

# THE ELGAR COMPANION TO THE EUROPEAN UNION

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*Edited by Samuel B.H. Faure and Christian Lequesne*

# The Elgar Companion to the European Union

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ELGAR COMPANIONS TO INTERNATIONAL ORGANISATIONS



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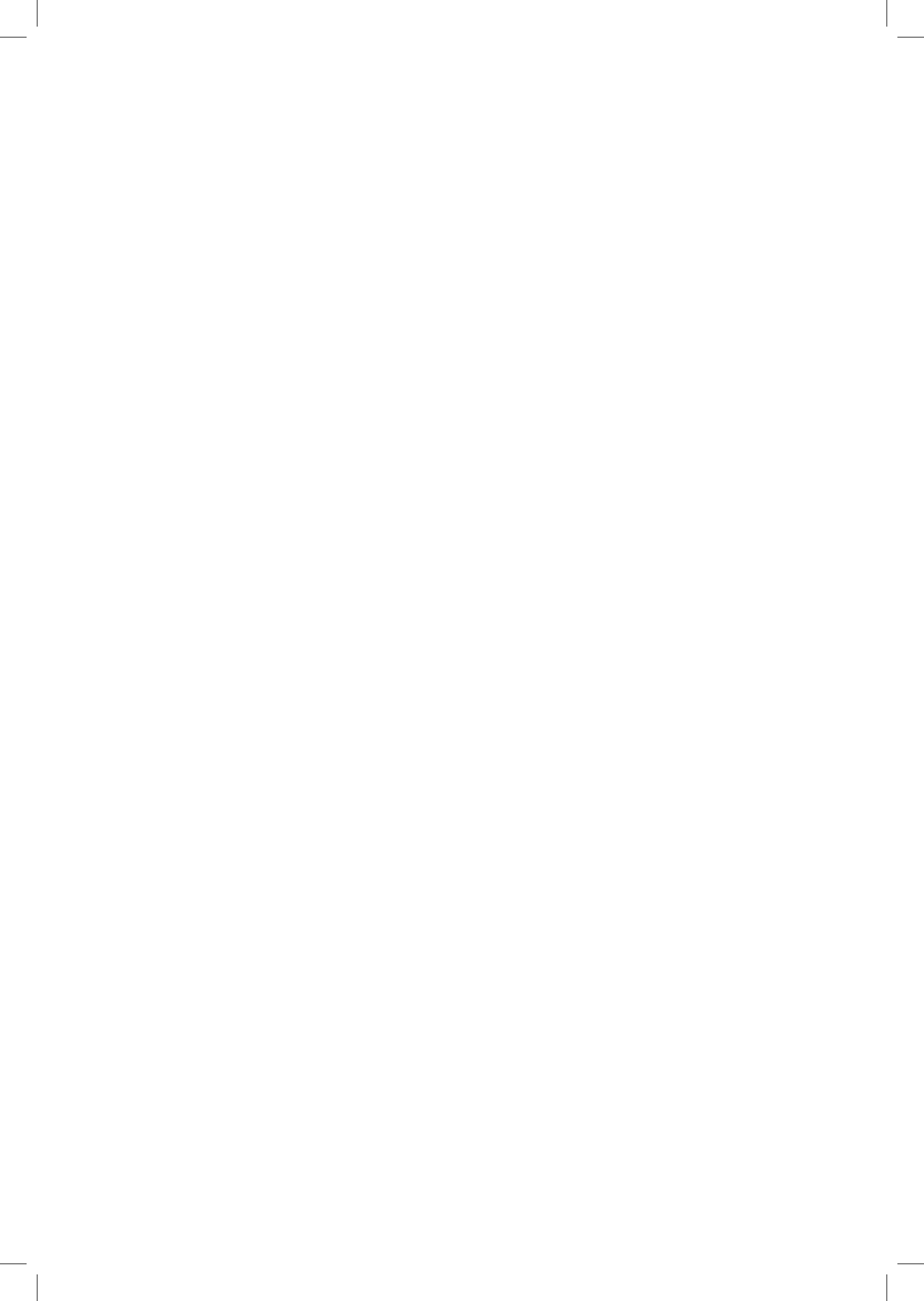
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# 1. Introduction: Understanding the European Union in the 21st century

*Samuel B. H. Faure and Christian Lequesne*

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There is no shortage of books on the European Union in the literature. The experience of European integration has attracted the attention of many social scientists, at the crossroads of the study of international organizations, public policy analysis, and the more normative issues of political theory.

## THE EUROPEAN UNION BEYOND ITS CRISES

There is often a temptation to analyse the European Union through its crises. However, it is an analytical limit to consider the European Union only in terms of crises. It also produces rules on a daily basis that affect the economic and political future of European Member States without necessarily being the subject of extensive conflict. There is a normality in the political work of the European Union that must not be forgotten simply because of the focus on history making events such as Brexit or the debt crisis within the Economic and Monetary Union. For anyone thinking about a Companion to the European Union, the question of its structure and special added value immediately arises. The main challenge is precisely how to capture the normality of the European Union's politics without neglecting moments of crisis and political breakdown. This is exactly what we are proposing in this edition.

To do this, we feel important to act in a similar diversity to the European Union, i.e., by bringing together a range of excellent scholars from different Member States and different disciplines and academic traditions. The social sciences too often suffer from a kind of theoretical and methodological 'clannism' that a Companion must absolutely avoid. The aim is to offer readers, especially undergraduate and graduate students, a collection of concise and well-documented chapters that can be read independently of each other. A bit like what used to be called in the past an encyclopaedia, the Companion is a book that does not necessarily aim to develop one specific research hypothesis, but seeks to be very well informed, clearly written and with bibliographical references helping go further on every topic related to the European Union. The Companion is divided into five parts.

## THEORIES AND CONCEPTS

In the first part, the authors outline the main theoretical approaches that have been developed to analyse the European Union from the perspective of social sciences (four chapters).

While the number of theoretical approaches has increased spectacularly since the beginning of European integration in the 1950, three grand theories remain central in structuring the debate: the founding theory of European integration, neofunctionalism, followed, after the

## 2 *The Elgar companion to the European Union*

Empty-Chair-Crisis of 1962 by the development of an intergovernmental reading of European affairs, leading to the theory of liberal intergovernmentalism at the beginning of the 1990 to, and finally, constructivism, focusing on the influence of ideas and cognitive frames on decision-making processes of the European Union. In Chapter 2, Sabine Saurugger presents the core elements of these theories as well as their historical development as answers to specific empirical phenomena in European integration. However, in the last decade, these theories have been increasingly challenged by 'real world events'. New variants of these theories have emerged which are presented and discussed with regard to their capacity to ask relevant questions and guide scholars and the public in their analysis of how to make sense of empirical developments in European integration.

New institutionalism developed as a research agenda in EU studies from the 1990s. It reflected the EU's deepening integration arising from the single market and the Maastricht Treaty as well as wider developments in political science and practice, including the 'governance turn'. Beyond identifying the importance of institutions to political and policy outcomes, the precise imprint of institutions came to be defined by the different variants of institutionalism. Rational choice institutionalism, historical institutionalism, sociological institutionalism and, most recently, discursive institutionalism developed with different methods, assumptions and research foci. In Chapter 3, Simon Bulmer explores the institutionalist turn, the differences between the four variants and their analytical contribution, including principal-agent analysis and the 'failing forward' perspective. It takes stock of the insights each variant of institutionalism has made to analysis of the EU, while pointing to possible future research arising from recent policy challenges and crises.

According to François Foret, the search for legitimization has become the most pressing challenge for the European Union. Legitimization is understood as the social process by which actors justify their ends and means and strive to maximize the congruence between the ideal and actual political order. In Chapter 4, François Foret documents the main political and intellectual debates and the key historical moments shaping the EU as a political community in-the-making. It then offers two case studies related to recent communicative and policy narratives of the EU: 'European values' and 'way of life'. The conclusion offers some prospects for the future.

In Chapter 5, Kalypso Nicolaïdis and Ulrike Liebert provide an overview of the main elements of demoicratic theory, its philosophical tenets and concrete policy implications. It argues that the demoicratic third way is more demanding politically and sociologically than the goal of a federal state, grappling as it does with the uneasy but indispensable entanglements between peoples, and not only states. The chapter is structured in four parts. The first and second succinctly situate demoicratic theory (1) as part of critical social theory both in positive/descriptive terms and in normative terms, (2) in relation to other theories of European integration, specifically liberal intergovernmentalism, as well as functionalism and constructivism. The third (3) addresses its critics while highlighting its fluid and contested nature. The fourth (4) reviews open questions, contentions and dilemmas regarding European demoicracy and highlights some key questions for future research. The chapter concludes by pointing to the challenges ahead.

