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What is the influence of discourse on political change in EU Sport Governance?

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Abstract: The former autonomous, self-regulated European sport sector is facing serious challenges: Since the Lisbon Treaty - the political institutions of the EU are engaging in a common sport policy. As more actors get involved (or try to get involved) the web of relations and informal policy interactions becomes increasingly complex. Despite the fact that the EU competence is of the lowest level, the main debate around EU sport policy is whether sport can self-regulate or, conversely, EU regulation is needed to ensure better governance of the sector. Conceptualizing the policy process as „struggle over ideas" (Stone 2012, p. 13) the focus of this paper is on the role of discourse in the EU sport policy making process by identifying the shifts in the governance discourse and by analysing why certain discourses have become dominant. Discourse contains three elements: policy ideas, institutional context and processes of interaction (Schmidt 2012). From this perspective, changes in ideas do not occur as a result of windows of opportunity; rather, ideational changes open windows of opportunity. The aim of this paper is thus to enhance our understanding as to the role of discourses in the policy making process in the EU system of multilevel network governance.

Content

1   Introduction

The EU Sports Policy is one of the newest Policy fields in which the EU actively is engaging. In my paper which is based upon my PhD (currently in work), I focus on the role of discourses in the policy process. The main questions in my PHD are: What are the changes in the discourses and how can they be explained? Why did some discourses become dominant and what kind of influence on the outcomes can be traced back on the changes in discourses? With concentrating on the discourses in the policy process this research wants to contribute a specific perspective on the policy making process. Core point is the conclusion which Stone draws: that the policy process is "a struggle over ideas" (Stone 2002). The aim of my work is to contribute to our understanding of policy process, policy change and policy continuity. Further, this research aims to develop a better understanding in policy processes at EU-Level in policies with a very limited competence on the side of the EU-Institutions. Changes in this area might not be seen as rapid movement but more as incremental steps and informal outcomes. This research tries to contribute to the puzzle of discourse construction, development and success in the policy process as the sport policy is a policy field which is highly charged up with ideas, stories and metaphors.

The approach of discursive Institutionalism (Schmidt 2002, 2008, 2011) can be seen as a bridge between 'old' institutionalism theories who are treating institutions as given and scientists who are treating discourse in policy process seriously.

In this paper I look especially at the governance discourse on EU Sport Policy. The governance discourse is based on the cleavage *self-regulation versus EU regulation with very limited competence*. This will be outlined further on.

This paper is outlined as follows: The first section introduces in the discussion if and to which extend the EU can conceptualized as a system of "Network Multilevel Governance", the theoretical background of discourse analysis and its contribution to policy analysis. The second part analyses the governance discourse on Sport in the EU.

2   Theoretical background

2.1   EU Multi-Level-Governance and Network Governance

2.1.1   Multi-Level Governance

Conceptualising the EU as a system of multi-level governance originates in the work of Gary Marks (1992) on the structural funds. The key attribute of a multi-level Governance system is, that "decision making competencies are shared by actors at different levels rather than monopolized by national governments" (Hooghe, Marks 2001, p. 3).

Hooghe and Marks (2003) developed two different types of multi-level-systems[1]. The differences between the two (ideal) types can be summarized as "contrasting conceptions of community"(Heinelt 2011, p. 9). Another distinction can be drawn between scholars, who are interested in the "relationship between territorial and functional governance […] and/or the changing dynamics of the state society relationship embedded in 'territorially overaching' or 'transgovernmental' networks […]" (Bache 2012, p. 634).

2.1.2 Network governance

Network governance became a famous approach for different kind of policy analysis: Researchers on national, regional and local policy processes are using this concept as an analytical framework.

The network approach can be divided into two schools: On the one hand the Anglo-Saxon school which sentiment of network is "policy networks as a generic term for different forms of relationships between interest groups and the state" (Börzel 1998, p. 255). Policy network in this understanding is "a model of interest group representation" (Marsh 1998). On the other hand, for the German-Dutch approach policy networks are a specific form of governance. For this governance school "policy networks only characterize a *specific* form of public-private interaction in public policy (governance), namely the one based on non-hierarchical co-ordination, opposed to hierarchy and market as two inherently distinct modes of governance" (Börzel 1998, p. 255).

