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Public goods in a federal Europe

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Federal Europe is unlike the United States of America. If the EU is to deliver more European common goods, it needs intensive vertical cooperation and separate standards for decision-making, administration and financing competences.

Europe is to become stronger and more sovereign by providing more and better European public goods (EPGs). Examples of EPGs are a common European asylum policy, shared instruments to prevent future pandemics or a European reduced-hours payment scheme. The European Union (EU) should take on more of the tasks to which it can lay claim by virtue of its size and function. Europe should become *more European*. In order to make good on these claims, developed by Bertelsmann Stiftung's Vision Europe working group, the Union more than likely will have to assume more of the features of a cooperative federal state. This will be even more evident after the Coronavirus crisis.

European strength and sovereignty, European common goods and European federalism are closely intertwined. With this in mind, we examine the federal dimensions of Europe and its potential

strengthening through more EPGs, by shedding light on different aspects of the European multi-level system. Putting the concept of European common goods into practice requires one to spell out more clearly the way forward and to know how these EPGs can then be set to work. The present policy brief and the underlying paper address the following issues: first, the appropriate institutional framework for the introduction and provision of European public goods; second, how best to phase in that provision within the European multi-level system of governance.

For this purpose, we use two central analogies. With the first analogy, we ask whether the EU as a *sui generis* political entity would not be better understood by being explicitly viewed as a co-existence of federal state and confederation. The second analogy compares the EU – especially its federal component – with the German model of

cooperative federalism or “administrative federalism”. From the strong and weak points of this model, much can be learned in terms of strengthening the EU via more EPGs.

First analogy: EU as co-existing federation and confederation

The European Union is a federal system *sui generis*. This characterisation is appropriate given the unique nature of the EU, but makes its understanding more difficult. Simplifying, we view Europe as a coexistence of the “supranational system of action” and the “intergovernmental system of action”. If one abstracts from institutional subtleties and existing overlaps, this constellation reflects a coexistence of a fully-integrated federation and a confederation of independent states. Both systems have opposing strengths and weaknesses with regard to the introduction and implementation of EPGs.

Federation is better for the conduct of EPGs

As for the regular *conduct* of European common goods, the federation-type supranational system of the European treaties provides a democratically and fiscally appropriate governance framework with a bicameral legislature (European Parliament and Council of the European Union), an executive (the European Commission) and the well-established EU budget. At the same time, this federation-like system offers only weak opportunities for the *introduction* of new EPGs beyond the tasks already enshrined in the EU treaties. Since Treaty changes are considered very difficult and EU budgets are severely constrained and depoliticised by multi-annual financial frameworks, additional common goods can hardly be instituted directly within this framework.

Confederation is better for the introduction of EPGs

For the “confederation” it’s the other way around. The intergovernmental system of action dominated by the executive branch is poorly suited for the regular *conduct* of European public goods. The intergovernmental system lacks effective accountability, and it is not integrated in the parliamentary budget procedure. Yet, it has the great advantage of flexibility in the initial participation in

new tasks, which can also be agreed *outside* the EU treaties. Since not all Member States have to join in, additional common goods can be *introduced* more easily within this system of action by “coalitions of the willing”.

A federal paradox?

New European common goods fit better into the supranational system, but can be introduced more realistically in the intergovernmental system. Are additional European public goods thus faced with a “federal paradox”? The contradiction calls for resolution. The introduction of EPGs is not worthwhile if there is a lack of democratic governance for their conduct. Nor is it worthwhile to plan the conduct of new EPGs supranationally if there is almost no chance for their introduction.

Treaty amendments sooner rather than later

However, the term “federal paradox” overstates the severity of the conflict. On the one hand, major treaty changes are considered very difficult, but they are not impossible. No constitution can remain permanently unchanged in a changing world. But as gruelling as renegotiations may be, sooner or later the EU will revise its treaties. Better sooner – there is much to be gained.

On the other hand, a truly federal governance for new EPGs introduced by intergovernmental coalitions of the willing does not necessarily have to use precisely the existing supranational system of action of the EU-27.

Use selective integration for more EPGs

Public goods in a federal Europe should not have to wait for treaty changes, because European citizens and firms cannot wait for enhanced performance in a dynamic and multipolar world. Thus, where treaty hurdles and/or veto players block timely progress, the possibilities for “EPG clubs” in or outside the treaties should be aggressively developed, so that coalitions of the willing can readily move forward. In the transition of new European common goods to the “federal-state-like” supranational system, the particular challenge of a suitable *democratic* governance for selective integration arises.