## APPROACHES AND METHODS

The second part analyses the EU through the lenses of history, law, sociology and international political economy, as well as through the methodological controversies at work in European Union studies (six chapters).

In Chapter 6, Laurent Warlouzet explains that the field of European integration history has been revamped. It has moved away from the old-fashioned traditional debate between the federalist narrative and Alan Milward's *Rescue of the Nation* book (1992), which has remained influential, nonetheless. Nowadays the field is blossoming thanks to recourse to even more diversified archival records and the studies of new types of actors -notably European institutions and transnational networks. It has renewed our perspective on more general debates, such as those on global history, neoliberalism, and the nature of European institutions in international relations.

In Chapter 7, Lola Avril explores the relationship between law and the EU and the way this relationship has been addressed in social science literature, in particular political science. It highlights that the initial framing operated a triple narrowing, focusing on one category of law – judgments – and one institution – the Court of Justice of the European Union. Finally, the relationship between law and the EU described in this first literature is, following a neo-functionalist perspective, that of a deepening of the integration process through law. The chapter then presents the scientific developments of the last few decades, in particular how political science has dealt with this relationship through the prism of classical integration theories before prompting a sociological and historical turn in the study of European law. This turn revealed the full political dimension of law and placed the Court in a network of institutions and actors. Finally, the chapter reviews the most recent work on the role of law in the European 'polycrisis'.

In the 1950s and 1960s, the first scholars who studied the post-war institutions that would develop into the EU were influenced by the dominant social science paradigm of their times and sociologists such as Talcott Parsons. They were interested in European integration, the complex process whereby supranational political institutions would generate strong cross-border economic cooperation, thus leading to social interactions between people in the member states and creating new allegiances towards a new political centre and a sense of shared identity beyond the nation-state. Sociologists then disappeared from the field until the 1990s for reasons that we will examine. The core of Chapter 8 written by Céleste Bonnamy and Hugo Canihac then focuses on the 'return' of a research agenda inspired by major sociological traditions. 'Bringing sociology back in' first meant focusing on the social bases of political integration at a time on the one hand and the effects (or lack thereof) of EU rules.

In Chapter 9, Mark Copelovitch and Stefanie Walter discuss how insights from international political economy (IPE) research, and political economy research more generally, improve our understanding of the constraints under which European countries cooperate and interact in the context of the EU. International political economy is the study of how domestic and international politics shapes the economy beyond the nation state, and how the international economy shapes both domestic and international politics. This chapter reviews some of the areas where IPE research has made significant contributions to our understanding of EU politics and economics, discusses historical developments and current policy debates, and sketches out the main challenges and promising avenues for EU-related IPE research. A key insight is that the political economy trade-offs and political conflicts confronting EU policymakers and national

politicians in EU Member States are not entirely novel, but rather parallel similar trade-offs and struggles across space and time in the global economy.

Interviews and *in situ* observations have been at the heart of research on European integration since at least the mid-1970s. These two methods gradually became standardized in the 1990s. Yet, contrary to other subfields of social sciences, the use of these methods has not been systematically and reflexively assessed within EU studies itself. The contribution this text written by Thibaut Joltreau and Andy Smith therefore seeks to make is to revisit these research techniques successively, discuss what they have brought to EU studies, and how the latter could do even better with these methods. In this Chapter 10, they show firstly that research on European integration can and should benefit from generic scientific propositions which reflexively analyse the use of semi-structured interviews. Such guidance enables research to go considerably beyond mere ‘fact-finding’ to target instead recurrent and structuring actor practices and representations of ‘reality’. The chapter then proceeds to describe the opportunities and constraints offered to researchers who have conducted *in situ* observations within EU-relevant political arenas. Finally, we conclude on the benefits of EU studies now taking a further step towards rigorously constructed mixed-methods research designs which provide researchers with robust options for triangulating interviews and observatory participation with other qualitative methods and – when relevant – quantitative methods as well.

Quantitative analyses of the EU have flourished over the years after being largely absent in this field or research. Yet, the existing literature provides few historical accounts and almost no contemporary overview mapping out whether and how political scientists have analysed the EU using quantitative analyses over the years. Thomas Laloux and Cal Le Call propose to fill this gap by providing an historical overview of the development of quantitative analyses of the EU until the 2000s. In addition, they survey the evolution of quantitative analyses of the EU in the main journals dedicated to European integration and examine the main topics studied in this framework. By taking a step back from the production of quantitative knowledge in EU studies, they identify blind spots and gaps thereby suggesting new avenues of research. In Chapter 11, they show that the use of quantitative methods started with the development of public opinion studies.

## GOVERNANCE AND DEMOCRACY

In the third part, the authors analyse the range of actors and decision-making processes specific to the EU, including non-governmental actors such as political parties, interest groups and citizens, and also but also a synthesis of specific research on Brexit (six chapters).

In Chapter 12, Olivier Costa briefly presents the key institutions involved in EU governance (Commission, European Parliament, Council, European Council) and the way they interact in policy-making. It underlines the fundamental originality of the ‘Community method’ invented in the 1950s. It describes the main evolutions of the EU institutional system, taking into account both the formal changes that occurred and the development of informal practices. It focuses on and underlines the complex relations that have emerged with the institutionalization of the European Council and the progressive empowerment of the European Parliament. Overall, the chapter highlights the three main logics that are at play in the EU institutional governance. First, it shows that the ‘Community method’ is not dead yet. However, the EU has also undergone a reinforcement of the intergovernmental logic that emerged in the 1960s, and that has

been vivified by the various crises which hit the EU since the mid-2000. Paradoxically, there is a third trend, that takes the form of a deep process of parliamentarization of EU governance. EU institutional governance is thus complex and ambiguous, but also efficient and resilient.

In Chapter 13, Aline Bartenstein and Wolfgang Wessels explore the role of Member States in the EU, highlighting the position of the Member States as ‘masters of treaties’ and their central role in the institutional architecture. Against this background, they discuss the theoretical approaches that differ considerably in the significance they give to the Member States and, consequently, how Member States cope with European integration. They identify a fundamental dilemma of national states between trying to jointly solve the problems in their national interest and their basic instinct to preserve national ‘sovereignty’. The European Council is the main arena in which the highest representatives of the masters of the treaty deal with this challenge. Given the output and impact of the consensus-based decisions of this key institution, they argue that the nation leaders themselves, through limited actions, have transformed the EU and also their own role in European politics.

EU institutions are sometimes depicted as ‘lobbyists’ paradise’ where especially business interest representatives will find a favourable hearing for their wishes, concerns and political interests. In Chapter 14, Marcel Hanegraaff and Joost Berkhout identify a number of unique features of the EU lobbying environment: narrow EU-only media environment, multilevel institutional structure and market-regulatory policy focus of the EU. They subsequently discuss existing academic studies into the mobilisation, strategies and policy influence of all organizations that attempt to influence EU decision-making. Due to the Transparency Register, the organizations mobilized to lobby the EU are currently relatively well-known, and, seemingly largely attracted to the policy areas where the EU has strong legal competences such as competition and market regulation. Cause groups narrowly target their engagement and in particular circumstances benefit from several EU funding schemes. Interest groups also strategically select the most favourable institutional venues for their messages. Academic studies are inconclusive regarding the relative policy influence of different types of interest groups. They suggest that particular issue characteristics such as salience in public opinion or media attention largely determine whether business interest representatives or other actors find their preferences attained in public policy outcomes.

In Chapter 15, Laurie Beaudonnet focuses on the role and behaviour of political parties in the EU. By creating a new level of government and reorganizing interests, European integration has disrupted party systems and the political game, dividing national parties, and leading to the creation of European parties that are still maturing. Integration has transformed the political environment in which parties operate, bringing new opportunities but also new public policy challenges that do not fit easily into existing cleavage structures. These changes have produced partisan realignments, internal divisions, new parties. Moreover, structural changes such as the increase in the powers of the European Parliament over the last decades and the recent increase in competition for executive power since 2014 have had a strong impact on the organization and role of parties in the European political system.

The many ‘crises’ the EU has faced over the past two decades have put its legitimacy into question. While for a long time Euroscepticism was thought of as a marginal phenomenon, citizens’ reactions to European integration are increasingly at the heart of both public and scholarly debates on the EU. But have European citizens become increasingly Eurosceptic over the last two decades, turning their backs on European integration? On the heels of the increasing EU politicization, a well-established literature focuses on the conceptualization,

causes, and consequences of support for and opposition to European integration. In Chapter 16, Virginie Van Ingelgom addresses ongoing theoretical and methodological issues and the main contemporary challenges in this field. Although a growing literature has sought to explain individual support for European integration, more work is needed to understand the ways in which citizens' reactions are shaped by their national and social contexts. This chapter suggests that citizens' reactions to European integration cannot be reduced uniquely to a rise in Euroscepticism, but that indifference and ambivalence need also to be brought into the picture.

