

National Laws of Community origin: Dispelling the 80% Myth



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The idea that the Community has produced 80% of national laws and legislation in force has recently gained so much credence that it may sometimes appear to be a self-evident conclusion to the detractors of the European construction, as well as some of its champions. Yet has such a claim ever been seriously substantiated? Who could actually cite the 80% of national laws presumed to originate from the Community, considering that in France it would be a daunting task to identify even a dozen of them among the hundred-odd laws adopted annually in the last few years?

The intentional vagueness surrounding any accurate appraisal of the impact of national legislation on Community law has inspired assessments that are all the more extreme because of a scarcity of in-depth technical analyses on the subject. Such reports claim, at times, to back statements attributed to Jacques Delors, who notably announced, in 1988, before the British Trades Union Congress: "By the year 2000, 80% of economic—and perhaps even fiscal and social—legislation will originate from European institutions."¹ Such statements were undoubtedly more in line with the normative production of the late 1990s (implementation of the European Single Act, entry into force of the Treaty of Maastricht) than they are with that of today. In any case, they were presenting a forecast and not an actual situation, and concerned only a small fraction of national legislation, and not this legislation as a whole.

It is evident that another reason why such political and legal vagueness has surrounded the impact of Community law on national legislation for such a long time is that it is very difficult to precisely measure it. In his ground-breaking article on the subject², Jean Maïa clearly pointed out the technical complexity of the task: "How can the complex workings of these two different legal systems be reduced to a percentage? The latter would vary, whether calculated on a law-by-law, or article-by-article, basis. It would also be necessary to stipulate whether or not the legislative measures required by Community law should be included, or only provisions influenced or inspired by the latter."

If we have nonetheless strived to address this issue, with the sole aim to refute the most blatant misinterpretations, it is because this field is already full of political analyses tending to overlook such subtleties. It is also because it seemed appropriate to try to introduce more clarity at a time when EU citizens are being called upon to elect their representatives in the European Parliament for the next five years. Lastly, and most importantly, this study was undertaken because highly instructive data on French national laws were made available which have allowed us to identify the relative importance of EU laws, as presented below within each developed theme.³

Rather than to detail here the entire study undertaken on behalf of *Notre Europe*, this Policy Brief will merely present its main findings as to the relative

¹ Cited by Jean Maïa, "La contrainte européenne sur la loi," *Revue Pouvoirs*, No. 114, 2005. I would like to thank Jean Maïa for the advice he gave me while I was completing the study undertaken on behalf of *Notre Europe* for which I am, of course, solely responsible.

² *Ibid.*

³ For more precisions, see "The EU interventions at the national level: what impact?" Working Paper, *Notre Europe*, July 2009 (in particular, its Methodological Appendix).

impact of the Community's legal interventions in a country such as France, which can be summarized in percentage terms by saying that it is probably clo-

ser to 20% than to 80%, and varies widely according to the sector concerned.

A relatively low volume of Community norms at the national level

To assess the quantitative importance⁴ of Community interventions—the “inventory” of norms in force, as well as the “flow” of normative legislation produced yearly—a comprehensive inventory must first be taken of all normative acts produced by the EU and French authorities.

An inventory of Community and national norms in force

Excluding laws set out under Community Treaties (Primary Law), an initial overall assessment of acts

of law produced by the EU indicates that 28,031 acts of derived law were in force on 1 July 2008, of which 9,685 were directives and regulations (see Table 1), retained as a reference so as to focus the study solely upon the EU's “normative interventions” (i.e. those which produce binding internal norms of general application).

TABLE 1 : “INVENTORY” OF COMMUNITY NORMATIVE ACTS IN FORCE ON 1 JULY 2008

TYPE OF ACT	TOTAL ACTS
DIRECTIVES	1 965
REGULATIONS	7 720
DECISIONS	11 837
OTHER ACTES	2 539
INTERNATIONAL AGREEMENTS	3 959
TOTAL	28 031
TOTAL INTERNAL NORMATIVE ACTS (DIRECTIVES AND REGULATIONS)	9 685 **

SOURCE : JOUE/EURLEX

* ACTS CONSIDERED TO BE IN FORCE, PUBLISHED IN THE JOURNAL OFFICIEL DE L'UNION EUROPÉENNE (JOUE).

