranational institutions has reached three broad conclusions of relevance to this paper. First, the effects of the policies/instruments for which authorities at the sub-national, national or supranational level are responsible should affect only the area for which they have legal jurisdiction. If an instrument generates effects that spill over into another area, then a higher authority should be given responsibility. Second, the allocation of tasks is constrained by the information which is available at the different levels of policy-making and the preferences of voters at each level. Hence, there may be a case for assigning tasks to a lower or higher authority if the lower or higher authority has access to more extensive or accurate information. Third, because information and preferences may vary substantially across different levels of policy-making, it is exceedingly difficult to define the optimum state of integration between different countries.²

A question that the literature on integration has not asked is who determines the level at which policy tasks should be allocated. The reason for this omission is that the theory assumes that countries agree beforehand what policies they formulate in common and what policies they keep to themselves. But the reality of the EU is different. The founding treaties of the EU and subsequent amendments have defined certain general policy principles. The pursuit of these principles can be done in some cases only by the

Union, in some other cases only by member states and in most cases by both. The subsidiarity principle which was inserted into the Maastricht Treaty aimed to lay down criteria for separating the responsibilities of the Union from those of member states. But it has not proved to be very effective for that purpose. So the question remains. What policies or policy rules should be determined by the Union and what rules by the member states? Rule-making of this kind goes to the heart of the notion of the nation state as a sovereign entity.

While accepting that within the EU, the nation state is less able to isolate national economies from global economic forces, the purpose of this paper is to consider whether the nation state is destined for obsolescence as policy or rule-maker. In particular, membership of the EU and the transfer of policy discretion to Community institutions raise three questions: How has membership of the EU circumscribed the economic role of member states? Has the transfer of economic responsibility to the EU resulted in less state interventionism in the economy at the national level? And lastly, are member states likely to transfer more, or all, of their economic responsibilities to the EU?

This paper argues that although the role of the Union as rule-maker has grown, there is still a need for the member states to retain certain policy responsibility. Moreover, the nature of the tasks assigned to the Union is as important as the number of tasks carried out by the Union. The question in this respect is whether the Union has the capacity to assume and dispense with new responsibilities. To put it differently, it is not the erosion as such of national sovereignty that matters, but what is eroded and the ability of the Union to manage the policies it wrests from its members. The efficient and effective management of certain economic issues is probably more feasible within unitary states than at the Union level where it is done by supranational institutions. By contrast, some other tasks are more effectively executed by the Union.

Effect of EU Membership on the Nation State

In its simplest form the founding treaty of the EU (the Treaty of Rome and the subsequent revisions of the Single European Act, the Maastricht Treaty and now the Amsterdam Treaty) can be thought of as being of two parts. One part defines a number of rules on what the member states may or may not do. The other part defines certain policy areas in which the EU may act.

² See M. Jovanovic: *International Economic Integration*, Routledge, London 1992.

The rule part is made up mostly of prohibitions. In other words, it stipulates what member states are not allowed to do. They are not allowed, for example, to discriminate on the basis of nationality, sex or race, to obstruct the trade of goods and services and the movement of labour and capital, to restrict the establishment of foreign companies, to tolerate or encourage anti-competitive behaviour, to grant aid to their national industries, to impose heavier taxes on products imported from other EU countries or to monetize their budget deficits. In addition, member states are required to maintain their public deficits, national debts and inflation rates below certain levels. All these prohibitions and requirements naturally constrain member states in how they intervene in their economies. Although member states often find new and ingenious ways to circumvent the rules, there is no doubt that the scope of their discretion is more narrow now than before the EU was established or before they became members.

In addition to the Treaty rules, member states have to comply with the multitude of Council and Commission regulations, directives and decisions which further erode their ability to intervene in their economies. For example, the EU has passed legislation requiring the liberalisation of air and maritime transport and telecommunications, the opening up of public procurement and the simplification of licensing of banks and insurance companies.