The British decision to leave the EU in the referendum on 23 June 2016 sent shockwaves around the world, destabilizing the country's long-standing membership of the EU, and unleashing powerful political forces into the body politics of the UK. Now that several years have passed since the fateful referendum, we have an opportunity to look back on the Brexit 'process' and to take stock of the consequences of the UK's decision. In Chapter 17, Benjamin Martill does so through a threefold focus on the main *dilemmas*, *developments* and *debates* associated with Brexit. By *dilemmas*, it focuses on the immediate tasks and issues raised by the Brexit vote, including the practicalities of withdrawal, how to interpret the referendum mandate, what EU-UK relations might look like, and what the political fallout of the vote would be. In terms of *developments*, the chapter charts the key milestones in the Brexit process from the referendum itself to the rejection of Theresa May's Withdrawal Agreement in early 2019, and from formal withdrawal in January 2020 to the coming into force of the Trade and Cooperation Agreement (TCA) the following year. And finally, it discusses the broader *debates* that Brexit has engendered, including the origins of the Brexit vote, the negotiating styles of each side, the extent of political change in the UK and the EU, and the implications of Brexit for the wider world.

## MARKET AND REGULATION

The fourth part is devoted to public policies related to the internal market, its regulation and redistributive policies including monetary policy, the common agricultural policy, the cohesion policy, the social and health policies and the gender equality policy (six chapters).

The single market is the core business of the EU. It is a project where policy and politics meet. In terms of policy, the single market has been developed around the goal of achieving freedom of free movement in relation to goods, capital, services, and people. This has implied an extension of the original core of the single market to a full range of policy domains, most recently the digital dimension of an integrated market. In terms of politics, over the years the single market has exposed the differences among Member States on models of capitalism and regulation, as well as the tension between integration as pursued by the European Commission and the protection of national sovereignty in key policy domains. Policies to complete the single market have also raised concerns and political contestation in civil societies and political parties – the debate on the vision, achievements and limits of single market has gradually become more politicized. In Chapter 18, Alison J. Harcourt and Claudio M. Radaelli review the evolution of the single market project, discuss its achievements, present the innovations brought about by the digital single market, and provide a compass to read analytically this governance architecture of markets.

In Chapter 19, Dora Piroska reviews the EU's economic and monetary policies that target the European financial market. She first reviews historically the key regulatory changes to

banking and finance since the 1990s up until the 2008 global financial crisis. Next, she reviews the key regulatory changes to the EU's financial architecture that were introduced as crisis responses and aimed at strengthening the stability of the EU's financial market. In particular, changes enacted to state aid policy, fiscal coordination, central banking, and bank supervision are reviewed. These regulatory changes are evaluated, on the one hand, for their capacity to decrease the scope of democratic decision making in Member States. On the other hand, the lack of democratic oversight they inserted at the empowered EU-level decision making institutions. Finally, several reform suggestions are presented in the areas of state aid, fiscal coordination, the Banking Union, Capital Markets Union that collectively aim at increasing democratic responsiveness of the EU's economic and monetary institutions and policies, while also ensure more evenness in the EU's unlevelled financial playing field. The last section also draws attention to new challenges of the EU's financial architecture such as climate change, inclusiveness, and resource distribution across EU citizens.

The Common Agricultural Policy (CAP) is one of the oldest EU common policies. This redistributive policy has never been cast in stone; over the last 60 years it has adapted itself to deal with changing conditions and expectations about its goals and performance. Most of these changes, however, have taken place within the boundaries of a closed policy community consisting of a limited group of actors, interests and ideas. As a result, reforms have been limited and gradual and often been made to protect the core of the policy regime. To address challenges such as climate change and biodiversity loss, more radical changes of the CAP appear to be required. When it comes to addressing these challenges, however, the CAP is the 'elephant in the room'. While attempts are being made for pointing out this elephant by outsiders that try to gain access to this community, their efforts have limited success. Increasingly, actors located outside the closed agriculture policy community are moving to different (neighbouring) rooms where the impact of agriculture on climate change and biodiversity loss is not ignored. By doing so, they try to affect the broader institutional and discursive setting in which policy-making of the CAP takes place. In Chapter 20, Gerry Alons and Pieter Zwaan first describe this development and its consequences for the CAP from a historical perspective after which they focus in more detail on how actors outside the policy community have tried to affect changes in the CAP, as well how these changes are responded to by existing policy elites.

The role of the EU's cohesion policy – the topic developed in Chapter 21 by Peter Berkowitz – is to promote and support the 'overall harmonious development' of its Member States and regions. It accounts for close to a third of the EU budget and as a result has been closely linked to negotiations on the Multiannual Financial Framework (MFF). Discussions about cohesion policy since the early 1990s have been centred on four issues – redistribution vs allocative efficiency, EU priorities vs subsidiarity, geographical coverage and accountability vs simplification. Over time, the policy has become more closely linked to the delivery of EU policy objectives and integrated with new structures of economic governance. This has driven a major set of reforms in 2013, consolidated in 2021, that reflect a new balance of interests. However, in the coming years this model faces a number of challenges linked to the evolution of disparities and convergence, a changing EU budget landscape, an evolving system of economic governance and the development of new delivery mechanisms. In the context of complex MFF budget discussions for the next financial period post 2027, it is likely that many of the perennial policy issues within cohesion policy will remerge.

In many ways, the Covid-19 pandemic has shed light on the embeddedness of national and EU policy in the realm of social policy and healthcare. Looking back at, for instance, the creation of the European Social Fund, the European Social Dialogue, the soft coordination of employment policy initiated in 1990s, or the austeritarian response to the 2010 debt crisis, scholars and decision-makers have argued about whether the EU can effectively enhance social cohesion at the scale of the continent. Three main lines of reasoning can be distinguished claiming that the EU's social and health policies are either irrelevant, catching-up, or dangerous. Similarly, there are different views about whether its competences in this realm should be strengthened or, on the contrary curtailed, going forward. Any attempt to reinforce the EU's social action is impeding by resistance from a number of governments and corporate actors. In the face of rising inequality and acute old and new forms of poverty, the EU has nevertheless gradually expanded its toolbox yet without succeeded to address effectively inequality both within and between Member States. The conjunction of the European Green Deal and the outbreak of Covid-19 have brought about a new political momentum as the EU institutions are now promoting the notion of 'just transition' in an attempt to reconcile environmental sustainability and social justice. Yet, as Amandine Crespy explains in Chapter 22, to see whether, and how, this emerging agenda will articulate with the existing policy instruments for social policy.

In Chapter 23, Sophie Jacquot aims at presenting the specificities, content and transformation of EU action in the field of gender equality promotion. This policy was initiated as soon as 1957 with the introduction of the principle of equal pay for equal work between men and women workers in the treaty of Rome. Gender equality is now a common value and a transversal mission of the EU. In a first part, the chapter starts with an exploration of the concept of gender equality regime which allows to grasp the specific nature of EU gender equality policy, especially in contrast with national policies. Then, a second part presents the content of the EU gender equality policy, its different instruments, institutions, and actors, as well as their recent evolution. In a third part, the chapter comes back on the present situation, analyses the main contemporary challenges of the EU gender equality policy – austerity politics, illiberal attacks, and institutional blockages – and reflects about its way forward in front of these difficulties and constraints. The main message of the chapter is that the EU-level gender equality policy is at a crossroads and that its future will be very telling as to the identity of the EU, what it is and what it should be according to its members.

## WORLD AND GLOBAL ISSUES

In the fifth and final part, the authors provide keys to understanding the strategies and instruments of action of the EU to act in the world and respond to global issues such as climate change, migration or war (six chapters).

Trade policy is the oldest of the EU's external policies, but since the late 1950s, both the scope of the EU's trade policy as well as the actors involved in making it, have changed considerably. Today, the EU's role in trade is under increasing pressure, both internally and externally. EU trade policy – analysed by Guri Rosen in Chapter 24 – entailed an extraordinary transfer of sovereignty when it was established, through the delegation of powers to the Council of Ministers as a collective decision-maker, to the Commission as the key negotiator and implementer. However, parliaments at the European Parliament, national, and on occasion

also the subnational level, have become more assertive in the area trade. Together with the recent politicization of large trade agreements, it has made negotiation and decision-making processes more unpredictable. Furthermore, with significant changes to geopolitical and global trade patterns, the pressure to reform EU trade policy has increased, prompting a debate not only about the delineation of competences between Member States and the EU, but also the purpose of trade policy and its democratic legitimacy. The EU has always been an ardent defender of free trade, but new approaches indicate an increasing acknowledgement of the need to protect own interests as well. Although rule-based multilateralism is likely to remain the EU's main strategy, to what extent this can be reconciled with a growing concern for own interests will be a balancing-act that also will depend on how the Union is able to reconcile pressure from within, as well as from the world surrounding it.