** THE FEW FRAMEWORK DECISIONS ADOPTED IN MATTERS RELATING TO JUSTICE, FREEDOM AND SECURITY (AND CATEGORIZED AS “OTHER ACTS”) ARE NOT INCLUDED IN THIS TOTAL.

A consultation of the Legifrance server shows that 26,777 laws, ordinances and decrees were in force in France on 1 July 2008. When placed in perspective, these data indicate that Community normative acts represented:

- 36.2% of the laws, ordinances and decrees (9,685 as compared to 26,777) in force in France on 1 July 2008, excluding ministerial orders;
- 28.1% of total national norms of Community origin in force on 1 July 2008 in France (9,685 out of 34,476), excluding ministerial orders.

This first comparison, however, does not include ministerial orders of general application, despite their large number: over 8,000 of them were adopted each year during the 2005–2008 period, amounting to some 80% of the total French flow

of normative acts enacted in that period. Due to the lack of precise data on the orders of general application in force in France on 1 July 2008, the study carried out for Notre Europe is based upon data relating to the Community and to the French flow of normative legislation (whether or not the corresponding norms are still in force), on the assumption that the consideration of such data over sufficiently long periods would result in an equally representative inventory.

A current survey of Community and French normative legislation flows

Analysis of the data on the Community's normative legislation flow (see Table 2) shows that the EU has been producing an average of 2,181 (1978-2007 period) to 2,744 (1998-2007 period) directives and regulations per year.

⁴ It should be pointed out that the quantitative comparisons given here concern the total number of normative acts, regardless of their respective length (number of articles or characters).

TABLE 2 : COMMUNITY-LEVEL NORMATIVE LEGISLATION FLOWS (AVERAGE OR ANNUAL FIGURES)

YEAR PUBLISHED IN THE JOUE	REGULATIONS	DIRECTIVES	TOTAL	LEGISLATIVE ACTS/YEAR
2008	2 249	247	2 496	2 496
2005-2007	6 629	579	7 208	2 402,6
1998-2007	25 758	1 688	27 446	2 744,6
1987-2006	46 063	3 003	49 066	2 453,3
1978-2007	61 271	4 162	65 433	2 181,1

SOURCE: EUR-LEX DATA, Y. BERTONCINI'S COMPUTATIONS.

An analysis of available data concerning the total French normative legislation flow shows that an average of 9,500 to 10,000 laws, ordinances, decrees and ministerial orders of general application are adopted every year in France.

A comparison of the relative volumes of Community and French normative legislation flows (see Table

3) shows that, during the 1978-2007 period, the Community's legislative acts represented:

- slightly less than 15% of the French normative legislation (2,181.1 as compared to 9,578.5 per year);
- slightly less than 13% of the total normative legislation (of national and Community origin) in force in France (annual average of 11,759.6).

TABLE 3 : QUANTITATIVE IMPORTANCE OF COMMUNITY NORMATIVE LEGISLATION

IN %	IN PROPORTION TO ALL NORMATIVE LEGISLATION FORMULATED IN FRANCE	IN PROPORTION TO ALL NORMATIVE LEGISLATION IN FORCE IN FRANCE
2005-2007 NORMATIVE FLOWS*	11,22%	10,08%
1998-2007 NORMATIVE FLOWS	11,48%	10,3%
1987-2006 NORMATIVE FLOWS	14,53%	12,68%
1978-2007 NORMATIVE FLOWS**	14,59%	12,73%

SOURCE: EUR-LEX DATA, LEGIFRANCE DATA, Y. BERTONCINI'S COMPUTATIONS.

* INCLUDING NATIONAL LAWS RATIFYING INTERNATIONAL AGREEMENTS/

** EXCLUDING NATIONAL LAWS RATIFYING INTERNATIONAL AGREEMENTS. NOTE: CALCULATION OF THE MEDIAN NUMBER OF ORDERS OF GENERAL APPLICATION WAS BASED UPON THE 2005-2008 PERIOD.

