

Explaining Patterns of Delegation in EU Humanitarian Aid Policy

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Abstract: This article analyses delegation patterns in the European Union's humanitarian aid policy. Rational-choice principal-agent accounts form the first theoretical perspective from which this topic is investigated. Sociological institutionalism is brought in next to round out our understanding of delegation in the field of EU humanitarian aid. Three issues are addressed. Why did EU member states delegate authority over humanitarian aid decision-making to the European Commission? How do member states maintain control over the Commission once responsibility has been transferred? And what are the implications of delegation for supranational autonomy?

Key words: Principal-Agent theory, rational-choice institutionalism, sociological institutionalism, EU humanitarian aid policy

INTRODUCTION

This article analyses patterns of delegation in EU humanitarian aid policy. Rational-choice Principal-Agent (P-A) accounts offer the first theoretical lens through which this topic is investigated. Within the field of EU studies, case study analysis using P-A has mainly focused on internal and especially regulatory policy domains. Scholars who have used insights from P-A analysis to study EU external relations have mainly concentrated on external trade policy, with some exceptions.

Matrix: P-A analysis of EU policy domains

	<i>Internal</i>	<i>External</i>
<i>Regulatory</i>	Competition policy (Schmidt, 1998) Internal market (Pollack, 2003a)	External trade policy (Meunier, 2000; Kerremans, 2004)
<i>Distributive</i>	Cohesion policy (Blom-hansen, 2005)	<i>Humanitarian aid policy</i>

Pollack (2002: 212) asserts that additional case studies are needed to test P-A hypotheses on patterns of delegation in the EU. Taking a cue from Pollack, existing P-A models will be used to analyse EU humanitarian aid policy, thus for the first time applying P-A to an external, distributive EU policy domain (see matrix above). In addition, humanitarian aid provides an interesting case on which to test P-A models because, as opposed to trade, which is an exclusive Community competence, humanitarian aid is an area of shared competences. While a substantial part of the European

humanitarian aid budget has been entrusted to the European Commission, responsibility for humanitarian aid has only been partially transferred, and each member state conducts a national humanitarian aid policy parallel to the activities undertaken at the EU level.

Tallberg (2002: 42) posits that leaving P-A explanations of delegation unchallenged “neither lends credibility to the claims of P-A theorists, nor encourages theoretical refinement”. Aspinwall and Schneider (2000: 25–26) phrase it even more forcefully, as they believe that “it is crucial that theorists take into account alternative theoretical explanations to the puzzles they are addressing, and this applies primarily to rational choice theorists, who should be forced to relax their universality claims.” In this article, sociological institutionalism is brought in to enrich our understanding of delegation in the field of EU humanitarian aid. The following issues are discussed, first from a rational-choice P-A and then from a sociological institutionalist viewpoint: rationale of delegation, design of delegation, and implications of delegation for supranational autonomy.

I. RATIONAL-CHOICE PRINCIPAL-AGENT

A. Rationale of delegation: functional demands

Why did EU member states (principal) delegate to the European Commission (agent) the responsibility for carrying out humanitarian aid tasks on their behalf? According to rational-choice P-A analysis, institutional choices are guided by the functions an institution is to perform and the anticipated effects of a given institutional arrangement on policy outcomes (Pollack, 1997: 101–102; Tallberg, 2002: 25). From the transaction-cost perspective on which P-A models are built (Doleys, 2000), delegation takes place when expected benefits outweigh expected costs.

Benefits of delegation

Demand for policy-relevant expertise

Political actors know the outcomes they want to obtain but are uncertain about which specific measures will achieve these results. Such policy uncertainty provides a motivation for delegation to a specialized agent with the policy-relevant expertise necessary to perform the task. The specialist knowledge and competences of the Commission’s Humanitarian Aid Office ECHO are harnessed for making decisions in the technically complex domain of humanitarian assistance. Member states do not exclusively rely on the Commission as a supranational expert. However, with a staff of 200 desk officers in Brussels and 100 field experts, ECHO is better equipped in terms of human resources than national humanitarian aid departments.

ECHO has created tools which should allow it to serve as a reservoir of well-founded know-how necessary to design quality humanitarian responses such as methodologies used to identify areas facing high humanitarian needs, “forgotten crises” and disaster prone countries. In addition, ECHO has steadily increased its field presence to improve the analysis of humanitarian crises. Specialists in key humanitarian sectors (such as health, water and sanitation, provision of food, shelter) are located in around 40

offices throughout the world. ECHO has also established a Framework Partnership Agreement with the organizations implementing EU humanitarian projects¹ to ensure that they have a proven track record in relief and are financially reliable.

Efficient and rapid decision-making

Rather than governments negotiating the details of all policy proposals in the Council, it might be more cost-efficient to adopt general guidelines. The specific contents of these guidelines would then be worked out through the Commission's implementation measures (Tallberg, 2002: 26–27). In addition to a reduced workload for principals, delegation can help in ensuring “the swift and efficient adoption of implementing regulations that would otherwise have to be adopted in a time-consuming legislative process by the member governments themselves” (Pollack, 2005: 33). Humanitarian emergencies necessitate a quick response. As delegation speeds up decision-making, humanitarian action, by its very nature, seems to require a transfer of responsibility to an executive agent. Furthermore, because of the limited predictability and volatility of humanitarian crises, relief is not easily regulated through forward-looking legislative instruments.

Credible commitment

Principals may delegate authority to establish a credible commitment to their long-term aims, which might conflict with their short-term ambitions. Elected officials in governments, for reason of seeking re-election, may face the temptation to renege on promises. Commissioners are appointed for at least five years. The absence of day-to-day electoral pressures is all the more applicable to *fonctionnaires* who may stay at the Commission for their entire career. Agents are therefore believed to have fewer incentives to deviate from long-term goals even when those no longer enjoy popular support (Majone, 2001: 111).

In 1996, EU member states adopted a Regulation which stipulates that EU humanitarian aid decisions must not be “guided by political considerations” and must be taken “solely according to victims’ needs” (Council, 1996). Because external aid also constitutes a potentially influential foreign policy tool, member states’ short-term interests might lead them to allot humanitarian funds to high-profile crises allowing for donor visibility or on the basis of security considerations or historical ties. Delegating to an independent Commission office lends credibility to member states’ commitment to provide relief equitably. Instructions from member state principals in the Council on how ECHO should spend the humanitarian funds with which it has been entrusted are not allowed.