Energy is one the foundational policy areas of the European integration project. From supply security to the economic, social and environmental impacts of its production, distribution, and consumption, energy occupies the heights of national and EU politics, often challenging solidarity among its Member States. Energy also plays a significant role in the EU's relationship with its neighbours and often is the source of tensions, most recently exposed by Russia's invasion of Ukraine. The EU is undoubtedly the global leader in renewables and response to climate change. However, the evolution of the EU's energy policy is rife with differences in national energy mixes and competing external relationships and thus, closely intertwined with matters of national security. As a result, the Commission has often handled energy policy indirectly through environmental and internal market policies to steer the Member States in a common direction. Its latest push to decarbonize the economy by 2050 comes rife with unprecedented investments and notable progress in related research and development, and the need to break free from Russian fossil fuel supplies. In Chapter 25, Samuel R. Schubert analyses the evolution of the EU's energy policy, addresses what energy security means for Europe, and the implications of its current agenda. It introduces some of the most significant dilemmas faced by the EU, particularly how its vulnerability to supply disruptions continues to affect its solidarity. Finally, it shows the difference between this latest approach and those of the past asking whether this time it can permanently enhance EU energy security.

In Chapter 26, Viviane Gravey considers EU environmental action through four perspectives useful for evaluating the success of EU environmental action: impact on the EU polity (the emergence of the EU as a quasi 'Green State'), centrality to EU politics (the growing debates on climate action, or greening agricultural policy), emergence of a strong body of policies (the environmental *acquis*) and their impact in practice in Europe and beyond. She shows how, while environmental action is now central to the EU's identity, and, with the European Green Deal, at the heart of its political agenda, the EU is nevertheless failing to stop and reverse environmental harm both inside its borders and internationally. Its new 8th Environment Action Programme pledges both global leadership and profound systemic change, marking a sharp turn towards renewed environmental activism in the Commission after a decade of stagnation. But in order to deliver change on such magnitude, the EU will need to maintain credibility both in and outside Brussels, ensuring it remains strong in its commitment to the environmental aims of the EGD (resisting endless extensions and carveouts for highly polluting sectors) and to its social ones – delivering a just transition that leaves no one behind.

In Chapter 27, Sandra Lavenex retraces the hesitant development of common EU policies on asylum and immigration since the 1990s and identifies their limits. While geopolitical challenges and the endurance of violent conflicts and economic inequality around the world

confront the EU Member States with a mounting immigration pressure, calling for common approaches, sovereignty and identity concerns have spurred political contestation over both immigration and Europeanization, preventing governments from fully engaging with supranational solutions. The result is a glaring gap between the high ambition and low achievement of common EU asylum and immigration policies. While Member States and the European Commission have sought to circumvent these internal divides through intensified external cooperation with third countries of transit and origin, the lack of internal commitment remains one of the weak points of the European project, pointing at the limits of political integration.

In Chapter 28, Jolyon Howorth examines the EU's attempts, since the turn of the century, to emerge as a credible security and defence actor. After a brief historical overview of the complex emergence of a Common Security and Defence Policy (CSDP), the chapter assesses the main security challenges that have faced the Union in its attempts to stabilise its neighbourhood. To the East, a newly assertive Russia has changed the strategic chessboard in the Eurasian space. To the South, destabilization of North Africa and the Sahel, following the Arab Spring, have posed serious new challenges from new forms of terrorism. At the same time, the EU has attempted to redefine its relationship with its main ally, the United States, by taking up the US challenge on burden sharing in NATO and by asserting its ambition of attaining 'strategic autonomy'. Over the past ten years, new initiatives, instruments and capacity have been generated, but internal divisions and institutional rivalries between the Member States and the European agencies have stymied progress. With the Russian invasion of Ukraine and the reassertion of US hegemony within the European security space, the overall geostrategic picture remains both uncertain and unpromising.

For long, European integration in the area of 'foreign policy' progressed only slowly and tenuously. With roots in the 'European Political Cooperation' of the 1970s, it picked up speed and gained substance after the end of the Cold War, not least in the wake of the Yugoslav wars, EU-Eastern enlargement, and a resurgent Russia. New legal bases in the Maastricht Treaty of 1993 and in particular the Lisbon Treaty of 2009 strengthened the EU's role in foreign policy and made it an essential part of the evolving twenty-first-century international order. However, the EU has not developed a unitary foreign policy, Ulrich Krotz, Lucas Schramm and Katharina Wolf explain in Chapter 29. Rather, a set of different actors and bodies together shape EU foreign policy. EU foreign policy, furthermore, involves several domains of activity such as the CSDP, the politics of EU accession and association, international trade, and development cooperation. The twenty-first century has brought about a range of challenges for EU foreign policy. These include Russia's military invasion in Ukraine; complex and unstable ties with some of its neighbours (e.g., Turkey, Northern Africa); a loss of EU influence in relation to other global players, notably China; an uncertain future relationship with the UK; and a challenging enlargement in the Balkans.

## WHAT'S NEXT?

Although the end of the EU is often predicted in the public debate, it should be noted that the EU always had an extensive capacity to adapt to the changing context of the European continent and the rest of the world since its creation in the 1950s. However, the future of the Union will certainly depend on a shift in the *raison d'être* from a concern for the internal prosperity of European economies through 'inward narratives' to a search for growing power in the inter-

national system by developing ‘outward narratives’ of the EU. The EU, which was conceived in the aftermath of the Second World War as a project to reject – or at least rationalize – the state power, is now faced with a strong reflection about being a power in a competitive world. If this Companion is ever to be revised in the future, the question of the ‘geopolitization’ of the EU is likely to have to be reinforced as a priority. In essence, the EU of the 90s, which had somewhat abandoned the register of international relations for the sociology of public policy, is more than ever returning to international relations. This may have an impact on the evolution of theoretical debates. A true epistemological history of European Studies as a field of research does not exist yet, but it would be fairly easy to show that it has oscillated since its beginnings between taking into account an object of international relations and that of the state formation.

‘More than a regime and less than a federation’:<sup>1</sup> this is how the political scientist William Wallace described the European Community in the early 1980s; 40 years later, Wallace’s observation is still valid as the balance between the international regime and the federal state has never been a zero-sum game. The EU is condemned to remain a permanent hybrid borrowing to each model, which makes its study difficult but also original. The scholar of the EU does not have to love ‘pure’ political regimes. On the contrary, she has to like hybrid forms and interstices. This is precisely what often makes the analysis of the EU confusing for undergraduate students who would like to see it as a model that fits in more with general political science theories. But this is to a certain extent a very salutary side. The day any scholar is empirically confronted to a political science object, by observing actors and processes from the field, she realises that pure models never exist in politics. It is in this sense that the study of the EU does an enormous service to the whole of the social sciences working on political objects.

As its name suggests, a Companion should be a fellow that everybody must have in her pocket to understand the particular experience of the EU, but also to reflect on the evolution of politics beyond the nation state while not falling into the illusion that the nation state has lost all its power and legitimacy. Desires to return to an exclusive nation state still exists among citizens, as the Brexit experience has demonstrated, but there are also desires to join the EU in order to better face the world, as Ukraine’s application for membership following Russia’s military intervention has shown. These contradictions in citizens’ expectations need to be observed, compared and understood as they show that uniformity is hardly the model that governs the EU. Once again, complexity prevails over ‘pure’ models. For this reason, the decipherments of the best authors who have accepted to write for this Companion are a necessary support to the reader who wants to go beyond a too simple reading of the EU in particular, and of politics in general.

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<sup>1</sup> William Wallace, ‘Less than a Federation, More than a Regime: the Community as a Political System’, in William Wallace, Helen Wallace and Carole Webb (eds.) *Policy-Making in the European Community* (Chichester: John Wiley, 1983), pp. 403–436.

# PART I

## THEORIES AND CONCEPTS

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## 2. Grand theories of integration: Neofunctionalism, intergovernmentalism and constructivism

*Sabine Saurugger*

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European integration processes have attracted theoretical thinking from the beginning: explaining why states freely decide to pool their sovereignty, create supranational institutions, submit to the jurisdiction of a supranational Court of Justice or agree to a common currency has occupied social science scholars since the 1950s. The systematic study of these phenomena has paved the way for the development of theories.

The aim of this chapter is to present in more detail the three classical theories of European integration – neofunctionalism, intergovernmentalism and constructivism. These three theories are considered to be baseline theories in European integration, as they aim at explaining European integration process as a system. The chapter presents their explanatory power in the light of the main contemporary challenges to European integration and discusses new answers these approaches have developed to help us to better grasp these new phenomena.