Community norms in France: a material, rather than incidental, impact

An assessment of the relative impact of the Community's normative legislation on French law also led to an analysis of the "material" influence of such acts, while taking into account whether they are of a legislative or regulatory nature. That assessment was based upon:

- an analysis of available data on the transposition of Community directives in France from 2000 to 2008, which was meticulously monitored by the General Secretariat for European Affairs (SGAE)⁵ ;
- an analysis of the material nature of draft normative legislation submitted to the Council of Ministers, and thus to French national authorities from 1992 to 2008: the SGAE did indeed

forward these draft acts to the Council of State over a fifteen-year period⁶ so that the latter could indicate whether they had a legislative dimension and should therefore be submitted to Parliament for consideration.

This dual assessment was carried out with the full awareness that it was likely to greatly overestimate the impact of Community normative legislation on French laws⁷: the mere presence of a legislative component suffices to place the Community act concerned (a directive or regulation) in the "law" category, while all provisions of a French law are by nature legislative⁸. In order to limit this overestimation, it was indicated that the directives and regulations

⁵ Based upon the raw data made available to us by Carine Soulay, the SGAE's current Legal Adviser, whom I take this opportunity to thank.

⁶ This assessment began on 1 November 1992 (the date on which Article 88.4 of the Constitution entered into force) and was completed on 23 July 2008 (since that date, all of the Community's draft normative acts must be submitted to Parliament). I would like to thank Juliette Clavière, Adviser to the SGAE, for kindly sharing with us the raw data concerning the outcome of this Council of State review.

⁷ On this subject, see "the EU interventions at the national level; what impact?" op. cit. Box 2.

⁸ Using French laws as an example undoubtedly has the converse effect of minimizing the impact of EU interventions on legislative matters in terms of what would be observed in other EU countries in view of the fact that the scope of law is restrictively defined in France. Taken as a whole, this "national bias" limits only to a slight degree the upward trend described above.

concerned merely had “legislative implications” and an evaluation was presented postulating that only half of their content was legislative in nature (which quite often seems to constitute a high estimate). On this basis, the following main findings have been reached.

Analysis of the nature of national acts used to transpose directives in France: Enlightening findings

Analysis of the data provided by the SGAE on the transposition of directives in French law for the period 2000-2008 showed that (see Table 4):

- 15.6% (326 out of 2,094) of French normative acts used to transpose such directives were legislative in nature;
- The ratio of directives transposed by means of an act having legislative implications amounted to about one-fourth of the total (26.6% to be precise, since this concerns 202 directives out of 759).
- Analysis of the data pertaining to the 2000-

2008 period also showed that, on average:

- 22.4 directives having legislative implications have been transposed in France per year;
- 76.6 national laws and ordinances have been adopted per year (excluding laws ratifying international agreements).

If we disregard annual variations (of from 9 to 35 per year for directives having legislative implications) and the fact that several directives may sometimes be transposed by a single law or ordinance, we find that the average total number of transposed directives having legislative implications amounted to:

- slightly less than one-third (29.3%) of the total number of laws and ordinances adopted during this period (excluding laws ratifying international agreements);
- slightly less than one-fourth (22.6%) of the total number of normative legislation implemented in France during this period (excluding laws ratifying international agreements).

TABLE 4 : NUMBER AND MATERIAL NATURE OF ACTS TRANSPOSING COMMUNITY DIRECTIVES IN FRANCE FOR THE 2000-2008 PERIOD

TYPE OF ACT	LEGISLATIVE ACTS			REGULATORY ACTS			TOTAL
	DDADC*	LAWS	ORDINANCES	DECREES	ORDERS	DIVERSE**	
NUMBER OF ACTS	61	206	59	669	1066	33	2094
TOTAL LEGIS./REGS.	326			1768			
AVERAGE NUMBER OF ACTS PER DIRECTIVE	0,43			2,32			2,75
NUMBER OF DIRECTIVES CONCERNED	202			557			759
NUMBER OF DIRECTIVES CONCERNED/YEAR	22,4			61,9			84,3

SOURCE: SGAE DATA, Y. BERTONCINI'S COMPUTATIONS.

* “DDADCs” (“DIVERSES DISPOSITIONS D’ADAPTION AU DROIT COMMUNAUTAIRE”) ARE LAWS ON DIVERSE PROVISIONS FOR THE ADAPTATION TO COMMUNITY LAW.