The cross-border provision of services is now made easier by the fact that member states have undertaken to mutually recognize each other's licences and certificates on professionals, goods and services. This mutual recognition further restricts the ability of the nation state to regulate the economy because it generates competitive pressure to adopt laxer, more business-friendly regulations. This is one of the main reasons why member states often call on the EU to adopt common rules so that individual members are not able to maintain laxer rules which may effectively prevent the others from tightening theirs.

On the whole, membership of the EU has had a significant restraining effect on state intervention in the economy. Member states are no longer in a position to do all the things they could in the past, even if we take account of the fact that frequently they are brought before EU and national courts for failing to implement their obligations under the Treaties. The following section examines the nature of the economic responsibility that has been assumed by the EU.

Delegation of Responsibility to the EU

Since its establishment in 1958, the policy competence of the EU has expanded considerably. The EU now finances many programmes whose purpose is, among other things, the promotion of regional development, construction of transport and telecommunications networks, provision of industrial training, support of basic scientific research, protection of the environment and encouragement of human mobility.

Although the EU's budget, which does not exceed 1.25% of the combined GDP of its member states, is proportionally small in comparison to national budgets, it still makes for a sizeable amount of money. In 1997 it will reach ECU 87 billion. Since member states continue to be active in the policy areas mentioned above and since many EU programmes require matching funds from the recipient countries, it is safe to conclude that, in this context, membership of the EU and the assignment of policy tasks to Community institutions has not limited the policy responsibility of the member states.

In addition to the Treaty principles that either guide or circumscribe policy-making in member states and the programmes which are formulated and directly funded by the EU, perhaps the most visible aspect of the delegation of responsibility to the EU is the increasing number of rules determined in Brussels and widely believed to be dictated to member states.

By any account, the rules coming out of Brussels (or the so-called "secondary" legislation) have mushroomed. EU legislation has more than tripled over the past twenty years. The 1985 single-market programme included about 280 separate pieces of legislation while the total number of items of legislation that apply to the internal market is estimated to be around 1,400. The Commission has said that, with the completion of the internal market, it will make far fewer legislative proposals, but since the body of EU law, known as the "*acquis communautaire*", includes any decision of the Council, the Commission or the Courts, EU legislation will continue to grow.

It is said that power attracts. If rule-making is a source of power, then there is strong practical evidence that indeed Brussels now has more power to make rules. While in 1960 there were just 160 lobbying organisations in Brussels, now there are more than 3,000, each attempting to influence EU decision-making.

Although a simple count of legislative acts clearly shows a steep upward trend in Community legislation, it is difficult to know precisely whether EU rules are merely replacing national rules or whether they are accumulating on top of national rules. The net effect is unlikely to be the same for all member states. Some southern member states have probably expanded their rule books considerably in response to rules agreed in Brussels. Some of the more regulated northern states are likely to have simplified their rule books. Overall, member states have been required to scrap all those rules and policies that discriminate against foreign goods, services, workers and capital. At the same time they have introduced many other rules intended to achieve some degree of uniformity, transparency and objectivity in national economic policies. This latter kind of rules can be thought of as establishing a sort of framework within which member states may still pursue their own particular objectives.

Many of the harmonising rules that intend to make national systems more compatible with each other have also made national systems less interventionist. In this way the harmonisation of rules has contributed to the removal of measures which made it more difficult for foreign goods, services, workers, companies and capital to enter national markets. For example, in air transport landing slots are now assigned by a regulator which is independent of the transport ministry. Similarly, in telecommunications technical approval of terminal equipment can no longer be carried by the national telecommunications operator, which often is owned by the state.

Admittedly, some of the common rules introduced by the Union force member states to regulate their economies in an unnecessarily intrusive, strict and inflexible manner. But at the same time, common rules, *ceteris paribus*, make it easier for businesses to gain access into the markets of other member states because multiple compliance with different national systems is no longer required. In this way, the state has lost some of its power to influence the flow of resources in and out of the national market.

To summarise so far, in economic terms the EU does basically three things:

- its Treaty principles circumscribe national economic rules and policies,
- its secondary legislation defines either additional prohibitions or common rules and
- its budget finances certain activities mainly in the areas of agriculture, regional development, training and research.