Neofunctionalism and intergovernmentalism are founding theories of European integration. Each new step in integration or set-back for that matter has challenged these two theories. Their existence is intrinsically intertwined: neofunctionalism was created as an answer to the intergovernmental reading of state relations; intergovernmentalism, liberal intergovernmentalism and new intergovernmentalism yet again emerged from criticisms of neofunctionalism's alleged incapacity to account for major slowdowns of European integration and the persisting existence of intergovernmental bargaining in a political system in which neofunctionalism had foreseen the creation of a new supranational power centre (Saurugger 2013a). And despite this continued turf battle, or perhaps because of it, no other conceptual frameworks have been so often called upon to explain why member state governments, European institutions, non-state actors or citizens either pushed for more integration or on the contrary, slowed down the process.

Constructivist approaches to European integration emerged at the end of the 1990s. Initially developed in the disciplines of sociology and anthropology, constructivist approaches defend the idea that 'reality is socially constructed and that the sociology of knowledge must analyse the processes within which this occurs' (Berger and Luckmann 1966: 1). Constructivism concentrates on the question of how ideational factors (worldviews, ideas, collective understandings, norms, values, cognitive schemes, etc.) influence political action. In other words, to what extent, why and how do norms shape political outcomes?

This chapter is structured as follows. A first section will present the core elements of these theories as well as their historical development as answers to specific empirical phenomena in European integration. A second section will then chart the main contemporary challenges to these theories and their answers to precisely those questions.

## THEORIES: FOUNDATIONS AND DEVELOPMENTS

The creation of the European Coal and Steel Community (ECSC) in 1951 stimulated social scientists' interest in a new form of regional organisations. While these regional organisations were mainly intergovernmental in nature, the European project had created a new type of organisation combining supranational institutions such as the High Authority and the European Court of Justice and intergovernmental ones.

### Neofunctionalism

Neofunctionalism is one of the first, best-known and 'basic' theories of European integration. Closely associated with Ernst B. Haas (1958), who developed the notion at the end of the 1950s, neofunctionalism is today among the most commonly referred to theories of European integration. Neofunctionalism seeks to establish why states accept the idea of being part of an international or supranational organisation.

Neofunctionalism started as a critique of functionalist approaches. It proposed a study of domestic factors in order to explain regional – but more specifically – European integration. It was based on an in-depth analysis of the political systems and administrative structures of the founding states of the European Community (EC), focusing on political elites – parties, governments and interest groups – and on employers' associations and trade unions. It was clearly opposed to the dominant international relations paradigm of the time – neorealism – which explained regional integration by looking at exogenous causes, i.e., the existence of an external enemy and the desire of small states to join forces with larger ones in order to increase their influence. Two notions lay at the heart of neofunctionalism: 'spill over' and 'transfer of loyalty'.

The notion of spill-over is certainly the best known of all neofunctionalist concepts – it is the key driving force behind all integration processes. Leon Lindberg defines spill-over as 'a situation in which a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn create a further condition and a need for more action and so forth' (Lindberg 1963: 10). Initially it concerned economic sectors that would enhance the economic power of the ECSC on the world stage and which had the obvious potential to foster political integration. Neofunctionalists argue that economic integration in one sector automatically leads to the integration of others, to the extent that the problems which emerge through the experience of the first sector can only be resolved by integrating the second as well. In order to implement the process, a transnational authority is needed. At the transnational level, it was the High Authority and later, the Commission, which was responsible for accelerating the degree of economic integration by technocratic means and, in particular, through more rational, optimised public management.

Initially, two kinds of spill-over featured centrally in neofunctionalist studies: 'functional' spill-over and 'political' spill-over. *Functional* spill-over refers to the interconnection of various economic sectors or issue-areas, and the integration in one policy-area spilling over into others. *Political* spill-over is the creation of supranational governance models through the pressure of national (political and non-governmental) actors. More recently, *cultivated* spill-over was added to these two central dynamics. Supranational actors, either supranational institutions or individual civil servants could push for further integration. This could be the High Authority of the ECSCs, or later the European Commission consciously fostering more

integrative outcomes, by ‘splitting the difference’ and by active bargaining process whereby participants swapped concession (Niemann, Lefkofridi and Schmitter 2019; Tranholm Mikkelsen 1991).

The second central assumption of neofunctionalism refers to the transfer of loyalty by elites participating heavily in the integration process. With little interest in citizens or the populations of member states in general, neofunctionalists concentrated their research on the political and economic elite; they were perceived to be the actors driving the dynamics of integration. However, the concept of loyalty re-establishes the relevance of European citizens as well, albeit vaguely. The idea was that citizens would also transfer their allegiances to the new supranational institutions and, in so doing, further drive the integration process (Haas 1964: 49), a process later characterised as ‘ideational spill-over’ (Risse 2005). Such a transfer was deemed to be necessary for the creation of a new political community. Since government would not be political but rather technocratic, politics would play a minor role compared to the efficient management of policies by bureaucracies.

The difficulty of this assumption, however, remains its empirical observation. While spill-over and its diverse consequences have been observed, the transfer of citizens’ loyalty was under-theorised and under-analysed by Haas and his colleagues. Concentrating on governmental, political, technocratic and non-state elites, the authors did not provide a model to *explain* the transfer process – in fact, only the transfer of loyalty by the national political elite, in favour of a technocratic supranational body, was originally envisaged.

### **Intergovernmentalism**

While neofunctionalism emerged in the 1950s, research questions espousing its core theoretical concerns remain widespread in contemporary approaches of European integration: the influence of non-state actors in decision-making processes; the reasons behind the emergence of integrated policy areas; the entrepreneurial role of the European Commission; the European identity of elites and citizens. However, confronted with the refusal of the French government to participate in the council of ministers, the so-called empty chair crisis, neofunctionalism became its own harshest critic, arguing that ‘De Gaulle proved us wrong’ (Haas 1968: xix) and opened the path to a more intergovernmental reading of European integration.

What emerged was a rather exaggerated intergovernmentalist account of the 1960s and 1970s as the decades of eurosclerosis, when economic recession led to the rise of new non-tariff barriers to trade among EC member states. The establishment of the European Council in 1974, a regular summit meeting of EC heads of state and government, was furthermore interpreted as the strengthening of intergovernmental aspects of the Community.

In a nutshell, the intergovernmental understanding of European integration is that of cooperation between sovereign states, who behave as rational actors and whose interactions are managed by the principles of authority and hierarchy. Cooperation, or pooled sovereignty, does not reduce the independence of states; on the contrary, it strengthens them by helping states to adapt to the constraints imposed by the international environment.

Conventional intergovernmental approaches were the prominent lenses for European integration studies from the 1960 to the 1980 focusing on four specific aspects: Analysing the attitudes of governmental elites, whose main representative was Stanley Hoffmann (Hoffmann 1954, 1956), European integration as saviour of state sovereignty (Milward 1984; 1992), neo-

realist accounts (Grieco 1995; 1996; Mearsheimer 1990; Rynning 2006) and two-level games, represented by Robert Putnam (1988) and more specifically Sophie Meunier (2005).

Confronted with the renewed dynamics of European integration, despite the disappearance of the Soviet Union as the main external security threat, which intergovernmentalists and particularly neorealists had believed initially sparked European construction, European integration theory was once again in search of a new explanation. The 1990s saw the emergence of a new theory, focusing on a clear set of hypotheses. With liberal intergovernmentalism, Andrew Moravcsik (1998) created one of the most powerful regional integration theories existing until today.

### **Liberal Intergovernmentalism**

Based on the study of the behaviour of economically rational actors, liberal intergovernmentalists focus on political and social interactions in economic integration. On the assumption that states wish to reduce transactions costs in an open economy, liberal intergovernmentalists working on European integration consider European integration first and foremost as a collective action seeking to optimise gains for each state.

Liberal intergovernmentalism seeks to identify the dynamics of European integration and understand why sovereign states have agreed to renounce certain prerogatives in favour of supranational institutions, which progressively enlarged their powers to the point that they began to control domestic economic policy. For liberal intergovernmentalists, European integration is the result of a strategic calculation by member governments to promote their key economic interests, and of a series of rational choices made by national elites.

In his key work, *The Choice for Europe* (Moravcsik 1998), Andrew Moravcsik analyses five key periods in European integration: the Treaty of Rome (1955–1958), the Common Market (1958–1969), monetary integration (1969–1989), the Single European Act (1984–1988) and the Maastricht Treaty (1988–1991). He argues that European integration was possible owing to the perceived economic benefits of cooperation and the commercial interests of member states, on account of both the relative powers of those states and the credibility of the undertakings they made. According to Moravcsik, geopolitical, ideological and idealistic factors have undoubtedly influenced European integration, but only marginally, and therefore deserve less attention. To the contrary, he asserts that European integration occurred for reasons of economic interest – a possible economic boom and new markets with huge possibilities for expansion. Political decisions in the European Community were thus based on economic interest and not on ideology.