** “DIVERSE” ACTS WITH REGULATORY IMPLICATIONS INCLUDE, FOR EXAMPLE, DECISIONS MADE BY AN INDEPENDENT PUBLIC SERVICE AUTHORITY.

Analysis of the legislative (or non-legislative) nature of Community draft legislation: Equally enlightening findings

The analysis of the material nature of draft normative acts submitted to the Council of Ministers from 1992 to 2008 led to some other very interesting findings, which notably include the following:

- some two-thirds (68%, or 62.8% excluding external relations) of the draft normative acts submitted to the Council from 1992 to 2008 included at least one legislative provision;
- whereas the remaining one-third could all be classified as regulatory (a globally similar ratio was noted with regard to regulations and directives).

Draft normative acts submitted to the Council, however, represent only a small part of the total Community normative acts, the great majority of which are adopted by the Commission, the latter being assisted by Member State representatives

within the framework of committees set up to that end (the so-called “comitology” procedure). To take these committees into account, we retained the working hypothesis according to which the normative acts adopted by the Commission are of a somewhat secondary (i.e. regulatory) nature, and very few of them might include provisions of a legislative nature. We therefore assumed that a maximum of 5% of the directives and regulations adopted by the Commission might have legislative implications: this figure corresponds to the number of acts which it does not adopt on the basis of prior derived legislation (and which can therefore not be considered an “implementing order”). It is in line with the ratio of Commission directives having legislative implications (which amounted to less than 4% of the total for the 2000-2008 period). Such assumption made it possible to estimate the percentage of Community acts which include a legislative provision, all authors combined, at about 12%, as compared to 68% for acts submitted to the Council.

The share of Community norms having legislative implications, in comparison to French national laws

By combining all of the orders of magnitude presented above, an overall comparative assessment can be made of the share of Community norms having legislative implications in comparison to the laws and ordinances produced at the national level (see Table 5), which would represent:

- slightly more than half (55.1%) of the total normative legislation in force in France, when retaining the high estimate, according to which the entire content of Community acts having legislative implications would be legislative in nature;
- slightly more than one-third (38%) of the total normative legislation in force in France, when considering the more realistic estimate that only half of Community acts having legislative implications may be legislative in nature.

TABLE 5 : AVERAGE ANNUAL NUMBER OF DRAFT REGULATIONS AND DIRECTIVES HAVING LEGISLATIVE IMPLICATIONS, COMPARED TO THE TOTAL NUMBER OF FRENCH LEGISLATIVE ACTS

NORMATIVE ACTS	AVERAGE/YEAR
REGULATIONS HAVING LEGISLATIVE IMPLICATIONS PER YEAR*	108,3
DIRECTIVES HAVING LEGISLATIVE IMPLICATIONS PER YEAR*	22,2
LAWS AND ORDINANCES PER YEAR*	106,35**
% OF EU "LEGISLATIVE" NORMS / TOTAL LEGISLATION HIGH ESTIMATE***	55,1%
% OF EU "LEGISLATIVE" NORMS / TOTAL LEGISLATION MEDIAN ESTIMATE***	27,6%

SOURCE: SGAE/COUNCIL OF STATE DATA; Y. BERTONCINI'S COMPUTATIONS

*REFERENCE PERIOD FOR THE REGULATIONS = 1992-2008 / * REFERENCE PERIOD FOR THE DIRECTIVES = 2000-2008 /* THE REFERENCE PERIOD USED FOR FRENCH NATIONAL LAWS AND ORDINANCES IS 1987-2006, BASED UPON THE GLOBAL AND SECTORAL DATA PRESENTED IN THE "DIACHRONIC TABLE" CITED IN THE SECTION 3.

** THIS TOTAL DOES NOT INCLUDE THE LAWS AND ORDINANCES ADOPTED IN THE SECTORS "PUBLIC SERVICE AND STATE ORGANIZATION" (2.45 PER YEAR) AND "PRIME MINISTER" (0.7 PER YEAR); INCLUDING THEM WOULD YIELD A TOTAL OF 109.5.