Although the competence of the EU has expanded, such widening of policy responsibility is not an easy process. First, its Treaties prevent it from doing anything which falls outside what is prescribed in them. By contrast, national constitutions, by and large, do not seek to define the totality of what governments may do (although there may be exceptions in federal states). Second, the relatively small amount of resources available to the Union effectively make it impossible for it to attempt to run policies that require funds or to provide services itself. The Commission, which is the executive arm of the Union, very much depends on national administrations for both technical advice and the enforcement of EU policies.

Indeed, the Commission decides and directly enforces EU rules only in the area of competition policy. It has decision-making discretion, but without enforcement capability of its own, in the areas of trade policy, agriculture, the definition/approval of programmes supported by structural funds and those narrow/technical issues which are left by the Council to be decided in committees. For the enforcement of the decisions in these areas, the Commission again has to rely on national administrations. In remaining areas that fall within the Community's competence, the Commission's powers are largely limited to making legislative proposals and supervising the implementation of measures decided by the Council.

In conclusion, therefore, the aspect of the Union that indeed has grown is the rules decided at the Union level by the Council. After all, the competition, trade and agricultural policies were defined back in 1957 and their main features have not changed since then. The question which arises is whether, despite the difficulties mentioned above, EU rules will keep increasing and expanding into new policy areas while member states will only be responsible for the enforcement of such rules.

Expansion of Supranational Policy-making?

In at least one respect, supranational policy-making will certainly expand. By the end of 1998 there will be a European Central Bank in charge of monetary policy in the monetary union that will be established in 1999. The members of the single currency area will transfer their policy-making discretion in monetary affairs to the ECB.

The EU's competence in other fields will also expand as a result of the conclusion of the inter-governmental conference and the drafting of the Treaty of Amsterdam. The competence of the EU will

be most prominently extended in issues such as foreign and security policy, immigration, asylum, environmental and social policy. It is worth noting that at every treaty revision and every time new members acceded to the Union, more policy responsibilities were assigned to the Union. Therefore, the outcome of Amsterdam is not really surprising, even though it was modest, and it is safe to predict that the planned single currency and the impending enlargement of the EU will all lead to further delegation of policy-making responsibility to Community institutions. What then will be left for member states to do apart from implementing those policies?

For one thing, as long as the EU does not have taxation powers of its own, member states will continue to provide social security and other social benefits and redistribute national income in favour of the poor, the invalid or the unemployed. To the extent that services such as education and health care are provided by the state, they will most likely continue to be the responsibility of the state, unless compliance with the Maastricht convergence criteria leads to severe cuts in public spending.

Member states are also likely to provide directly or regulate the provision by private firms of other public services, especially those which are considered to be "essential". These are services such as basic telecommunications, postal delivery, power generation and distribution etc., to which citizens are thought to have certain rights. Hence, the state as a provider of "social welfare" (i.e. social insurance, income support etc.) and as a provider of certain public services will continue to play an active role.

But the trend is for the state to assume a more detached regulatory role rather than to be a direct provider of public services. A factor that has led to the reduction of the provision of those services by the state itself is the Commission's insistence on further liberalisation of national markets and the removal of remaining national measures that obstruct the entry of private service providers or of providers from other member states. Further, liberalisation will again reduce the discretion of the state. But experience in other sectors such as transport, banking, insurance and professional services indicates that liberalisation is always accompanied by the adoption of some common rules. So, where national measures are removed, they are to some extent replaced by common EU rules.

While it is certainly better for businesses to have to deal with one set of rules instead of fifteen, there are also dangers in too much harmonisation of policies. Harmonisation may make all regulations stricter. This is not desirable as long as consumers would be willing to obtain goods and services which by virtue of being less strictly regulated could also be cheaper. This requires of course that they can distinguish cheaper, lower-quality goods and services from more expensive but possibly higher-quality goods and services.

A more invidious problem with excessive harmonisation is that it reduces pressure on individual member states to improve their policies. Harmonisation weakens competition among different systems of rules.