Within the framework of the first analogy, there would also be options for federation-like EPGs

Clubs, which provide solutions especially for legislative and fiscal competences – e.g. as special committees of the European Parliament and via supplementary EU budgets.

In relation to the *administrative* competences of additional common goods, the second federal analogy paves the way for new design options. The criteria for the federal allocation of competences presented there can be best applied to the full EU-27. Nevertheless, the criteria are equally applicable to selective integration in the form of club solutions *inter alia*.

Second analogy: Europe as an “administrative federalism”

The concept of public goods, applied to the allocation of tasks within the European multi-level system, is implicitly based on a clear division of tasks among levels of government: each level of government decides and regulates its own tasks, finances them with its own resources and implements them itself. This design, which corresponds to a US-American understanding of dual federalism, may indeed be the best solution for certain European common goods.

However, since the Union has hardly any EU-wide administration of its own, many common goods are likely to be delivered in cooperation with the Member States or their regions, similar to the Union’s current tasks. This means that

- the decision-making competence,
- the administration competence and
- the financing competence

are not located automatically at the same level. For future EPGs, the second analogy looks at how these competences can be allocated between the Union and the Member States or how they can be carried out jointly.

Germany is regarded – for better or worse – as a prime example of cooperative, vertically interwoven “administrative federalism”. Much can be learned from this counterpart to US-American federalism for the governance of European common goods.

Even less than the first, the second analogy claims a role model function. There are different historical reasons why the division of competences between the federal government and the Länder in Germany has developed in roughly the same manner as between the European Union and its member states. Nevertheless, since Germany has gone further in its federal development than the EU, there are lessons to be learned for EPGs from German experience – including bad experiences.

Full fiscal equivalence

First, we consider the advantages of directly enforcing the “correspondence principle” by bundling all three competences at the same level of government. Where this succeeds, full fiscal equivalence is established. Here, the conditions for efficient and democratically controlled task implementation are often very good. However, allocative and financial reasons will nevertheless suggest a separate allocation of the three sub-competencies over the levels for many EPGs.

More common goods through division of competences

The differentiated allocation of competences to the EU and the member states is particularly important in terms of European integration. Those European common goods, for which *all three* competences – including an EU-own administration – can be assigned to the central level, will in all likelihood account only for a fraction of all EPGs that could be put into operation. In other words, without a vertically cooperative European federalism, only a few additional common goods can be realised. However, more and better EPGs are – this is our premise – the key to a strong and sovereign Europe.

In order to make better use of this key, we formulate a criteria-based matrix as a “federal taxonomy” of how and under what conditions the three main competences are to be allocated between the central European and de-central Member State level.

Criteria for the decision-making competence

For the classification as a *European* public good, the decision-making or legislative competence is decisive. Here, the prime economic rationale for EPGs is to avoid cross-border spillover effects of

purely national legislation. If this goes hand in hand with *homogeneous* preferences of European citizens for the corresponding service, a purely European decision-making competence is the most logical solution.

Where spillover effects on the other hand face *heterogeneous* preferences, harmful cross-border effects are contained by EU framework legislation. Within the common framework, individual legislation of the member states then takes account of the different needs of citizens. Many core functions of the EU treaties – including free movement of persons, ban on state aid, tax harmonisation – create this elementary type of European public goods by containing spillovers through "negative freedoms" while leaving all other competences to the member states.

Criteria for the administration competence

The other important economic argument in favour of European public goods, the economies of scale of common tasks, is of a "production-technical" nature. It does not refer to the legislative competence, but to the administration competence. This important difference is often overlooked in the debate. Whether the "production" of a public good is more efficient at the central or decentralised level is decided upon criteria that are quite different from those for the basic decision-making competence.

Objective indivisibility, such as in European space travel, points to positive economies of scale and a centralised execution of tasks. But there are also services with negative economies of scale. In practice, they can quickly become relevant if a decentralised execution allows exploiting the significant salary differences among member states, whereas an integrated European administration would have to pay uniform, i.e. significantly higher wages overall. Many European public goods will be decided at the central level in accordance with their economic nature, but will be more cost-effectively administered in a decentralised manner.

Criteria for the financing competence

With the third sub-competence, financing, there are good economic arguments in favour of allocation to the sub-central level, if execution is also located there. Other, no less good arguments, however, clearly argue in favour of allocation to the

central level. Ultimately, it emerges that a central or decentralised financing competence can be a decisive factor in determining whether an additional EÖG is regarded as a genuine novelty – or merely as "more of the same".