A concrete translation of ECHO’s commitment to provide genuinely needs-based aid is its support for so-called forgotten crises, emergencies which face high humanitarian needs but receive limited media coverage and attract an insufficient number of donors. The Commission has been allocating a growing share of its resources to such silent crises, from 20% in 2003 to 30% in 2005. As consultants evaluating ECHO’s work phrased it: “Bilateral humanitarian aid focuses on the more visible and more political

disasters that are in line with political priorities. DG ECHO's humanitarian aid to the less visible and unattractive forgotten crises allows the Member States' bilateral aid to respond to the so-called 'CNN-Crises'." (Daldrup et al., 2006: 17)

Economies of scale and scope

Delegation to a supranational agent allows principals to profit from economies of scale and scope. As a world leading humanitarian donor, ECHO may attain more pronounced international visibility and impact than any individual member state donor could achieve on its own. Potential economies of scale include mobilising a critical mass of funding, carrying out a large volume of activities, accumulating expertise and building up a common body of data, and establishing uniform procedures for managing humanitarian aid. Potential economies of scope emerge because the Commission sponsors humanitarian aid operations with a wider geographical and sector coverage than any of the member states.

Avoid free-riding

When states can benefit from a global public good such as the worldwide fulfilment of humanitarian needs, whether or not they contribute to its provision, the free rider problem might arise. The main source of ECHO funds is the European Community budget to which all member states are obliged to make a fixed contribution. By transferring the responsibility for humanitarian aid to the EU level, no national government is capable of defecting from its commitment to provide assistance while letting other EU states bear the financial burden.

Enhance acceptability

Member states might resort to delegation because this prevents blame from falling on them if a humanitarian operation goes wrong (Martens, 2005: 656–657). Delegation to the Commission can also serve as a legitimiser. Recipient countries are sometimes reluctant to allow international humanitarian action, arguing that it constitutes a breach of their sovereignty. The EU as a supranational body has no record of colonialism and has therefore been relatively acceptable to the South. Activities launched by the Commission, which is perceived to operate autonomously from governments and in a relatively non-political manner, might carry fewer overtones of charity, dependence, or interventionism than would humanitarian operations conducted directly by, say, the United Kingdom or France.

Costs of delegation

Collective principal

The Council is a collective principal constituted of the 27 EU member states. The pooling of sovereignty required before a collective principal can delegate a task to a supranational agent brings with it the risk of producing "a collective policy for the Member States that is different from the ideal point determined at the national level" (Lake and McCubbins, 2006: 367).

The difference between delegating responsibility for relief to national humanitarian aid agencies and to ECHO is that the decision-making structures at the EU level take into account the policy preferences of other states, possibly causing a discrepancy between a member state's goals and ECHO's final output. The rules determining how decisions are made in the collective principal matter here. Humanitarian aid is governed by qualified majority voting, which means that an individual member state cannot veto a decision which is not in line with its preferences.

Agency losses

Central to P-A theory is the idea that the preferences of principals and agents are not perfectly aligned and that agents try to pursue their private interests (Kiewiet and McCubbins, 1991: 5). Principals develop control mechanisms to constrain opportunistic agency behaviour, but such devices are imperfect (Hawkins et al., 2006: 32). Therefore, agents possess a margin for "residual non-compliance" (Tallberg, 2002: 42). Because EU countries cannot completely control ECHO, there is bound to be some slippage between the desired goals of the member states and the actions of their agent.

Agency dysfunction

Traditional P-A accounts recognize dysfunction only to the extent that it is caused by agency opportunism. Yet other factors can lead to discrepancies between an agent's mandate and its performance. Firstly, principals themselves might be at the source of an agent being unable to deliver on its assigned tasks. An example is member state pressure on the Commission to allocate humanitarian funds to satisfy political goals rather than the most acute needs, as was the case in Kosovo (1999). This type of measure challenges the Commission's reputation as a neutral aid provider. Such principals undermine the benefits to be reaped from delegation in terms of greater credibility and acceptability of ECHO humanitarian operations.

Secondly, while specialization allows agents to build up policy-relevant expertise, it can also lead to a lack of organizational coherence (Barnett and Finnemore, 2004: 37). Responsibility for EU external aid is split between DG Development, DG External Relations, DG EuropeAid, and DG ECHO. Directorates-General compete for funds and turf, and coordination efforts to ensure coherence of the overall EU aid strategy remain hesitant.

Thirdly, dysfunctional behaviour may be triggered "when bureaucracies are given huge, aspirational tasks" but "a complex world defies the bureaucracy's tidy boxes and neatly circumscribed division of labor" (Barnett and Finnemore, 2004: 44). Pathologies in performance may emerge when agents are asked to implement goals that are difficult to juggle (Gutner, 2005: 11). The Commission's mandate to provide apolitical relief might clash with its ambition to promote human rights via aid conditionality. To put it sharply: if assistance is denied because of human rights abuses, what about the right to food, shelter and health care?

Fourthly, while standard modes of operation allow an organization to competently perform its tasks, sometimes procedures become ends in

themselves and start obscuring the organization's overall mission (Barnett and Finnemore, 2004: 39). Reportedly, the Commission's obsession with accountability causes delays in the disbursement of humanitarian funds and has a counterproductive effect on ECHO's core goal of flexible and rapid humanitarian response (Interview Médecins Sans Frontières 18/08/2005).

Fifthly, dysfunction might result from the Commission's dual role as agent and principal (Gutner, 2005). ECHO delegates responsibility for on-the-ground implementation of humanitarian operations to NGOs and UN agencies. Dysfunction might occur due to the latter's underrated achievements or their pursuance of their own interests possibly in contradiction with the Commission's or member states' preferences.

B. Design of delegation: checking agency behaviour

Principals fear that the agent will use the room provided by delegation to pursue its self-interest – believed to consist of budget or competence maximization – possibly at the expense of their own preferences. Therefore, principals establish control mechanisms to minimize agency losses. Control devices consume principals' resources (Kiewiet and McCubbins, 1991: 27), and “principals will adopt a given control mechanism only if the cost is less than the sum of the agency losses that it reduces” (Pollack, 1997: 105). Moreover, as Tallberg (2002: 28–29) points out, the very rationale of delegation may prevent principals from establishing rigid control mechanisms, since “certain functions delegated require that agents enjoy substantive levels of discretion in the execution of their powers”. Principals face the choice between minimizing the risk of agency slippage through strict oversight procedures or allowing the agent sufficient independence to carry out its responsibilities efficiently (Kassim and Menon, 2003: 125).

