

Conditionality in the European Union as a New Instrument to Guarantee the Principle of Separation of Powers

Authors : Ana Neves

Abstract : The European Union's multi-level constitutionalism is grounded in an intricate network of vertical and horizontal legal relationships among different levels and types of public authorities. In a very significant way since the 2008 crisis, evolving institutional arrangements and institutional dynamics in the European Union have been progressively impacting Member States and the terms under which national public authorities are organised, interact and exercise their powers. This impact occurs in both macro and micro dimensions. Several examples are relevant here, such as the involvement of national Parliaments in the activities of the European Union, the enhanced integration of public administrations, the side effects of the Council framework decision on the European Arrest Warrant, the European Union Justice Scoreboard, the protection of whistle-blowers regulation, the enhanced cooperation on the establishment of the European Public Prosecutor's Office, the regime for the protection of the Union budget and the European Rule of Law Mechanism. A common trend or denominator underlies the deepening of institutional interdependence and the increased interactions between the European Union, Member States, and public authorities at different levels. This seems to be conditionality as a general principle. The European multi-level constitutionalism must be considered in the light of this conditionality principle, which does not "imply a relationship of command and obedience". Nevertheless, it might be more effective or be a very compelling principle. It is as if the extension of the shared rule is being accompanied by a contrapuntal dialogue. The different public authorities at various levels are being called to rethink and readjust themselves within a broader and more plural framework concerning understanding the limitation of power.

Keywords : european union -, multi-level hierarchy, conditionality, separation of powers

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