Looking at the EU, there are at least two strands for the role of networks: Authors like Kohler-Koch are claiming the EU as "a network type of governance" (Kohler-Koch, 1999). She stresses that "neither the institutions nor the predominant ideas of European co-operation allow for a hierarchical system of governance. Optimising performance calls for a sympathetic treatment of target groups" (Kohler-Koch, 1998, p. 25). The development of governance networks in this view is the answer to the increasing difficulties to govern the modern society by hierarchy (state). Network governance is recognized as the adequate answer of the increasing complexity and uncertainty of policy problems (Sorensen, Torfing, 2007).

On the opposite, since the evoke of EU as Network governance criticism on this perspective came from authors like Börzel, who stresses the importance of networks in the governance of EU but denies the conception as *governance by networks*. She claims, that her arguments are shaped by empirical studies, which suggest, that "supranational actors, the commission in particular, have made strategic use of networks to strengthen their position in EU policy-

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[1] Type I: *General-purpose* jurisdictions, *Nonintersecting* memberships, *Flexible design.* Type II: *Task-specific* jurisdictions, *Intersecting* memberships, Jurisdictions at a *limited number of levels, No limit* to the number of jurisdictional levels, *Systemwide architecture* Hooghe, Marks 2003, p. 236.

making." Networks lend significant power to the European Commission, which often acts as a broker drawing on the resources provided by private actors (expertise, acceptance) to shape the formulation and implementation of EU policies according to its interests (Börzel, Heard-Lauréote 2009, p. 140). She comes to the conclusion, that „The EU is governed in, rather than by networks, and these networks are not only managed but clearly dominated by inter- and transgovernmental actors." (Börzel 2010, p. 209)

The introduction of the term *metagovernance* might be capable to solve the differences: It is nowadays accepted, that it is necessary to regulate network governance, if the network shall be capable to solve policy problems, (which is the main character of network governance). It is widely agreed, that traditional forms of regulation are incompatible with network governance. Depending on the theoretical approach there are different ways to exercise *metagovernance*. Sticking to the governability approach, that network is a specific form of governance, metagovernance is seen as a "precondition for making networks an efficient form of governance" (Sørensen, Torfing 2008, p. 172).[2]

2.2   Discourse and policy analysis
"The struggle over ideas" is the essence of policy making in political communities (Stone 2012, p. 13).

There are many ways to understand the term *discourse*. With the argumentative turn in Policy analysis[3] a new focus was put on the role of discourse in policy analysis. Hajer`s work on acid rain in UK (1995) influenced the understanding of discourse in policy by his definition of discourse "as a specific ensemble of ideas, concepts, and categorizations that are produced, reproduced, and transformed in a particular set of practices" (Hajer 1995, p. 44).

The research on the question, *when d*iscourse matters in policy change and policy continuity is influenced by the work of V. Schmidt. With her concept of *discursive institutionalism* she regards to discourse as a link between actors and institutions. Discursive institutionalism seems to be the most convenient theoretical approach for a policy analysis based on the concept of the importance of discourses, because it addresses relevance to the ideas in the policy process as to the actors and to the institutional context. Schmidt has chosen a broad definition of discourse. According to this understanding, discourse is not just an ensemble of

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[2] One other way to exercise metagovernance for example is described by the interdependency theory. But in that conceptualisation, networks are not seen as a mode of governance. See Sørensen 2008 for details.

[3] Fischer and Forester initiated with their work „The Argumentative Turn in Policy Analysis and Planning (1993) a new focus on policy analysis. Due to their work much research was done of the role of argumentation and language in policy analysis. (Fischer, Gottweis, 2012). The core of the argumentative turn in policy analysis is the idea, that language and the social construction of political problems are deeply interconnected. This constructivist approach helps in the view of the authors to reveal the social and cultural factors lying beneath the facts and arguments presented by the actors.

ideas, but also includes the interactions between the ideas and the actors (Schmidt 2012). Also institutional context is of substantive importance: "institutions are therefore internal to the actors, serving both as structures that constrain actors and as constructs created and changed by those actors" (Schmidt 2008, p. 314).