Obligation for ECHO to provide information on its activities

To curb agency losses, principals need to be well-informed on agents' conduct (Pollack, 1997: 106). Control is complicated by the agent's informational advantage. Agents know more about their actions than principals do, which makes it difficult for the principal to uncover unwanted agency activity after delegation. While specialization is a reason for delegating, it simultaneously exacerbates the problem of hidden information. “If the principal must learn everything that the agent knows and observe everything the agent does, the gains from specialization diminish accordingly. At the extreme, with perfect knowledge and monitoring, it is almost as if the principal has performed the task itself” (Hawkins et al., 2006: 26).

In order to acquire information on the Commission's performance, the 1996 Council Regulation on humanitarian aid requires the Commission to submit an annual report to the Council with a summary of the operations financed in the course of the given year. However, relying on self-reporting is problematic in a context of informational asymmetry. Lake and McCubbins (2006: 350) pointedly remark: “The problem of hidden information which permits agency slack to arise in the first place cannot be solved simply by mandating the agent to tell the principal all that he knows.”

Ex ante administrative procedures defining the scope of ECHO activity

Principals strategically design procedures in order to increase the likelihood of obtaining the desired policy outcomes from their agents. They draw up a contract which specifies the scope of agency activity, the instruments the agent is to use, and the procedures to be followed (Hawkins et al., 2006: 28) in “a preemptive attempt to reduce the incidence of shirking by effectively limiting the bureaucracies’ *capacity* to shirk” (Doleys, 2000: 538).²

Scope

The 1996 Regulation emphasizes that humanitarian activities are not intended to realize political goals. This can be seen as a commitment to the humanitarian imperative, i.e. the moral duty to help crisis victims irrespective of political considerations. At the same time, the political neutrality of EU humanitarian aid can be linked to the member states’ desire to limit the Commission’s role in ‘real’ foreign policy.

Instruments

Member states conferred upon the Commission large discretion to decide upon the best way “for allocating, mobilizing and implementing” humanitarian aid (Council, 1996). The Regulation *does* explicitly limit the Commission’s humanitarian activities to civilian operations, excluding the use of military means for humanitarian purposes. With blatantly political measures, let alone military ones, we clearly move beyond the domain of ECHO competences to enter the Common Foreign and Security Policy and the European Security and Defence Policy, areas where member states have been reluctant to delegate authority to a supranational agent.

Decision-making procedures

Over time, ECHO’s discretion has expanded to the benefit of timely humanitarian assistance and at the expense of tighter member state scrutiny. In the 1996 Regulation, the Council agreed on the need to establish flexible and fast decision-making procedures for the financing of humanitarian operations. However, in 1999, a large-scale evaluation pointed out that decision-making procedures were ill-suited to sudden emergencies, in which ECHO took too long to release funds and adapt to swiftly changing realities in the field (Franklin Advisory Services, 1999). In 2001, a fast-track procedure was introduced, which enabled the Director-General of ECHO to make primary emergency decisions within 24 to 48 hours of maximally €3 million and for a maximum of 3 months without prior consultation with member state principals. While this fast-track procedure provides ECHO with great decision-making autonomy, it is limited to small sums and has so far only been used for natural disasters, suggesting that with regard to politically sensitive emergencies, member states are less willing to grant their agent independence. Even after the adoption of the fast-track procedure, humanitarian NGOs as well as the Commissioner for humanitarian aid have complained that red tape still slows down ECHO in efficiently meeting its humanitarian mandate (*De Standaard*, 24 July 2006).

Discretion-based delegation

The 1996 Regulation resembles “discretion-based delegation”, under which the principal formulates the general goals to be achieved and then leaves it to the agent to find the best method to fulfil the assigned task, rather than “rules-based delegation”, which describes in detail what the agent should do (Hawkins et al., 2006: 28-29). Discretion-based delegation is useful when – as is the case for humanitarian aid – policy uncertainty is high, the delegated task requires specialized knowledge, or flexibility is important. However, it creates greater opportunities for agency opportunism. Unsurprisingly, member state principals submitted the Commission’s humanitarian work to stringent *ex post* control. This is called the substitution effect, viz. if *ex post* opportunities to monitor are effective, *ex ante* limits on discretion are less necessary (Huber and Shipan, 2004: 24).

Ex post oversight procedures to monitor ECHO

McCubbins and Schwartz (1987: 426–434) distinguish between “police-patrol oversight”, in which principals personally engage in detailed vigilance of agency action, and “fire-alarm oversight”, where principals rely on interested third parties to monitor agency activity. Kiewiet and McCubbins (1991: 33–34) add that principals can supervise their agents through “institutional checks”, whereby one agent is charged with monitoring the activities of another agent or is given the power to block its decisions.

Police-patrol oversight

Pollack (1997: 114) defines comitology³ as the primary police-patrol oversight method over the European Commission. The Humanitarian Aid Regulation provides for the establishment of the Humanitarian Aid Committee (HAC). The HAC functions as a management committee or a regulatory committee, enabling member state representatives to exert genuine control over ECHO. In reality, the HAC has never rejected an ECHO proposal. However, this need not automatically imply that the committee is merely a rubber-stamping mechanism.

The first explanation for the 100% approval rate is the fact that ECHO’s proposals are generally found to be well-designed and need little alteration (Interview HAC representative 10/04/2006). This confirms the benefits to be gained from delegation to a supranational body, functioning as a reservoir of expertise and as a neutral entity providing objective proposals. Conversely, it is in the Commission’s interest to invest in high-quality work as authority is granted only to the extent that the agent appears to perform the delegated task in a satisfactory manner.