*** THE HIGH ESTIMATE INVOLVES CONSIDERING THAT THE ENTIRE CONTENT OF COMMUNITY ACTS HAVING LEGISLATIVE IMPLICATIONS IS LEGISLATIVE IN NATURE. THE MORE REALISTIC MEDIA ESTIMATE FAVOURED HERE INVOLVES CONSIDERING THAT ONLY HALF OF THE PROVISIONS OF COMMUNITY ACTS HAVING LEGISLATIVE IMPLICATIONS ARE LEGISLATIVE IN NATURE.

Community normative interventions are concentrated in a few sectors

Lastly, we attempted to measure the impact of the Community's normative interventions on national law by resorting to a complementary sectoral analysis, which made it possible to consider the fact that a substantial part of these interventions are concentrated in relatively few activity sectors (notably agriculture), in view of the highly economic focus of European integration. Taking into account these sectoral assessment factors helps to precisely identify, and not overemphasize, the impact of the Community's normative contributions to French law, with the exception of certain sectors.

A highly sectoral Community norm production

Assessing the number of directives and regulations in each of the 20 sectors identified by the "EUR-Lex" database directory based upon acts in force on 1 July 2008 leads to the conclusion that three of these sectors predominate: (See table 6):

- slightly less than half (42.6%) of the regulations and directives are concentrated in the agriculture sector alone;

- a substantial number of normative acts are also found in the Internal Market sector; the latter corresponds to slightly less than 10% of the total legislation in force when considering only the item "Industrial Policy and Internal Market," yet it amounts to some 20% of this same total if acts relating to the free movement of goods, of workers and the establishment and provision of services are included;
- the External Relations sector, however, is where nearly 10% of the total number of Community normative acts in force are concentrated: it notably includes a large number of technical regulations of an economic and financial nature.

By contrast, it is striking to note that:

- all of the other sectors mentioned by the EUR-Lex database represent less than one-fourth of the Community acts in force (including more than 6% for fishing);
- Community normative acts produced in certain sectors (Taxation, Energy, Science, Information, Education and Culture) represent less than 1% of the total Community normative acts in force.

Very limited contribution of Community normative interventions to national interventions, excluding a few sectors

We next compared the sectoral data on Community normative legislation with those supplied by the “Diachronic Table” developed by the Direction des Journaux officiels, under the auspices of the French government’s “Secrétariat Général.” The latter supplies a unique and precise inventory of French laws, ordinances and decrees adopted in France between 1987 and 2006 and a breakdown of the thirteen major fields of activity (the “NOR” nomenclature)⁹. To obtain a complete perspective of all French normative acts produced during this period, we also integrated the adopted orders of general application, based upon an annual average for the years 2005 to 2008 only (after having broken down these orders into the thirteen “NOR” nomenclature categories). On this basis, it was possible to compare the Community normative acts produced to the French normative acts produced during the same period (by matching the two nomenclatures).

The elements of comparison thus obtained (see Table 6) confirm that the Community norms’ relative global share of the total normative legislation in force in France is less than 20% (it amounts to about 12%). More importantly, they also show that this average share encompasses significant sec-

tor-to-sector variances, inasmuch as the relative share of Community acts compared with the total normative legislation in force in France amounts to:

- slightly less than half in the Agriculture sector;
- about 20% in Economy and in Foreign Affairs;
- slightly less than 5% in the Ecology sector;
- less than 2% in the 10 other sectors.

This sectoral assessment of the impact of EU normative interventions may be tempered by mentioning the trans-sectoral nature of some of these interventions. For example, some liberalization directives adopted within the framework of the Internal Market sector may concern a number of other sectors (such as Energy, Transport, etc.). Another example would be the Stability and Growth Pact formalized by two regulations applicable to the Economic and Monetary Policy sector, which obviously has a relatively trans-sectoral impact inasmuch as it can influence the level of public expenditures budgeted in all areas of State intervention—even if the political influence of this “Pact” is truly effective only in States which are finding it difficult to comply with its rules. All in all, the existence of Community normative legislation with trans-sectoral impact does not appear to be of a sort to challenge the sectoral orders of magnitude identified above.