In the German "administrative federalism" with frequent central legislation, but decentralised – sometimes even municipal – implementation, the financing decision is mirrored in the long-standing debate on the principle of connectivity.

Central financing with causal connectivity

In the case of *execution connexity*, the level executing a task is also responsible for financing it from own revenues. This principle is based on the argument that administrations only deal efficiently with their "own" money. In contrast, in the case of *causal connectivity*, the legislative, not the executive level, is responsible for financing the task ("Who orders, pays"). In Germany, this is based on the experience that central legislators tend to be particularly "generous" when the costs of a public task are borne by other levels. In German federalism, the clear advantages of causal connectivity as a governance model for the decentralised execution of centrally determined tasks have been established only slowly and against strong resistance.

Here we recommend, in contrast to Germany, to opt from the start for central financing of those European common goods that are delegated to the Member States for execution. In addition to incentive considerations, it is also important that the funding via EU budgets leads to a politicisation of the EPGs and stronger democratic embedding at the European level.

As a corollary, the full paper outlines the strengths and weaknesses of various central financing mechanisms for decentralised service provision. Since cost reimbursements on the one hand and tax shares on the other hand must be regarded as fringe solutions, traditional grants – surprisingly at first glance, but very plausibly on closer inspection – often turn out to be the most suitable instrument for innovative central funding.

Federal tasks as a European design mandate

Notwithstanding this focal point, the full version of the paper considers all plausible combinations of

centralisation and decentralisation of the three competences conceivable for EPGs. We outline four different scenarios for the federal provision of EPGs in Europe. These scenarios represent prototypical constellations. They cover a broad spectrum of federally organised European common goods.

In this way, our study's approach of viewing Europe as if it was a federal state actually contributes to strengthening the EU through more and better EPGs, insofar as "dual federal" solutions of complete centralisation alone are no longer considered.

The reservation on European common goods, according to which it would hardly ever be possible in practice to centralise *everything* of a public task at European level, is – as the whole paper has shown – very often true. But this reservation is not a defensive argument. On the contrary, it is a *design mandate*.

NextGenerationEU as a starting point for EU innovation?

The main interest of the investigation is directed at public tasks, at the deepening of European integration through European public goods. However, the options for deepening via the fiscal side of the Corona recovery plan "NextGenerationEU" also come into view.

The innovations in terms of EU taxes and EU debt launched by the recovery package – albeit still to be concretised – open up additional possibilities here that would hardly have arisen without the great coronavirus crisis as an un-wished-for catalyst for European progress.

In view of this resurgent debate on the future financing of the EU, we discuss the old and contentious issue of *juste retour*, i.e. the Member States' attitude of always attempting to claw back in receipts/rebates as many of their contributions as possible. Far from being a special problem of fiscal policy, *juste retour* symbolically and at the same time factually embodies one of the central hurdles that still distinguishes the supranational system of the EU from the "normal" upper level of a federal state. Ultimately, *juste retour* is so relevant because it occurs on *both* the expenditure and revenue sides. It will therefore only be solved

consistently if key revenue instruments politically assigned to the EU are used to finance services with a visible European added value – i.e., genuine European common goods.

Conference on the Future of Europe

The responsibility for this design mandate for a more European, more federal Europe does not lie with science alone. The coronavirus pandemic has postponed, but not cancelled, the start of the Conference on the Future of Europe. The upcoming conference will look very different from the one originally planned. It will reflect the experience of the coronavirus pandemic. It will take into account the shameful failure of European solidarity at the beginning of the pandemic as well as the –unexpected for some – strength and unity in the further course of the crisis (and in the parallel conclusion of the Brexit negotiations).

From both sets of experience, good and bad, the lesson for Europe is that its future is crucially linked to its strength and its unity. Such unity is easy to demand, but difficult to achieve. In Europe, whose diversity is its main strength and its pride, there is *only one path* to unity: a strong, fair and, moreover, efficient European federalism.

About the Project

In the *Vision Europe* project of the "Europe's Future" programme, we make and promote innovative proposals to rethink the European Union together with partners and high-level experts from all over Europe. At the same time, we develop new tools to help better communicate Europe.

This Policy Brief was written within the framework of the Reflection Group on European Public Goods and is based on the publication "Public goods in a federal Europe". You can find the corresponding study [here](#).

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