In addition, the HAC might have more influence than is at first assumed through “rational anticipation” (Pollack, 1997: 111). ECHO anticipates principals’ wishes and adjusts its behaviour accordingly. It puts forward proposals which it deems acceptable to all member states (Mowjee and Macrae, 2002: 17; Interviews HAC representatives 12/04/2006 and 08/05/2006). P-A holds that agents strive to escape oversight by principals. However, control mechanisms might actually be to the agent’s benefit. The HAC works as a self-protection device for ECHO. Contacts with national

HAC representatives allow ECHO to stay in touch with member state sensibilities. This enables the Commission to avoid transgressing what is considered acceptable by principals and being punished afterwards.

Fire-alarm oversight

Aid beneficiaries and EU citizens

Populations affected by humanitarian crises constitute a first potential fire-alarm. However, recipients in third countries have no official channels to influence ECHO policy-making. Chances that EU citizens – who have more opportunities for shaping donor policies through party or pressure group politics for instance – will sound the fire-alarm on humanitarian issues are compromised by lack of personal involvement.

Humanitarian NGOs

Thanks to their in-the-field operationality, NGOs may provide principals with useful information on ECHO behaviour. Yet there is no reason to assume that their interests coincide with those of principals. NGO advocacy in general is collegial with ECHO policies rather than directed against them. Despite occasional friction, contacts between ECHO and VOICE (Voluntary Organisations in Cooperation in Emergencies), a lobbying network of European NGOs active in humanitarian aid delivery, seem to be characterized by trust. One VOICE member, when describing a meeting with ECHO, stated “I walked in and had the feeling as if I was meeting friends” (VOICE, 2004: 13). One might wonder in particular whether NGOs’ fire-alarm potential is not thwarted by their financial dependence. NGOs, which receive 50 to 60% of ECHO’s budget, need Commission funding for carrying out their activities and hence are likely to be mild in their assessment of ECHO. Then again, European NGOs can usually rely on considerable private funding and choose between various sources of public funding. Apart from ECHO, member governments provide support to humanitarian NGOs. Furthermore, the relationship between ECHO and its NGO partners is one of mutual dependence with ECHO relying on NGOs for the execution of humanitarian projects.

Media

The media can play a role in holding donors such as the Commission accountable for their humanitarian efforts or lack of them (the so-called CNN-effect). Yet the media’s fire-alarm function is uneven because for a crisis to be covered, it has to be newsworthy (Smillie and Linear, 2003: 14; Olsen, 2004: 90). A “photogenic” crisis like the 2004 Tsunami is easier to “sell” than the problem of the Sahrawi refugees living in camps in the Algerian desert and depending entirely on humanitarian aid since 1975. Moreover, media coverage is often patchy and brief or even incorrect due to a lack of direct investigation (Smillie and Linear, 2003: 14). The media might also be “used” by the donors that they could hold accountable. It has been suggested that donors have manipulated the media to justify disproportionate spending in high-profile emergencies like Kosovo or Afghanistan (Smillie and Linear, 2003: 14). In addition to these general

constraints, an explicit target of the Commission's humanitarian aid policy is forgotten emergencies (30% of ECHO's budget in 2005), which lack media attention.

Institutional checks

European Parliament

The Parliament has the power to dismiss the Commission (Article 201 TEC). While it has never actually done this, the threat of dismissal is not void. The Santer Commission episode⁴ as well as the Parliament's critical attitude before approving the Prodi and Barroso Commissions show that the Parliament is willing to flex its muscles vis-à-vis the Commission. The European Parliament has the final say over the annual budget granted to ECHO⁵. Periodically differences have arisen between the humanitarian needs that ECHO would like to meet and the budget actually made available (Interview ECHO 24/04/2006).

The Parliament's scope for influencing humanitarian policy through co-decision⁶ is limited as it is not necessary to adopt new legislation for every allocation of humanitarian resources. Moreover, implementation power resides with the Humanitarian Aid Committee, which brings together the Commission and member states to the exclusion of the Parliament. In July 2006, a procedure was adopted which confers on the Parliament the formal right to intervene in comitology. An absolute majority of the Parliament is able to block quasi-legislative implementing measures in domains governed by co-decision⁷.

Apart from short bursts of interest during high-profile emergencies, scrutiny by the European Parliament of humanitarian aid policy – which constitutes only around 10% of total EU external aid – remains weak. The potential for parliamentary oversight is further constrained because there is no separate sub-committee dealing with humanitarian assistance. Humanitarian issues travel between the Development Committee and the Foreign Affairs Committee depending on the beneficiaries' ACP affiliation or lack of it. Some parliamentary questions also seem to indicate that MEPs lack the relevant knowledge to form a sound opinion on ECHO decisions. This confirms that the informational advantage arising from the technicality of the agent's decisions can shield the agent from intrusive monitoring. Humanitarian NGOs, which do possess expertise, can lobby MEPs to formulate questions on humanitarian aid policy. In this way, oversight mechanisms (NGO fire-alarms and parliamentary overview) can reinforce each other in supervising agency behaviour.

European Court of Justice (ECJ)

If a member state can demonstrate to the ECJ that the Commission has acted beyond its mandate, the offending Commission act may be declared void "on grounds of lack of competence, infringement of an essential procedural requirement, infringement of [the] treaty or any rule of law relating to its application, or misuse of powers" (Articles 230 and 231 TEC). Furthermore, any natural or legal person who can demonstrate that a Commission action is of "direct and individual concern" to him/herself can

lodge a complaint before the ECJ. The ability of individuals to file a complaint on Commission behaviour before the Court constitutes an additional fire-alarm (Pollack, 1997: 109) and provides a further example of how various constraint mechanisms (citizen fire-alarms and judicial overview) can interact.

European Court of Auditors

The Court of Auditors (Articles 246 to 248 TEC) has the mandate to examine Commission departments' financial and managerial performance. While it has been noted that audit offices often concentrate on financial probity and value for money and not on the humanitarian policy itself (Collinson and Buchanan-Smith, 2002: 3), the reports on ECHO activity by the Court of Auditors⁸ go further than mere financial scrutiny. Of course, it remains a moot point whether financial auditors, who might not possess the necessary expertise in humanitarian aid delivery, are in a position to comment upon the content of humanitarian operations.

Mechanisms to sanction ECHO

The extent to which principals can control an agent depends not only on the efficacy of monitoring but also on the ability to apply sanctions (Pollack, 1997: 105). Sanctioning punishes deviant agency behaviour. Moreover, the mere threat of sanctioning might prevent agency shirking (Doleys 2000: 538).