TABLE 6 : RELATIVE SHARE OF COMMUNITY AND FRENCH NORMATIVE FLOWS PER SECTOR FOR THE 1987-2006 PERIOD

SECTORS	DIRECTIVES AND REGULATIONS	LAWS, ORDINANCES, DECREES AND ORDERS	EU AND FRANCE ACTS	EU %/TOTAL
FOREIGN AFFAIRS	89,6	340,2	429,8	20,8%
AGRICULTURE	798,4	1021,6	1820	43,9%
CULTURE	0	397,8	397,8	0%
DEFENCE	0,9	534,4	535,3	0,2%
ECOLOGY	19,75	434,9	454,65	4,3%
ECONOMY	423,65	1737,1	2160,75	19,6%
EDUCATION, YOUTH & SPORTS	1,7	827,1	828,8	0,2%
EMPLOYMENT AND HEALTH	14,45	1821,1	1835,55	0,8%
INTERNAL & OVERSEAS	12,45	1207,7	1220,15	1%
JUSTICE	1,05	689,7	690,75	0,2%
TRANSPORT & EQUIPMENT	21,75	1167,2	1188,95	1,8%
GRAND TOTAL:	1383,7	10178,8	11562,5	12%

SOURCE: SGG DATA (1987-2006 DIACHRONIC TABLE), EUR-LEX DATA; Y. BERTONCINI'S COMPUTATIONS

NOTE: THE ANNUAL AVERAGE

Community “legislative” interventions are also concentrated in only a few sectors

Lastly, developing a sectoral breakdown of available data on the “legislative implications” of Community normative interventions makes it pos-

sible to measure their relative impact with respect to national laws which varies widely from one sector to the next. By retaining the realistic median estimate according to which half of the provisions of Community acts having legislative implications are legislative in nature (see Table 7), we can the-

⁹ My earnest thanks to Olivier Garnier (Directorate of the Journaux officiels) and to his team (Pierre Larrède, Louis Martin and Philippe Gibon) for having provided me with these data.

reby conclude that such acts represented:

- slightly less than half of the total number of normative legislation in force in France, excluding the External Relations sector;
- slightly less than one-third of the total number of normative legislation in force in France, excluding the External Relations and Agriculture and Fishing sectors;
- slightly less than 15% of the total number of normative legislation in force in France, excluding External Relations, Agriculture and Fishing, the Economy and Ecology.

It should be pointed out that this figure of slightly less than 15% constitutes an average which can be applied in various ways to the other sectors in which State normative interventions occur, and in which EU interventions are also likely to:

- either be limited to Employment and Health, Internal Affairs and Overseas; Justice; Transport and Equipment;
- or be quasi non-existent: Culture, Defence, National Education, Youth and Sports, and Public Service and State Organization.

TABLE 7 : AVERAGE ANNUAL SHARE OF DRAFT REGULATIONS AND DIRECTIVES HAVING LEGISLATIVE IMPLICATIONS COMPARED WITH THE TOTAL NUMBER OF FRENCH LEGISLATIVE ACTS

ACTS PER YEAR/SECTORS	REGULATIONS HAVING LEGISLATIVE IMPLICATIONS, PER YEAR*	DIRECTIVES HAVING LEGISLATIVE IMPLICATIONS, PER YEAR*	LAWS AND ORDINANCES, PER YEAR*	% OF EU "LEGISLATIVE" NORMS / TOTAL NORMATIVE LEGISLATION – MEDIAN ESTIMATE***
EXTERNAL RELATIONS (EXCLUDING TRADE POLICIES) AND DEFENCE	23,6	0	41,05	18,3%
AGRICULTURE AND FISHING	48,2	0,55	2,85	47,3%
ECONOMY AND ECOLOGY	28	13,85	14,85	36,9%
EMPLOYMENT, HEALTH, EDUCATION, YOUTH, SPORTS, CULTURE	1,7	2,3	16,2	9,9%
TRANSPORT AND EQUIPMENT	5,3	2,1	5	29,9%
JUSTICE AND INTERNAL AFFAIRS	1,5	3,6	25,95	8,2%
ALL SECTORS	108,3	22,2	106,35**	27,6%

SOURCE: SGAE/COUNCIL OF STATE DATA; Y. BERTONCINI'S COMPUTATIONS

* REFERENCE PERIOD FOR THE REGULATIONS = 1992-2008 / * REFERENCE PERIOD FOR THE DIRECTIVES = 2000-2008 / * THE FRENCH NATIONAL LAWS AND ORDINANCES IS 1987-2006, BASED UPON THE GLOBAL AND SECTORAL DATA PRESENTED IN THE "DIACHRONIC TABLE" ALREADY CITED. [NOTE DE LA TRADUCTRICE : CITÉ OÙ ?]