At the core of liberal intergovernmentalism is the idea of international bargaining as a three-stage process: 1. the formation of national preferences, 2. inter-state negotiations and 3. the choice of supranational institutions.

The first stage of the model concentrates on the formation of national preferences. It is here where different stakeholders – organised interest groups such as trade unions, farmers' unions or employer associations – interact with governmental elites in order to determine the official state preference. This process is not based on consensus building or compromise, but described as a power game that leads at the end to an official state position – the national preference. The state can then be conceptualised as a single, rational actor, pursuing coherent national strategies with maximum efficiency and speaking with a single voice, even though at

domestic level national preferences are shaped as the result of confrontation between diverse actors. The decision to delegate sovereignty is based on a cost/benefit analysis.

For the author, two different notions of national preference formation come head-to-head: political and diplomatic vs. economic interests. The first supposes that national preferences reflect perceived threats against national sovereignty or territorial, military or ideological integrity. Security is therefore conceived of as a priority for states and economic objectives are subordinate to it. The consequences for economic objectives are therefore indirect, since European integration is conceived of in terms of security-based externalities, and the pursuit of economic goals is merely a matter of politics. As a result, cooperation can only be envisaged if some states share the same ideological and geopolitical vision and if this vision has the potential to engender positive diplomatic externalities. From this perspective, European integration should have led to a Common Defence Policy (CDP), but it did not, since the proposal by the French National Assembly was rejected in 1954.

Conversely, the second standpoint holds that economic interests have a direct influence on the formation of national preferences; international cooperation is seen as an effort to set up economic policies that will be to everyone's benefit. In other words, the idea is to eliminate negative economic externalities and generate positive ones, i.e., improve the competitiveness of national manufacturers by offering them new markets, or limit public spending by sharing costs. For Moravcsik, this second interpretation is the only valid one, for it allows us to understand the economic integration of the European continent over the last 60 years.

The second stage concentrates on member state negotiations, during which they agree upon mutually beneficial areas for cooperation. We know that states' preferences are rarely compatible and harmonious; they are at times even totally contradictory. Here, liberal intergovernmentalism applies the two-level game theory: states must be ready to make concessions in a given area in order to benefit from counter-concessions in others. High level civil servants in supranational institutions do not influence outcomes, contrary to the arguments developed by neofunctionalists. Bargaining operates on two dimensions only: *effectiveness* and *distribution of gains*.

The third stage of the intergovernmentalism model presents an explanation for the type of supranational institutions created through intergovernmental bargaining. It aims at explaining why states seek to delegate their decision-making power to supranational institutions. Putting 'credible commitments' in place is the explanation. Credible commitments put the emphasis on the need for political coordination: delegation and union are perceived as ways of committing governments to a series of decisions, removing any possibility of unilateral control while progressively increasing the costs of non-cooperation and non-decision. Through the five periods of European integration studies, Moravcsik (1998) observes that governments have often opted for supranational institutions when they serve their own interests, irrespective of ideology. States accept supranational institutions because they are a means of ensuring that their partners commit to a specific policy, the results of which may remain uncertain.

### **Constructivism**

Constructivist approaches to European integration emerged relatively late in the integration process. Influenced by debates in both international relations and organisational sociology, constructivists in European studies concentrate on the influence of norms, ideas and world-views on actor behaviour. The opposition between the concepts of the logic of *consequential-*

*ism* and the logic of *appropriateness* developed by March and Olsen (1989) summarises this understanding particularly well. While the logic of *consequentialism* describes a behaviour where agents act according to the consequences they wish to attain or they fear, the logic of *appropriateness* refers to a behavioural pattern where agents act according to the perceived appropriate behaviour in a specific situation.

It is important to note that constructivist approaches are extremely diverse, which makes any examination of this paradigm particularly challenging. Constructivism is positioned between a positivist and a post-positivist epistemology, or theory of knowledge. This means that positivist scholars develop causal explanations for social phenomena, while post-positivists reject the idea of testing hypotheses altogether. For example, while positivists would explain the reforms of the EU's economic governance system after the 2008 crisis as resulting from the strength of neoliberal ideas circulating amongst European leaders, post-positivists would argue that neoliberal ideas themselves are social constructs, which are too diverse and incoherent to be accounted for as a causal interference. The perceived influence of liberal ideas is thus in itself a social frame in which scholars are trapped due to their prior socialisation. In this sense, reality is neither objective nor subjective, but inter-subjective, i.e., built through shared beliefs among actors. This rather 'uncomfortable' positioning makes constructivism particularly prone to criticism.

### **Constructivist Puzzles in EU Studies**

Constructivists analysing the European Union (EU) have developed in particular two conceptual puzzles (Christiansen, Joergensen and Wiener 1999): socialisation and learning (Checkel 1999; Risse 2004) and the social construction of a European identity (Risse 2004). The two contributions to understanding European integration help to conceptualise the EU as a process, and not as a result. At the heart of constructivist research in European integration is the question of how to explain long-term social, political and economic changes.

A first constructivist perspective sees European integration as a socialisation and learning process. It triggers the internalisation of norms, which are themselves defined through interaction (Risse 2004). More specifically, member states' perceptions of their own political interests evolve due to an international socialisation process (Schimmelfennig 2000). Antje Wiener emphasises that the starting point for the constructivist analysis of European integration was 'a link between the social construction of institutions and the success in implementing rules, norms and legal principles' (Wiener 2006: 54). This has allowed for a shared understanding of how the establishment of norms at the EU level leads to a higher level of norm compliance at the national level. The central methodological idea here is that processes are embedded in a specific context and that only an understanding of the overall context will allow us to comprehend the European integration process as a whole.

For constructivists, socialisation occurs when norms, worldviews, collective understandings are internalised, and then subsequently codified by a group of actors (Schimmelfennig 2000; Risse 2010).

Based on this assumption, a large number of analyses have focused on the socialising role of European institutions. The actions of European institutions creating a collective understanding of issues challenged rational choice approaches which failed to fully understand genuine change in actors' preferences. Socialisation research concentrates specifically on the influence that the collective acceptance of certain standards of behaviour exerts on policy-making

processes (March and Olsen 1989; Checkel 2003; Tallberg 2002). Empirical research mainly concentrates on specific professional groups active in the EU realm such as European civil servants or the Committee of Permanent Representatives (COREPER). A group of researchers have shown that socialisation processes have taken place in working groups or European Committees (Lewis 2005; 2008; Checkel 2003). Others question this socialisation process and present data that shows how socialisation processes are partial at best (Hooghe 2005; Beyers 2004).

This conceptualisation of socialisation has two advantages. First of all, it shows that certain actors not only succeed in imposing their interpretation of social phenomena on others because they have the necessary authority. Their arguments are persuasive because they have managed to create a common understanding of an issue and, as such, they hold a legitimate position through the broader social context in which they are embedded (Jobert and Muller 1987; Dimitrova and Rhinhard 2005).

However, it can be said that constructivist perspectives had a tendency in the past to underestimate the importance of asymmetrical power between actors. More specifically, political problems could not only be solved through the socialisation of actors. Material factors, such as financial resources or social positions influence political outcomes, which can best be studied through ethnographic approaches (Faure and Lequesne 2017; Faure et al 2019; Mérand 2021).

A second constructivist approach emerged from the empirical question of whether, and if so how, a common European identity had emerged in the EU. Here, the starting assumption in constructivist analysis is very close to neofunctionalism: the process of European integration leads to the emergence of a transnational identity. While neofunctionalists envisaged a transfer of loyalty from the national level to the European level – a process that would take place, specifically, amongst the political and socio-economic elite – constructivists broaden their analysis to European citizens as a whole and highlight the multidimensional nature of identity (Rosamond 2005). Hence, instead of considering European identity in terms of a precarious balancing act and presuming that the citizen can feel *either* European *or* national, the objective of the constructivists was to show the multiple levels of the notion of identity. Thus, both national identity and European identity have been conceptualised as ‘imagined communities’ (Anderson 1983), i.e., our different yet co-existing feelings of belonging are structured around specific issues, places or events. Socialisation and symbolic politics influence the construction and reconstruction of identities (Risse 2001; 2003; Foret 2008). According to constructivists, European identity is not a fact, but rather, a construction in a specific time and place, the content of which changes according to the political and social context in which it is embedded (Diez 1999). ‘Europe’ as a space of political organisation and institutionalisation has no clear boundaries. Moreover, differentiation between ‘us’ and ‘them’ – or ‘othering’ as constructivists call it – is context-dependent. In so far as there is no fixed meaning of what Europe constitutes positively, there are no fixed European ‘others’ (Risse 2004).