A first sanction is cutting the agent's budget (Pollack, 1997: 112). In the first half of the 1990s, member states channelled a growing proportion of their humanitarian aid budget through the Commission. By 1994, ECHO had become the world's largest humanitarian donor, managing more than half of the funds devoted by Europe (Commission and member states) to humanitarian aid. However, human resources and administrative capacity in Brussels could not handle the increased workload. Lennon (2001: 138) remarks: "The failures of the overstretched Commission to spend the funds allocated and poor supervision of funds spent have led to a serious revision of the tendency of member states to donate a growing share of their bilateral aid through the EU." ECHO's budget gradually declined, from €764 million in 1994 to €441 million in 1997. Since the beginning of the new millennium, ECHO has made efforts towards more professionalism and better management. This demonstrates that the power of the purse provides principals with considerable leverage over an agent's behaviour. The recent increase in ECHO's budget (from €492 million in 2000 to €652 million in 2005 and then to an annual €900 million agreed upon for 2007–2013) might be partly attributable to member states' restored confidence.

A second sanction is to dismiss agency personnel perceived to be drifting from principals' preferences (Pollack, 1997: 112). For the Commission, the power of dismissal can only be exercised once every five years. Moreover, while member states have some influence over the choice of the Commissioner, they have no input in the recruitment of ECHO personnel. Yet, member states have some leverage over Commission staff through their

influence over the career prospects of those wishing to return to work in the national political arena after their term at the Commission.

The most radical sanction is the revision of the agent's mandate by amending the regulation that delegates authority to it (Pollack, 1997: 109–110). Article 20 of the 1996 Regulation on humanitarian aid stipulates: “Three years after entry into force of this Regulation, the Commission shall submit an overall assessment of the operations financed by the Community under this Regulation to the European Parliament and to the Council, together with suggestions for the future of the Regulation and, as necessary, proposals for amendments to it.”⁹ This provided member states with the opportunity to “clip the Commission's wings” if it was found acting in an undesirable way (Pollack, 1997: 112). However, in a first pillar domain like humanitarian aid, the Commission has the exclusive right to initiate legislation. The Commission decided not to submit a proposal for a modified Regulation. Without a prior Commission initiative, principals in the Council cannot change ECHO's humanitarian mandate.¹⁰

Such a substantial barrier to re-contracting seems a condition for credible commitment. The self-commitment by principals to a given policy via delegation is only credible if the supranational agent does not face the immediate threat of a revision of its mandate, which might lead to a withdrawal of part of its authority or to its replacement.

C. Agency autonomy shaped by the Principal-Agent relationship Communicating vessels: stronger delegation equals stronger control

The Commission gradually expanded its humanitarian activities without explicit competence in the Treaties. Humanitarian aid entered the EU realm as one instrument for development policy towards ACP countries in the 1969 Yaoundé II Convention. From the ACP countries, the geographical scope of EU humanitarian aid extended progressively to all third countries. The 1991 decision to create ECHO was an internal Commission decision without formal member state input. EU humanitarian action only received a legal basis in 1996 when the Council adopted a Regulation which attributes important competences to the Commission. The Constitutional Treaty, if ratified, would turn humanitarian action into a treaty-based EU competence. Member governments were thus faced with “a strategic context in which the basic rules of the game ha[d] been dislocated by supranational shirking” and adjusted to this new political reality by ratifying the moves of the supranational institution (Tallberg, 2002: 39–40). The fact that member states *a posteriori* legalized a situation which was the result of Commission competence maximization points to an independent agent able to pursue its own agenda.

Nevertheless, while legally enshrining the Commission's responsibility for humanitarian aid, the 1996 Regulation was also used by member states to step up control over the Commission (Mowjee, 1998: 259; Ascroft, 1999: 187–188). Prior to 1996, member states were simply informed of ECHO's funding decisions at quarterly meetings (Brusset and Tiberghien, 2002: 56). The Council Regulation established a comitology committee which can block the Commission's measures by qualified majority. The final text also

requires the Commission to notify member states within no more than one month of the approved humanitarian aid operations. This obliges ECHO to provide information on its activities on a much more continual basis than the once a year basis originally suggested in the Commission's draft.

Indirect principal influence via rational anticipation

The Commission's reluctance to amend the Humanitarian Aid Regulation might suggest that control mechanisms set up by principals have no significant impact. Yet a closer analysis shows that they have been quite effective in inducing change in ECHO's agency. In late 1999, ECHO engaged in an internal reform process to improve the management of humanitarian aid. Moreover, while the mandate as set out in the 1996 Regulation remained unchanged, the way it was filled in shifted. ECHO began focusing on immediate, life-saving relief in emergencies, withdrawing from activities tilting towards development or crisis management.

ECHO's self-imposed censure through the tightening of management procedures as well as the more restrictive interpretation of its mandate seem to contradict the predicted mission creep attempted by supranational agents. Yet change without explicit member state intervention (such as an amendment of the agent's legal mandate) can occur through the process of rational anticipation. The control exercised by member states, the European Parliament, and the Court of Auditors together with the institutional fragility of ECHO (initially set up for a trial period of 7 years ending in 1999) and ECHO's declining budget in the second half of the 1990s undeniably imposed constraints on the Commission. These were further intensified by the collapse of the Santer Commission in 1999, an experience which presumably was all the more traumatic for ECHO since one of its own senior staff members had been found guilty of malpractice in 1998. In a "dramatic" period in EU politics, ECHO, rationally anticipating the probability of sanctions, needed to pull itself up by its bootstraps in order to avoid the ultimate sanction – its shutting down. Tellingly, the reforms undertaken closely correspond to the shortcomings in ECHO's functioning identified in the reports by the Article 20 Evaluators, the Development Council, the European Parliament, and the Court of Auditors, which were issued around the turn of the millennium. In this sense, agents seem to be looking first and foremost for turf *protection* rather than turf *expansion*. In order to secure institutional perpetuation, they might even avoid further competence expansion, which explains ECHO's "voluntary" turf reduction.