A primary economic role of the state is, in principle, to design and implement regulations for the purpose of correcting market imperfections or market failure (whether indeed this is the objective of regulatory intervention in practice is an interesting question but not relevant to the issue at hand). Market failure often occurs in situations where there is little information as to how the market could function efficiently (or where transaction costs are too high for economic agents to attempt to internalise externalities through market mechanisms).³ So governments invariably attempt to correct market failures without having all the information they would ideally need to have to define the policy that could maximise social welfare with 100 per cent certainty. Incidentally, this is one of the main reasons why mainstream economics suggests that it may be advisable in certain situations to tolerate market imperfections rather than attempt to correct them and introduce new and more serious distortions in the process.

Regulation, therefore, is a process of continuous adjustment. Regulatory authorities do learn from each other's successes and failures. Harmonisation of rules removes this learning opportunity. If a rule is effective and efficient all countries benefit. But if it is ineffective and inefficient all countries suffer. Since decision-making at the Union level is probably slower and more cumbersome than at the national level, wrong policies are more difficult to repeal.

Inability to define in detail ex ante first-best policies, implies that it is unwise to attempt to lay down precise rules, either at the national level or the EU level. Economic theory itself does not provide detailed prescriptions on how, for example, natural monopolies are to be regulated, anti-competitive practices curbed and fundamental research and technological development funded from the public purse. As the

³ See the classic analysis of market failure and transaction costs in R. Coase: The Problem of Social Cost, in: Journal of Law and Economics, Vol. 1 (1960), October.

theory of second-best showed some time ago, policy-makers and regulators have to exercise judgement when there are multiple distortions in the economy. Exercise of judgement is not compatible with precise rules on policy instruments, their scope and their application. So member states need to retain policy discretion.

Need for National Policies

There is also another, perhaps more important, reason why there should even be a general presumption in favour of determining regulatory policies at the national rather than the supranational level. A basic task of policy-makers is to deal with multiple policy objectives some of which may be incompatible with each other. Such policy conflicts are resolved by recourse to a higher decision-making authority with more extensive powers or by recourse to more general principles, rules or laws.⁴ If correction of market imperfections requires in most cases resolution of some form of policy conflict, then such resolution can be best done within unitary states (either non-federal or federal). This is because it is unitary states that have the systems of law, governance and enforcement that allow the highest possible degree of flexibility in determining appropriate instruments and levels of decision-making and implementation. Also, it is unitary states that have systems that allow recourse to less distortionary side payments (through transfers) to compensate losers of policy conflicts whenever such conflicts cannot be resolved by other means. So in this respect the nation state has an advantage over regional blocs or more ambitious integrationist schemes (such as the EU) because the latter are invariably circumscribed in what they do while the nation state can, in principle, generate any required compensatory transfers which are the least distortionary means of intervention (rather than resort to measures that have a direct and pronounced effect on the production, consumption and investment decisions of economic agents).

The implication for the EU is clear. It would be wrong to attempt to introduce too narrow or too precise common rules where national authorities need to have room for policy manoeuvre according to the particular circumstances in their national markets or where the resolution of policy conflict necessitates compensation through side payments. Indeed, Community rules aim primarily to remove discriminatory provisions from national policies. Harmonisation is limited to a minimum. But the boundaries of that minimum are undefinable *ex ante*.

If member states individually exercise discretion, there is a collective need to know when each one of them acts in good faith and when it attempts surreptitiously to discriminate against the others. This reason suggests that in cases where national regulatory systems diverge significantly, the natural role of the EU is not simply to eliminate national differences by defining common rules, but rather to be an arbiter "managing the interface" between different national systems and policies so as to ensure that such differences do not become covert obstacles to trade, movement and competition in the EU. The Commission or other EU agencies could exercise this arbitrating function by monitoring national authorities, examining complaints and assessing when their actions are disproportional to the intended policy objectives.

There is a need for a more elaborate Community system for overseeing the national regulators. This has indeed been emerging during that last few years as a by-product of the programmes for liberalising technically complex and heavily regulated sectors such as telecommunications and air transport.⁵ The EU has found out that in these circumstances neither broad nor detailed rules are appropriate. Broad and simple rules could be operationally meaningless. Detailed and extensive rules could be too interventionist and cumbersome and could rapidly become obsolete as a result of technological change. The EU's approach has been a mixture of broad rules and the creation of a "regulatory" role for the Commission. But the same dilemmas about the design of EU rules and the sharing of tasks between the EU and member states exist in many other policy areas. The less defined the instruments and means of common policy objectives, the greater the need for overseeing how member states implement those common policies.