This understanding enables constructivists to take Euroscepticism into account (Leconte 2010). Identity construction is not peaceful, but conflictual. One of the results is the increase of opposition, not only to European integration but to specific policies (Risse 2010).

## THE CONTINUED RELEVANCE OF FUNDAMENTAL THEORIES

All three theories have known a number of criticisms since their creation. Empirical phenomena – most often unexpected events, such as crises, conflicts amongst member states or an increasing level of domestic criticism towards the European integration project, led scholars to question the basic assumptions, or to restate their relevance.

### Neofunctionalism

Neofunctionalism in particular was amongst those, which have lived through a series of criticisms and managed to renew itself while remaining true to its theoretical core. These revisions can be seen as answers to the cyclical challenge of the theory. Real world events – in the case of neofunctionalism, the 1965 decision of the French President de Gaulle to recall the French representative in Brussels stating France would not take its seat in the Council until it had its way – the so-called ‘empty chair crisis’ – put the theoretical argument of spill-over under stress and led to neofunctionalism’s temporary demise.

The consequences for neofunctionalism – and the Commission – were harsh. Neofunctionalist ideas were so intertwined with the Commission’s ideology that the defeat for the Commission became a defeat for neofunctionalism. The founding father of neofunctionalism, Ernst Haas recognised that political will certainly precedes economic spill-over (Haas 1968: xix). He acknowledged furthermore that the difficulty of establishing a correlation between economic and political spill-over had not been resolved in a satisfactory manner. Neofunctionalists themselves acknowledged at that point the possibility of ‘spill-back’, in the opposite direction to ‘spill-over’ (Lindberg and Scheingold 1970).

However, the renewed dynamics of European integration at the end of the 1980s and the economic and financial crisis of the end of the 2010s allowed for a revival of the theory. Phenomena such as enlarged powers of the European Commission, the establishment of a single market, which increased the number policy areas dealt with at the European level, and the creation of new economic governance rules as a result of the financial crisis, all contributed to the comeback of neofunctionalist frameworks.

### Postfunctionalism

The increasing influence of identity politics in both European studies in comparative politics since the end of the 1990 has led to a new challenge for neofunctionalism. The theory of postfunctionalism (Hooghe and Marks 2009) develops new explanations and hypotheses to explain the relative stalemate of European integration processes. Liesbeth Hooghe and Gary Marks start from the neofunctionalist premise that institutionalised cooperation among states is an effort to solve transnational problems. They argue however that this effort is questioned by the desire for self-rule on the part of those who conceive their national identity in conflict with supranational authority. Based on the large Chapel Hill Expert survey database<sup>1</sup> on the comparative analysis of public opinion, voting, and political parties, postfunctionalism analyses the influence of exclusive identity at the individual level, the conditions under which

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<sup>1</sup> <https://www.chesdata.eu/> accessed 14 November 2022.

exclusive identity is politicised in party competition, and the resulting structure of political cleavages. Postfunctionalism argues that the political salience of immigration has increased significantly over the past decade and has reinforced opposition to Europe. Radical ‘TAN parties’ (‘Traditional, Authoritarian, Nationalistic’) have been central in mobilising transnational cleavage opposition immigration, integration, and multilateralism.

### **Liberal Intergovernmentalism**

Liberal intergovernmentalism has been equally challenged. Since liberal intergovernmentalism seeks to be rational, critics consider that it becomes mono-causal and, as a result, ignores many of the innovative aspects of European integration as a political and economic project. This is also true of critiques stemming from scholars who argue that Moravcsik ignores the dynamic institutional aspect of European integration. In other words, the feedback loop of European integration – where every decision is anchored in a process that began often quite some time before – makes differentiating three steps (national preference formation, intergovernmental bargaining and establishment of supranational institutions) impossible, however heuristic the method might be (Bulmer 1983; 1994; Pierson 1998; Stone Sweet and Sandholtz 1998, Stone Sweet 2003). On the contrary, European institutions (Commission, European Parliament, and the European Court of Justice) are not simply agencies created by the state to enhance inter-state bargaining. Those organisations have their own interests and powerful informational resources, the capacity to generate ideas and intervene as independent actors in decision-making processes (Kleine and Pollack 2018; Hodson et al 2021). This gives the institutions at the heart of a system, and in particular the European Commission, centralised policy management powers.

### **New Intergovernmentalism**

A second, more recent criticism, comes from a new intergovernmental school, arguing that while the intergovernmental character of the EU has indeed been reinforced over the last 20 years, negotiations are increasingly informal and based on trust and understanding between member state representatives (Bickerton, Hodson and Puetter 2015; Hodson and Puetter 2019). Starting from the observation of a paradox of contemporary European integration, namely a reinforced activism of European integration despite an increasingly intergovernmental and not supranational mode of interaction between the members of the EU, the authors draw on their previous work on EU foreign policy, the negotiations during the economic and financial crisis or the deliberations within the Eurogroup which brings together the finance ministers of the countries of the Euro zone. They argue that even in areas where supranationalisation has taken place, such as in Justice and Home Affairs (JHA), the mode of deliberation remains intergovernmental. Overall, new intergovernmentalism is characterised by the predominance of a deliberative and consensual mode of decision-making between representatives of member states rather than by the selfish defence of national interests (see also Fabbrini 2015). Thus, despite growing dissatisfaction with European integration within national civil societies, which would have become a structuring element of relations between national elites and their populations, there is a reinforced integration. This type of integration is mainly based on forms of intergovernmental negotiation. Instead of concretely strengthening supranational institutions (and this despite an extension of the legal competences of the European Parliament by

the Lisbon Treaty of 2009), the member states create *de novo* institutions such as the European Stability Mechanism (ESM) or even strengthen the competences of existing agencies, such as Frontex. These agencies have the advantage of being more tightly controlled than the European Commission can be. Critics of this new intergovernmentalism (Schimmelfennig 2015) oppose it in particular with the fact that the Treaty of Lisbon has in fact further strengthened the powers of the European Parliament, which is in fact co-decision maker in an ever-increasing number of areas. Moreover, finding compromises would in no way be a novelty but on the contrary a traditional way of functioning of the European political system.

Finally, with regard to constructivist approaches, two questions remain: First, the difficulties of operationalising the main hypotheses which have been pointed out time and again: how to develop a research design that allows for establishing causalities? The main challenge in this respect is to identify the discourse and worldview ‘carriers’, as well as the reciprocal influence of agents and structures through a rigorous research protocol (Mérand 2008; 2021). Second, the problems of linking power games and strategic thinking to idea-based explanations of actor behaviour: how can constructivist approaches integrate strategic and actor-centred behaviour in explaining processes and outcomes of European integration and why is this important?

### **Actor-centred Constructivism**

Since the end of the 1990s, a group of scholars has attempted to answer these questions. Although they agree with the general constructivist assumption that the individual ideas and beliefs of an actor are constructed, they emphasise the importance of taking into account the ways these ideas are strategically used. The central question to which actor-centred constructivism seeks to find an answer is: ‘To what extent exactly do ideas shape policy outcomes?’ Ideas are considered to be explanatory factors in their own right. But as Mark Blyth notes, constructivist perspectives have for too long opposed interests and ideas and considered them to be radically different and unrelated concepts (Blyth 2002; see also McNamara 2006). How do ideas frame interests? How can one describe the practices of actors through this framing process? In other words: ‘Since structures do not come with an instruction sheet, economic ideas make such an institutional resolution possible by providing the authoritative diagnosis as to what a crisis actually is and when a given situation actually constitutes a crisis. They diagnose ‘what has gone wrong’ and “what is to be done”.’ (Blyth 2002: 10. See also Hay 1999; 2004).

In this approach, ideas influence outcomes significantly: they are used for strategic purposes. Hence the criticism voiced by ‘actor-centred constructivists’ that the purely rhetorical use of these notions underestimates the forms of mobilization and instrumentalization to which these frames have been subject (Surel 2000). This conceptual framework particularly inspired the research on European political economy. Scholars concentrated on the question why and how a convergence of beliefs around economic and political solutions to specific European problems has emerged (Christiansen, Joergensen and Wiener 1999).

Albeit these scholars develop different hypotheses, they all agree on the basic assumption that, even in an international environment that confronts political leaders with a set of challenges, actors do not automatically come up with the ‘correct’ or ‘best’ answer. Problems must be interpreted in order to be solved. It is here where we see how ideas influence actors. Different ideas lead to different interpretation of problems and the different framing of solutions. Actor-centred constructivism introduces sociological methods or process tracing,

allowing for concentrating on the study of individual actors or groups of actors. This helps to understand the power games that take place between actors in public policy.