II. SOCIOLOGICAL INSTITUTIONALISM

A. Rationale of delegation: legitimacy and appropriateness

According to sociological institutionalism, principals delegate authority not so much to reduce the transaction cost of decision-making but because delegation is seen as legitimate and appropriate. In the words of Barnett and Finnemore (1999: 703), "organizations may be created and supported for reasons of legitimacy and normative fit rather than efficient output; they may be created not for what they do but for what they are – for what they represent symbolically and the values they embody". Institutional choice is

the result of “institutional isomorphism” (McNamara, 2002), i.e. the diffusion of organizational models which are widely accepted as appropriate even though they are not necessarily the most efficient.

Did member states delegate responsibility over humanitarian aid to the European Commission not because of functional benefits but because they complied with widespread norms and taken-for-granted institutional formats? The post-Cold War period, which saw the outbreak of a multitude of both natural and man-made humanitarian disasters, witnessed a new attitude towards humanitarian aid provision. While previously, humanitarian action was considered to be a minor aid instrument in the margins of international relations and carried out by a relatively small set of specialized humanitarian workers, from the beginning of the 1990s, humanitarian aid came to be seen as a new duty incumbent on the international community. Western governments stepped up both the budgets allocated to humanitarian action as well as their involvement in the provision of humanitarian aid (Macrae et al., 2002: 30). However, this increased international humanitarian engagement seemingly did not go hand-in-hand with the spread of a particular preferred institutional set-up for conducting humanitarian aid policy. There are no indications that EU decision-makers drew on the UN example when deciding on the EU’s humanitarian aid architecture. The UN Department of Humanitarian Affairs, created in 1991, was charged with ensuring the coordination between the work of the various UN humanitarian agencies while ECHO was first and foremost designed as a funding body responsible for concluding contracts with NGO and UN partners carrying out EC sponsored humanitarian projects. In EU member states, humanitarian aid agencies tend to be departments of foreign affairs ministries while ECHO is explicitly insulated from the Common Foreign and Security Policy. Therefore, diffusion from the member state to the EU level is also unlikely.

The Commission had been involved in providing relief since the late 1960s on an ad hoc basis with responsibility scattered among different Directorates-General. As the scale of humanitarian activity increased,¹¹ and as they were confronted by the evidence of inadequate preparation for the humanitarian crisis in Iraq after the first Gulf War and by the looming crisis in former Yugoslavia, the Commissioners then in charge of external relations agreed on the need to establish a structure exclusively dedicated to the management of humanitarian aid. The main objective was to improve efficiency and internal coordination in the delivery of EU humanitarian assistance (European Commission, 1991). Rather than relying on a fixed institutional template, the form of the Community’s humanitarian body had to be adjusted to its tasks. The possibility was preserved of altering this institutional format in response to changing circumstances. In the 1991 decision to create ECHO, the existence of ECHO was restricted to a trial period of 7 years after which an in-depth evaluation would take place with the possibility of discontinuing ECHO. The 1996 Council Regulation allowed for a revision of the existing legal and institutional arrangements three years after its adoption.¹² The efficiency concerns proposed by P-A models seem to have been the main drive for creating a humanitarian aid office at the EU level.

Sociological institutionalism might agree that member states delegated authority to a supranational agent to gain in terms of efficiency but would then argue that they were “instructed” to do so by the dominant rationalist Western culture, which attributes great value to technical expertise, specialization and efficiency (Finnemore, 1996; Haas, 1992; Meyer and Rowan, 1977). Delegation to increase efficiency has become a habitual, socially-ingrained practice. Principals who delegate are not just responding to functional demands: “the perception that delegation to NMIs [non-majoritarian institutions] is the best option for dealing with certain problems is socially constructed, and that process is always analytically prior to the decision to delegate” (Thatcher and Stone Sweet, 2002: 12). Conversely, rational-choice scholars would point out that the legitimacy of an international organization may very well be the result of its functional benefits. In the words of Pollack (2006: 11), “[sociological institutionalist] claims about delegation as normative isomorphism, while plausible as *prima facie* explanation of particular acts of delegation, are exceedingly difficult to distinguish from their PA counterparts, since a high degree of normative legitimacy for an institution may simply reflect an accurate assessment by the public of its functional benefits.”

The fact that member states delegated only part of the responsibility over humanitarian aid to a supranational agent poses problems for sociological institutionalists. Behaving appropriately in a selective way seems more in line with the strategic goal-seeking predicted by rational-choice. On the one hand, from a transaction-cost perspective, it is illogical for member states to bear the double cost of both a supranational and a national humanitarian aid service. On the other, for a principal aiming to maintain control over its agent, it makes sense not to entirely dismantle its own capacities. If a principal strongly reduces its expertise in a particular domain to optimally benefit from delegation, the agent becomes even more indispensable. This increases the cost of reversing the delegation, even when the agent starts challenging the principal’s preferences. A growing differential in the level of expertise also leads to greater agency autonomy because “the principal increasingly lacks the expertise to assess the agent’s behaviour in detail” (Büthe, 2006: 8).

B. Design of delegation: cooperative problem-solving rather than control

P-A holds that principals will develop a whole range of checks on agency behaviour. Meyer and Rowan (1977: 359), on the contrary, predict that member states will avoid controlling as inspection can uncover deviations that undermine the agent’s legitimacy and as such also the legitimacy of the principal’s own act of delegation. The debate has focused on the issue of comitology. Rational-choice scholars conceive of comitology as a mechanism designed by principals to supervise the Commission in its implementing duties (Pollack, 2003b; Franchino, 2000). Sociological institutionalists argue that comitology committees are not so much used by member states to exert strategic control over the Commission but are forums for deliberation among experts collectively searching for the technically optimal solution to problems in a given policy domain. Some authors go

even further than defining comitology as joint problem-solving on technical issues and emphasize processes of socialization and persuasion which lead national delegates to adapt their preferences to EU policy goals (Joerges and Neyer, 1997a/b).

Pollack (2003b: 140–141) hypothesizes that if rational-choice predictions are correct and comitology procedures matter in circumscribing Commission discretion, the Commission will prefer the lighter advisory procedure to the more stringent management procedure and the latter to the most restrictive regulatory procedure. The Council will want stricter comitology procedures than the Commission. The Council and Commission will be willing to accept the cost of negotiating over comitology procedures in order to secure their preferred committee type. If sociological institutionalism is closer to the truth and deliberation rather than formal rules shape policy outcomes, member governments and the Commission will not bother to engage in detailed calculations on which comitology form can be expected to maximize utility.