It follows, somewhat paradoxically, that if the member states want to retain diverse policies and policy discretion, they must enable the EU to determine when that diversity becomes an obstacle to trade and movement. In other words, to be able to do more at the national level, they should do more at the Union level in the sense of assigning to the Union broader overseeing tasks. The converse is also true. By delegating supervisory responsibility to the Union,

⁴ Note that a policy conflict in this context is not the same as conflict of interest which is resolved by division of responsibility.

⁵ See G. Majone: *The European Community as a Regulatory State*, discussion paper, European University Institute, 1994; and G. Majone: *Regulating Europe*, Routledge, London 1996.

member states may retain more practical policy discretion concerning the particular means of achieving general policy objectives. In this context, integration is not a simple process of assigning an increasing number of tasks to supranational authorities. It is a process of sharing tasks, whereby the supranational authorities ensure compliance with general principles rather than seek to define particular policy targets and be involved in the daily enforcement of such policies.

This idea of tolerating and even promoting competition between national regulations and policies is different from the concept of subsidiarity enshrined in the Maastricht Treaty. According to the principle of subsidiarity, the EU should act if common action is more effective than action by individual member states. But as suggested above, common action may be effective in every other respect except in that it exposes all member states to the same problems of mistargeted policies and regulations. When there is uncertainty about the appropriate policy or when the optimum policy is difficult to define, policy diversity in effect allows many different solutions to be tried.

The foregoing leads to the conclusion, therefore, that in the EU, member states will continue to act in those areas in which the EU lacks competence and also that they should retain policy discretion even where the EU is empowered to act because in this way there can be policy diversity and healthy regulatory competition. If this kind of diversity is not fostered there is a risk that too much harmonisation at the Union level may bring about what may be called "policy-sclerosis" – inability to adjust common policies and rules.

There is, however, an additional cause for concern that too many policies managed at the Union level may cause problems. The institutions of the Union may not have the capacity to run effective/efficient policies.

Efficient Policy Management

The competence of the Union has been steadily expanding into new policy areas and new rules have been written into the Treaties. These rules are not all compatible or congruent with each other. For example, free trade, a fundamental objective of the common market, may be weakened by the operation of the common agricultural policy. Free competition may be distorted by the application of the EU's various structural funds. Again, competition may be handicapped by decisions of the Council authorising "crisis cartels" or anti-dumping duties on foreign pro-

ducts competing in industries where anti-competitive practices have been pervasive (e.g. chemicals).

Since all treaty rules are equal and since secondary legislation (i.e. acts of the Council or the Commission) is legally as significant as the treaty rules themselves, conflicts among such rules are not uncommon. These conflicts are resolved in three ways. First, specific rules (secondary legislation) are assumed to define exceptions to the general treaty provisions (if the specific rules have been adopted pursuant to some treaty provision). Second, the Commission has argued, especially in the context of the conflict between the general ban on subsidies and the granting of subsidies for regional development, that there is no contradiction if subsidies comply with treaty principles and if subsidies are channelled through EU programmes. EU action cannot be assumed to distort competition. This is a convenient fiction because subsidies may distort competition in the internal market irrespective of who approves them. Third, conflicts between rules are seemingly resolved whenever they are simply ignored. There are at present at least 18 different compositions of the Council all of which are equally capable of making laws. If, for example, the transport or agriculture ministers authorise a measure that may cause problems in another area, the ministers responsible for that area are not present to argue the case against that measure.

Admittedly, the Committee of Permanent Representatives (Coreper) is supposed to function as the institutional memory of the Council and to provide continuity in its decisions. But from what is known about the actual functioning of Coreper, the representatives of the member states, who are generalist diplomats, naturally tend to defend their countries' perceived interests. In defending those interests they do indeed remind each other of concessions made by one country or favours sought by another country in the meetings of the various Councils. But this is a kind of centralised decision-making that has to do more with balancing perceived national "costs" and "benefits", rather than assessing the overall impact of a single policy on different sectors of the economy.