According to Schmidt, discourse contains three elements:
- *policy ideas,*[4]
- *institutions* and
- *process of interaction*. There is a difference between coordinative and communicative discourse: First one refers to the policy sphere in which policy construction takes place; the second one applies to the public sphere, where a specific policy problem is presented.

As far as discourses are recognized as an element of the policy process, the puzzle to which extend discourses are accountable for political change and outcomes still remains insufficient researched. Schmidt stresses the alternative view that ideas can also open a window of opportunity for policy change as the discourse is capable of shifting actors preferences on a policy problem. (Schmidt 2004).

The certain discourse (either in the communicative or coordinate sphere) might be the reason why certain ideas (independently which level or types of ideas) might be successful and change a certain policy or strengthen the policy continuity. There remains more research to be done on the question, what are the conditions for a discourse to become dominant.

3 Case Study

3.1 EU Sport Policy

The former autonomous, self-regulated European sport sector is facing serious challenges: Since the Lisbon Treaty - the political institutions of the EU are engaging in a common sport policy. Traditionally Sport is the biggest civil movement in Europe. Sport policy contains social, economic and political factors (Sam 2003). Due to this fact we find interest groups of very different kinds in this area, like business firms e.g. betting companies, sports industry,

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[4] According to Béland (2009), there are three types of ideas which are influencing the policy process:
  - the construction of a policy problem,
  - ideas as economic or social assumptions ('paradigma') and
  - ideas as "powerful ideological weapons" Béland 2009, p. 705.

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labour organisations, professional sport organisations like UEFA or FIFA and on the other hand sport organisations who claim to speak for the volunteer part of sport like the European Olympic committee or ENGSO. The autonomy of sport and the independency of state regulation is the sanctum of the sports movement.

Until 2009, sport has only been covered as a `horizontal issue´ within other policy areas in the EU. Nevertheless since 1974[5], the European Court of Justice (ECJ) was frequently asked on matters of sports and his consistence with EU law. Sport organisations claiming the autonomy of sport were answered back by the ECJ, that as long as sport is business it has to oblige EU law. This development was part of the increasing commercialisation of sport. The juristic disputes culminated in the Bosman case[6], which fundamentally changed the transfer system of European football. In the view of the sports organisations this meant a lot of insecurity. Sport organisations were lobbying in favour for an end of the case-by case decisions and for a clear legal recognition of the specificity of sport (García, Weatherill 2012).

In preparation for a common sport policy the EU Commission published in 2007 the white paper on sport. The white paper on sport contained three main themes:
- the societal role of sport (including health, sport and doping, sport and education, sport and gender)
- the economic dimension (financing, public support, evidence based sport policy) and
- the organisation of sport.[7]

With entry into force of the Lisbon Treaty, the EU was provided with a direct competence and a supporting authority to become active in the area of sport.[8] This involvement of the EU in the Sport sector was not really welcomed by sports organisations, since part of the sport movement were counting on an exemption from EU law (Parrish, Miettinen 2008) . In fact, any harmonisation is forbidden but nevertheless the question remains still open, how much the EU will engage on regulation matters.

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[5] 1974 Walrave and Koch, case 37-74.

[6] Bosman, García, Weatherill 2012.

[7] For details see Parrish, Miettinen 2008.

[8] Article 165: The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

3.2   Governance discourse[9]

Despite the fact that the EU competence is of the lowest level, the main debate[10] around EU sport policy is whether sport can self-regulate or, conversely, EU regulation is needed to ensure better governance within the sector. In this context the commission made 2011 in its *Communication on the European* dimension on Sport (European Commission) very clear, that "good governance is a condition for the autonomy and self-regulations of sport organisations".   In the sense of discourse institutionalism we deal with a coordinative discourse, with barely any connection to a communicative discourse[11].

The institutional context as an element of discourse corresponds to the EU-Institutions, which have a certain function in the EU-policy system and are also sets of norms (Benz 2010). In this respect by looking at the different arenas[12] in which the governance discourse takes place (e.g. EU-Commission, European Parliament, EU-Council, structured dialogue) there must be paid attention to the certain function each institution possesses and the specific rules and practices.