With regard to the Humanitarian Aid Regulation, the rationalist vision of interinstitutional disagreement over comitology procedures is confirmed. The Commission's initial draft proposes that "the Commission will be assisted in certain cases in its decision making by a committee of advisory character" while the final Regulation adopted by the Council established a committee whose powers go far beyond giving advice. Reportedly, the Humanitarian Aid Committee was established in reaction to suspicions of fraud in ECHO (Interview HAC representative 12/04/2006). The 1996 Regulation which provided for the creation of the HAC was issued at a time when ECHO was under fire for poor management, long delays in disbursements of funds, insufficient control of its partner organizations, and lack of rigor in analysis, project management and evaluation (Brusset and Tiberghien, 2002: 56). Originally, the HAC was conceived as having a control function, a fact which is further confirmed by its opting for stringent management and regulatory procedures.

Then again, how much do these interinstitutional disputes on procedures tell us about the actual functioning of committees? The description of HAC meetings certainly provides some support for comitology as a search for consensual problem-solving. Rather than being the subject of intense control, the Commission chairs the meeting and largely sets the agenda. A formal vote is taken, but HAC delegates have so far always voted in favour. The HAC serves as a forum for exchanging experiences on how different European donors respond to emergencies. Information tended to flow from ECHO to member state representatives rather than in both directions (ICG, 2001: 3), confirming the predictions of P-A theory on the importance for principals of securing information on agency behaviour. More recently, however, member states have agreed to inform ECHO on national humanitarian aid allocations.

Nevertheless, the HAC has so far not been successful in serving as a platform for anything more than (rather hesitant) information-sharing between national and ECHO representatives and has contributed little to the development of a truly Europe-wide humanitarian policy. Member states

have been reluctant to accept any form of EU-driven soft regulation or open coordination aimed at a harmonisation of national humanitarian policies (Interview ECHO 20/09/2005). While it is true that interaction between HAC representatives is cooperative rather than conflictual, this friendly atmosphere does not automatically lead to Europeanization. Representatives in the HAC tend to see themselves and their colleagues as government representatives rather than as independent experts, diminishing the probability that shared professional allegiances will trump national concerns. One national delegate stressed that ECHO has to justify its decisions since the money it allocates comes from the member states and emphasized that, if they wanted to, member states could block ECHO decisions and hence that member states (not the Commission) are the ones who have the final say (Interview HAC representative 12/04/2006).

C. ALTERNATIVE SOURCES OF AGENCY AUTONOMY

Sociological institutionalism asserts that an agent's scope for autonomous action is not only determined by delegated powers, control mechanisms, and resultant zones of discretion. Barnett and Finnemore (2004: 22–27) identify four sources of authority which international organizations can enjoy and which confer on them both autonomy and the potential to get others to defer to them. *Delegated authority* emerges from an explicit mandate from member states. *Expert authority* arises from the fact that international organizations generate and control specialized information relevant to a particular policy area. *Rational-legal authority* derives from international organizations' missions, i.e. a valued social purpose, and the way they pursue that mission, i.e. impartially and technocratically while following impersonal rules. *Moral authority* stems from an organization's claim to represent the universal interests of the community rather than the partial, self-seeking interests of individual member states.

ECHO's authority derives not only from delegation in the context of the Humanitarian Aid Regulation (delegated authority) and its expertise on humanitarian relief (expert authority). It also ensues from its use of objective bureaucratic rules (rational-legal authority). Providing needs-based humanitarian assistance seems a prime example of a mission considered good, an act of "self-effacement" in which bureaucracies "present themselves as impersonal and neutral – as not exercising power but instead serving others" (Barnett and Finnemore, 2004: 21). Moreover, authority results from its claim to defend the interests of crisis victims worldwide (moral authority). Barnett and Finnemore (2004: 23) state that "in no small measure, the moral authority of IOs [international organizations] is dependent on a contrary discourse of states protecting their own national and particularistic interests". ECHO staff is indeed of the opinion that the commitment to provide aid where needs are highest even if media attention is absent "makes ECHO 'special', particularly when compared with Member State humanitarian efforts, where there is a tendency to focus upon high profile emergencies and 'compete for publicity'" (Bretherton and Vogler, 2006: 131).

Sociological institutionalism also ascribes a constitutive role to organizations. International organizations create social reality because (1)

they define what is considered a problem and what is not, (2) they choose which actors have responsibility for responding to the difficulty encountered, and (3) they identify what the proper solution is to the challenge in question (Barnett and Finnemore, 2004: 34). First, ECHO runs a classification scheme that distinguishes between high-needs areas, forgotten crises, etc. ECHO's decision not to classify a situation as a humanitarian emergency, and hence not to allocate money, can leave people without help. Second, by framing humanitarian action as non-military, non-political, and non-development-oriented, ECHO creates boundaries for who gets to do humanitarian work. Humanitarian aid as defined by ECHO is not the responsibility of European military forces but has to be carried out by NGOs, the UN, or the Red Cross. Inversely, by asserting "this is not a humanitarian project but a political undertaking or a development activity", ECHO protects its resources from being used for activities which it does not consider to be a part of its core mandate. Third, by indicating in relative detail in its financial decisions what type of humanitarian activities it deems necessary and will sponsor, ECHO shapes what is to be the appropriate response to a humanitarian disaster.

At first sight, P-A models cannot explain why, in a rational world, it would be in the Commission's interest to pursue its mission of apolitical humanitarian aid devotedly even if it means getting into a conflict with member states. From a typical P-A perspective, agents avoid engaging in actions which might irritate principals and bring down sanctions on the agent (Pollack, 2006: 4). Sociological institutionalism emphasizes that state preferences are not the only component determining the behaviour of international organizations. Bureaucratic culture – i.e. "the solutions that are produced by groups of people to meet specific problems they face in common" which then "become institutionalized, remembered, and passed on as the rules, rituals, and values of the group" (Barnett and Finnemore, 2004: 19) – also shapes agency action. According to Alter (2006: 318), international organizations are guided more by professional norms than by concerns about principals' preferences, "sometimes dying on their sword rather than be seen as caving to political pressure". For example, in 1999, the Council agreed to supply heating fuel in former Yugoslavia to alleviate harsh winter conditions but only to those municipalities controlled by Serb opposition forces. The rationale was that the populations of these towns run by opposition parties would recognize the benefits of closer proximity to the West and thus become convinced of the advantages of a regime change. ECHO refused to finance this explicitly political programme, arguing that such conditional assistance would violate its mandate to provide relief impartially (Fox, 2001: 282).