** THIS TOTAL DOES NOT INCLUDE THE LAWS AND ORDINANCES ADOPTED IN THE SECTORS "PUBLIC SERVICE AND STATE ORGANIZATION" (2.45 PER YEAR) AND "PRIME MINISTER" (0.7 PER YEAR): INCLUDING THEM WOULD YIELD A TOTAL OF 109.5.

*** THE MEDIAN ESTIMATE FAVOURED HERE INVOLVES CONSIDERING THAT ONLY HALF OF THE PROVISIONS OF COMMUNITY NORMS "HAVING LEGISLATIVE IMPLICATIONS" ARE LEGISLATIVE IN NATURE (AS COMPARED TO ALL OF THE NATIONAL LAW PROVISIONS). THE HIGH ESTIMATE WOULD INVOLVE CONSIDERING THAT ALL OF THE PROVISIONS OF COMMUNITY NORMS "HAVING LEGISLATIVE IMPLICATIONS" ARE LEGISLATIVE IN NATURE, WHICH WOULD CALL FOR SUBSTANTIALLY INCREASING THE PERCENTAGES PRESENTED IN TABLE 7.

- Conclusion - législation européenne : briser le mythe des 80 %

The quantitative orders of magnitude presented above and detailed in the study carried out on behalf of Notre Europe should naturally be accompanied by an even more painstaking (including by sub-sectors) and more qualitative assessment of the impact of Community normative interventions at the national level—one which could lead to further specifications and changes. Would such changes be of a sort to considerably negate the inventory thus outlined? It should at least be pointed out that, for the most part, it is in line with the conclusions of a thoughtful analysis of the history of European construction and of Community Treaties: EU Member States are part of a "Community of law" which determines a substantial, yet minority, share of the normative provisions in force on their territory (20% rather than 80%), and which predomi-

nates only in certain sectors—mainly in Agriculture, Fishing, and economic and financial matters.

However, regardless of the merits or limitations of such a study, it is uncertain whether it will help to totally dispel the vagueness currently surrounding the actual impact of the EU's legal interventions at the national level. An assessment of the EU's interventions is indeed not just another form of technical data. To the contrary, it even seems to be hampered by political processes working to maintain the myth and which it would undoubtedly be a challenge to defuse.

One can first mention the ideological projection-based approaches which consist of describing the EU as one would like it to be or, conversely, like it

not to be. It is worth pointing out the a priori paradoxical convergence that has occurred between European integration's proponents and opponents who both frequently refer to the figure of "80% of the laws of Community origin," thereby trying to make the EU fulfil a role too ambitious as regards the reality. These ideological projection mechanisms coexist with accountability-transfer mechanisms that are also far from being the prerogative of just the "adversaries" of European construction. It is common knowledge that national political leaders traditionally tend to shift the blame onto so-called "Brussels constraints" which are often real but frequently illusory, and in any case very convenient in justifying unpopular decisions. It should also be pointed out that, in an effort to strengthen their legitimacy and reputation by showing that they are taking action "in concrete ways in the field and on the daily lives of citizens," EU authorities

often claim to exercise political influence that has a substantial impact only within certain sectors, but which is limited, or even very limited, within most of the others.

These political phenomena undoubtedly explain, for the most part, the renewed belief in the myth that "80% of national laws are of Community origin." In confronting such a myth, the figures offered in the study carried out for Notre Europe can merely claim to be the outcome of an analysis based upon reliable public data, arrived at via clearly presented methodology and calculations. The best we can hope for is that all those who attempt to assess the relative impact of laws of Community origin will henceforth strive to adopt an approach of the same type, in order to fuel public debate on the basis of an even broader analysis.■