Is there a possibility, that the discourse on governance is important to the EU Sport Policy?

The fact that an idea (in this case of good governance) seems to dominate the discourse of governance does not mean that this discourse really has an impact on policy

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[9] It is useful to keep in mind, that the term *governance* refers to at least four different implications: *Governance as structure*, *governance as process*, *governance as mechanism* and *governance as strategy* (Levi-Faur 2012):
  - Governance as structure refers to t the architecture of formal and informal institutions modes of coordinating.
  - Governance as process refers to the steering functions (Steuerungstheorie) (Mayntz 1997).
  - Governance as mechanism involves the "institutional procedures of decisions making".
  - Governance as strategy "signifies the actors' efforts to govern and manipulate the design of institutions and mechanism in order to shape choice and preferences" (Levi-Faur 2012, p. 8).
Referring to Börzel (2008), there is an interdependence between the first and the second meaning of governance, as governance has as a structural and also a process dimension: The governance structure *supports* the mode of coordination between the actors. Most research refers to the structural and process oriented meaning of governance.

[10] Until now 11 semi-structured interviews with actors of EU Sport policy, including EU-Commission and European Parliament are supporting this tendency.

[11] Due to betting scandals and corruptions in sport governing bodies there can be found a communicative discourse on the capacity of self-regulation of sport organisations, but this discourse has no connection to the political elites of the EU. This might not be surprising, as Schmidts states: The highly compound European Union, by comparison, has the weakest of communicative discourses as a result of the lack of an elected central government—and its dependence on national leaders to speak for it— and the strongest of coordinative discourses, thanks to its highly complex, quasi-pluralist processes and quasi-federal structures (Schmidt 2008, p. 313). A second reason might be that a common EU sport policy is not in the focus of the mass.

[12] Arenas are institutions „in which power and influence are exercised" (Peterson, Shackleton 2012, p. 4).

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change/continuity. Schmidt counts the following conditions for a successful discourse: credibility, adequacy, applicability, appropriateness, and resonance (Schmidt 2008, p. 311).

Taking Schmidt`s assumption seriously that changes in ideas do not occur as a result of *windows of opportunity* rather, ideational changes open windows of opportunity, the idea of good governance opens the possibility to influence the discourse by interpreting events in a certain way.

The increasing governance problems of the Sport movement therefore are the "right" event to promote the idea of "good governance". This opened already the door for some changes: For example, at the moment on EU-level we see an increasing number of actors involved in the sport policy making process. This has already an impact on governance on sport (structure as well as process). Besides the governing bodies of the sport organisations and the political elites of the EU, now there are certain organisations[13] accepted in the arenas who are challenging the dominant position of the governing bodies of sport organisations.

4 Summary and Outlook

Aim of this paper was to show that with the discursive institutionalism we can gain a new perspective of the policy process, times of change and the specific role of discourse on the policy process. As this is work in progress, this paper presents the idea of this concept and how it can be used on analysing the EU sport policy. The theoretical approach of network governance contributes to the understanding of coordination between the actors of a policy network. The policy area sport is characterized by increased doubts about its supposedly high capacity of self-monitoring and the present self-regulation raised because of corruption, doping and betting scandals (on national as well as on EU level). There is a conflict of interests between the sports insistence on self-regulation (autonomy of sport) and the EU-Commission's strive towards regulation competency. As far as the policy process has now developed, there is still a lot of uncertainty of the consequences of the legal enforcement. The difficulties by analysing the EU Sport policy are that changes in this area might not be seen as rapid movement but more as incremental steps and informal outcomes (the EU does not have the competence for formal outcomes). Since article 165 TFEU rules out any harmonisation, the focus is on the so called *new modes of governance* such as the initiation of a structured dialogue and a social dialogue in sport.

Further research will be done on the questions: Who influences the discourse? Are there more changes in the governance of sport besides the involvement of more actors? Who is the meta-governor in this particular network governance? The research methods are process

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[13] E.g. Transparency International or EU Athletes.

tracing, document analysing, semi-structured interviews with political elites and organisations and network analysis.

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