P-A scholars assume that agents' interests are defined by their desire to expand or protect their turf and budget. Sociological institutionalists assert that organizations' concerns about competence and budget maximization do not dominate their interests and that organizational goals are strongly dominated by professional norms and moral values. It could be argued that bureaucratic culture and norms matter precisely because they are a way to secure an agent's resource and competence base. Because the continuation

of ECHO's competences in the field of humanitarian aid is dependent on its reputation as a provider of apolitical aid, it is in the strategic interest of the Commission to live up to the moral duty of impartially alleviating human suffering. Not observing its apolitical humanitarian aid mandate might prove to be, to phrase it in transaction-cost language, costly to the Commission because its power is not absolute, but conditional precisely on its reputation of being a provider of professional and impartial aid. It might even be in the Commission's interest to take decisions which go against the grain of member state principals' preferences but which allow the Commission to maintain its authority as a provider of aid transcending the political fray – the reputation which motivated the delegation in the first place.

CONCLUSION

The philosophy of apolitical humanitarian aid is hard to reconcile with the rationalist view of actors fully motivated by material interests. Nevertheless, P-A goes a long way in explaining patterns of delegation in EU humanitarian aid policy. P-A models seem fruitful as soon as a substantive act of delegation can be observed by which principals grant conditional authority to an agent and design devices to check agency opportunism. This confirms Snidal's (2002: 74–75) observation that while rational-choice focuses on actors' goal-seeking, these goals "are not restricted to self-regarding or material interest but could include other-regarding and normative or ideational 'goals'".

In answer to the question of why member states choose to delegate humanitarian tasks to the Commission, the symbolic diffusion of widely accepted institutional formats as posited by sociological institutionalism does not offer a more convincing explanation than the efficiency and credibility arguments developed by P-A analysts. In answer to the question of how to delegate, the various control and sanction mechanisms identified by P-A scholars are all used in varying degrees by principals to constrain the behaviour of the Commission in the execution of EU humanitarian policy.¹³ With regard to ECHO autonomy, however, the P-A account might seem somewhat meagre. While P-A can accommodate delegated and expert authority, arguably more precisely than the sociological framework, even a devoted P-A adherent like Pollack (2006: 14) admits that legal-rational and moral authority as well as the prospect of a constitutive role for international organizations lie outside P-A analysis.

ENDNOTES

¹ ECHO is not an operational donor but relies on specialized humanitarian organizations (e.g. UN High Commissioner for Refugees, Médecins Sans Frontières, Red Cross, etc.) to carry out projects in the field.

² This type of contract works in two ways. It allows principals to be more confident that the agent will not overstep its mandate. It also provides some guarantee for the agent that principals will not interfere with the decisions delegated. ECHO is careful not to transgress its zone of discretion and offend member states by venturing in more political waters. Conversely, member states seem cautious not to intrude on ECHO's humanitarian "territory".

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- ³ The Treaty (Article 202 (3) TEC) obliges the Council to “confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down”. These implementation powers delegated to the Commission may be subject to “certain requirements” laid down by the Council, commonly referred to as “comitology”. The so-called Comitology Decision (Council Decision 87/373/EEC replaced by Council Decision 1999/468/EC) specifies three types of committees. Advisory committees provide the Commission with the greatest autonomy and member state representatives with the weakest influence. The management committee procedure is more restrictive from the Commission’s viewpoint. The regulatory committee procedure offers member states the greatest measure of control over the Commission.
- ⁴ Criticism by the Parliament because of fraud led to the voluntary resignation of the Santer Commission in 1999.
- ⁵ ECHO has three sources of funding: the general EC budget, the European Development Fund (EDF) for humanitarian relief in ACP countries, and the emergency reserve. The Parliament’s budgetary powers are limited to the general budget and the emergency reserve. The Council sets the EDF budget via agreements that are ratified by national parliaments. In 2005, out of a total budget of €652 million, €494 million (75.8%) came from the general budget, €23 million (3.5%) from the EDF, and €135 million (20.7%) from the emergency reserve.
- ⁶ Before 1997, the legislative input from the European Parliament was even more restricted as it was involved in humanitarian aid legislation only through the cooperation procedure. Since the Amsterdam Treaty, humanitarian aid has become an area governed by co-decision.
- ⁷ The 1999 framework decision on comitology (Council Decision 1999/468/EC) allowed the Parliament to issue a resolution if it was of the opinion that the proposed measures exceeded the Commission’s implementing powers. The Commission had to take the Parliament’s opinion into account but was free to choose whether it would act upon the Parliament’s comments or not.
- ⁸ The Court of Auditors’ special report 2/97 covers humanitarian aid provided by the EU between 1992 and 1995. Special report 2/2001 deals with ECHO’s management of emergency humanitarian aid for the victims of the Kosovo crisis. Special report 3/2006 concerns the Commission’s humanitarian aid response to the Tsunami.
- ⁹ The 1991 Commission Decision on the establishment of ECHO limited the existence of the Humanitarian Aid Office to an initial trial period of 7 years, after which its performance would be subjected to a thorough evaluation (European Commission 1991).
- ¹⁰ The European Parliament (Article 192 TEC) and the Council (Article 208 TEC) can request for the Commission to submit a proposal for new legislation. Even while having a monopoly on the initiation of legislation, extensive political pressure by a majority of member states or MEPs to propose a new regulation would have been hard for the Commission to staunchly ignore. Yet member state principals and other EU institutions agreed on the lack of overriding reasons to modify the 1996 Council Regulation or do away with ECHO.
- ¹¹ Humanitarian assistance allocated by the European Commission more than doubled between 1986 and 1991.
- ¹² It is worth noting that the 1996 Council Regulation does not mention ECHO but designates the European Commission as a whole as the authority responsible for the implementation of EU humanitarian aid.
- ¹³ The sociological institutionalist perception of comitology as a forum for deliberation is, to an extent, confirmed. Evidence does suggest, however, that the P-A account of comitology as a control device cannot easily be dismissed.

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