Of course, this kind of assessment is supposed to be done by the Commission before it submits any legislative proposals to the Council. But the Commission is made up of 24 Directorates-General each specialising in its area, each often depending for technical advice on the experts provided by the member states and each very much defending its

policy autonomy. It is not uncommon for one DG to be unaware of the proposals and programmes for EU action formulated by another DG. As vividly illustrated by the recent "mad cow" affair, there are considerable dangers in this kind of policy "compartmentalisation" whereby a single DG decides on the several dimensions of the policies for which it has primary responsibility. It is instructive that as a result of the mad cow affair safety issues have been wrested away from the DG in charge of agricultural policy (DG VI).

Because of such policy "compartmentalisation" there are concerns that the EU may be lacking the centralised overseeing of policies which exists in most western European countries and in most cases is exercised by the cabinet. As suggested in the previous section, resolution of policy conflicts is an important component of policy-making and the unitary state is better equipped for this purpose.

In particular, centralised overseeing is needed to counter-balance the discretion which is vested in the various ministries and independent agencies which regulate different sectors of the economy. The primary roles of this overseeing are, first, to adjust the responsibilities of the ministries and agencies whenever necessary in order to regulate more effectively and, second, to over-rule their decisions whenever it is imperative for the achievement of other more important sectoral policies or broader national interests.

It is an open question whether the EU can effectively assume those two roles at present. The Treaties are exceedingly difficult to revise, the responsibilities of the institutions are fixed by the Treaties, the establishment of EU agencies requires very cumbersome procedures, over-ruling of the decisions of Union institutions is in certain cases impossible and in other cases legally complex,⁶ and lastly, the protection of the broader EU interest is a task left to the Commission which is the "guardian of the treaties". The Commission does indeed pursue through legal means those who breach particular treaty provisions or fail to fulfil their obligations, but there are many instances in which the Commission has been accused of not evaluating Community policies according to their overall impact on the economy of the EU and the welfare of EU citizens (e.g. "mad cow" affair, anti-dumping actions, regional subsidies etc.)

The essence of the problem with delegating decision-making to the EU is not so much that it

intrudes in the affairs of member states, but that too much of it may stultify common policies and that such policies may not be well coordinated. The present organisational structure of the EU imposes a limit on the policies that can be effectively/efficiently determined and supervised at the Union level, let alone enforced by EU institutions or agencies. It follows that if the Union is to do more of what the member states do now, the structure of the Union needs to be changed first. The capacity of the Union to manage effectively common policies very much depends on its organisational structure.

Conclusion

The nation state in western Europe remains the basic unit of political organisation and governance. Its involvement in the economy, however, is declining. Part of that decline is the result of its inability to control global economic forces. The state has also retreated from previous attempts to manage the economy too closely. In addition, membership of the EU has curtailed its power to regulate the economy and has transferred some policy responsibility to the Union.

To some extent, the retreat of the state at the national level has been the natural consequence of the expansion of the state at the EU level. This growth of the state at supranational level is likely to continue in the future. Nevertheless, certain (social) services will continue to be provided by the state at the national level and certain activities will continue to be regulated by national governments or their agents.

This paper has argued that, at minimum, member states will be responsible for the enforcement of EU policies. More importantly, however, as long as the EU does not have the same taxation powers and social responsibilities as its member states, it should not replace them. So in economic terms, the nation state need not shrink to oblivion. The paper has also argued that even where EU policies could in principle replace national policies, it would be unwise to implement uniform policies and regulations across the Union. Diversity plays a useful economic role and for this reason there should be a presumption in favour of policy-making at the national level.

Whether the EU should be given more policy responsibilities depends on how its institutions will be reformed in the future. As long as policy formulation and decision-making remain compartmentalised, the unitary nation state will have a competitive edge over regional blocs with circumscribed policy objectives and instruments.

⁶ We exclude here the legal review by the Court of the decisions made by the institutions in the context of the EC.