Actor-centred constructivism attempts to tackle critiques expressed by opponents of constructivist approaches who claim that power considerations are absent in constructivist perspectives (Saurugger 2013b). Research focuses thus on the one hand on the carriers of ideas and norms, and on the other, the influence of their power relations on policy outcomes. Actors' preferences are brought back into the analysis. Agents are purposeful actors, embedded in ideational structures, which they use in line with their interests.

## CONCLUSION

Theories of European integration have structured the debate amongst EU scholars for the last 70 years. Adapting to real world events, they have been reformed, rethought, and criticised. What makes these three theories so particular is their willingness to understand the integration process as a whole, and not only specific aspects of it.

Most recently, the question of a European disintegration, linked to the UK's decision to leave the EU have again surfaced, together with approaches featuring the concept of differentiation (Leruth et al 2022; Leuffen et al 2012). The concept of differentiation refers to a phenomena in which the political system is not ruled by a unified body of rules, but where different policy areas issue rules that only apply to small group of member states. New sub-theories have emerged that help us to better understand the mechanisms of integration and disintegration that are currently underway, but none of these has fundamentally questioned the basic hypotheses of the theories discussed in this chapter.

European integration faces currently both integration and disintegration, centralising and differentiating tendencies at the same time. We also observe a movement where recent crises seem to lead to an increased and increasingly rapid coordination amongst member states, without fundamentally leading to more supranational integration. Neofunctionalism is still not proven wrong in the sense that new institutions are created as a consequence of unsolved issues. But the form these institutions take is new, hence the term developed by new intergovernmentalist scholars (Hodson and Puetter 2016) of *de novo* bodies. Intergovernmentalism as a general theory continues to help us to understand integration dynamics but also their limits, in a time where most initiatives stem from member state governments, and, to a lesser extent from the European Commission, albeit the presidency of Ursula von der Leyen (2019–2024) might have changed that. Finally, constructivism continues to help us understand the influence of norms and ideas on actors' behaviour, and socialisation processes still have explanatory power.

The aim of this chapter was to present the main arguments of these three theories but also the challenges they faced and still do face. These theories have undergone criticisms and adaptation processes and still stand strongly in the centre of any theoretical debate in European studies.

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### 3. Institutionalism

*Simon Bulmer*

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Institutionalism emerged as an analytical framework in European Union (EU) studies as a result of the rise of the new institutionalist (sometimes termed neo-institutionalist) approach in political science and international relations, and the governance turn in politics and political practice. These two developments came together in the 1990s. Institutionalism opened up an array of research agendas focused on EU governance.

The rise of new institutionalism was a reaction to the behavioural and rational revolutions of earlier decades that had neglected the role of institutions. Rather than politics being the aggregation of individual choice culminating in rational and efficient solutions, March and Olsen (1998) emphasised the role of institutions in the political process and the possibility of inefficient outcomes. Their core claim was that the organisation of political life was significant, and that institutions mattered. Moreover, by contrast with older conceptions of the role of institutions ('old institutionalism') that emphasised constitutional-legal aspects, new institutionalism sought to use wider understandings of institutions to explain political life (see also Peters, 2012, and Saurugger's chapter). It therefore became vital, first, to define what was meant by institutions and, second, to transcend the basic claim that they mattered to identifying *how* they mattered.

With regard to definitional issues, it was incumbent on authors to make explicit how they understood institutions. For example, March and Olsen (1998, 948) offered 'a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations'. Note the words 'appropriate behaviour', which emphasised a cultural dimension that March and Olsen wanted to underline. Hall (1986, 19) offered the following definition: 'the formal rules, compliance procedures, and standard operating practices that structure the relationship between individuals in various units of the polity and the economy'.

The newly created research agendas saw institutions as more than neutral arenas within which the preferences of political actors played out. Indeed, institutions could be considered to be either intervening or independent variables. In the former situation, they could be seen as structuring political contestation and perhaps leading political actors to modify their strategies to suit institutional circumstances. For example, different voting rules within the EU Council could impact on the negotiating strategies of member governments. In the latter case, institutions such as the European Commission, European Central Bank (ECB), the Court of Justice of the EU (CJEU) or the European Parliament (EP) could themselves play a key part in the political process.

The second issue, namely *how* institutions matter depended on the way in which new institutionalism was used: determined by the specific research questions being investigated and, in turn, by the particular form of new institutionalism being deployed.

The intellectual context for the emergence of new institutionalism was rather distinct in EU studies. Integration theories had formed the main foundations of academic debate since the 1950s (see Saurugger's chapter). Although they continued developing in the 1990s, for instance with liberal intergovernmentalism (Moravcsik, 1993), some analysts moved away

from research questions on the trajectory of integration to more specific ones regarding how the EU worked: its character as a political system; its different policy procedures; and its impact on member states. Thus, it was in the 1990s that the EU came to be studied from the perspective of comparative politics (Hix, 1994).

The creation of the single market and the commitment to deepening integration and extending it to new policy areas in the Maastricht Treaty expanded the scope of EU studies. European public policy could no longer be studied in isolation from the EU. At the same time, the 'governance turn' was taking hold in political science more generally. Globalisation, the impact of the EU, rising subnational mobilisation re-defined nation states and led to the rise of multi-level governance. Equally, the economic policies of Reagan and Thatcher and then the European single market programme re-shaped state-market relations. The term governance thus reflected the diversification of the methods of rule, providing fuel to the new institutionalist argument that the organisation of political life mattered.

Within EU studies, Bulmer (1993) set out an early prospectus that identified ways in which new institutionalist analysis could bring fresh insights. At the 'macro' level, it offered a route into the analysis of the transformation of EU governance in the wake of the Single European Act and the Maastricht Treaty. New institutionalism was proposed as a toolkit to examine: these constitutional reforms alongside key rulings of the European Court that had recalibrated the EU's political system; the growing importance of inter-institutional relations; evolving procedures in individual institutions; and the softer cultural and normative aspects intrinsic to each of these components of the system. Deeper European integration, it seemed, entailed differing forms of institutionalisation (Stone Sweet and Sandholtz, 1998, 16–20). Further, these changes found different expression at the 'meso' or policy level. Patterns of governance within the EU became more differentiated depending on the policy issue at stake. A new institutionalist lens offered a way to observe these different sub-systemic practices.

As the literature evolved, it became clear that 'new institutionalism' did 'not constitute a single research programme' (Rosamond, 2000, 114). Rather, it was an umbrella term encompassing different variants.

## NEW INSTITUTIONALISM: UNDERSTANDING DIFFERENT VARIANTS AND THEIR ASSUMPTIONS

Hall and Taylor (1996) were influential in outlining three variants of new institutionalism in political science. Aspinwall and Schneider (2000; see also Schneider and Aspinwall, 2001) explained the application of these variants in EU studies. Discursive institutionalism emerged somewhat later but from a leading scholar in EU studies (Schmidt, 2008).

A first way of understanding the different variants of institutionalism is in relation to their understanding of institutions themselves. Rational choice institutionalism (RCI) took the 'thinnest' approach, often regarding them simply as formal rules. Sociological institutionalism (SI) offered the 'thickest' interpretation, including cultural and social practices. Historical institutionalism (HI) adopted a middle ground. Discursive institutionalism (DI) claimed compatibility with all of these definitions but sought to consider how the institutions shaped ideas and discourse, thereby opening up scope for change.

A second way of understanding the different variants is in terms of their assumptions. The terminology of rational choice institutionalism was to some extent self-explanatory. It noted

the importance of institutions but, recognising their rules, adopted a rational choice approach to reasoning, a ‘scientific’ approach to methodology, typically based on hypothesis testing, and sometimes an emphasis on modelling. SI differed significantly, requiring ‘thick description’ to explain the role of largely non-measurable institutional norms and culture. HI again sat in the middle. Whilst RCI understood actors to determine their preferences exogenously to institutions, SI saw preference formation as endogenous to them. Mutual constitution of preferences took place through a process of actors learning institutional cultures and meaning, underlining the links between SI and constructivism (see Saurugger’s chapter; Risse, 2019, 133).

A third key difference between the new institutionalisms is the distinction between strategic action, based on an instrumental calculation of the logic of consequences (RCI) and action that was determined by social or cultural norms reflecting a logic of appropriateness (SI). RCI was rooted more in North American academic traditions, whereas SI reflected continental European ones. HI sat in the middle ground. Given the predominance of rationalism in American political science, the influential HI work of Paul Pierson (2004) sought to use some of the language of rationalism in setting out its research agenda. Others deploying HI took a more cultural approach. DI adopted a different position. Rather than being placed on a spectrum between the rationalist ‘logic of consequences’ and the more cultural ‘logic of appropriateness’, DI was concerned with the ‘logic of communication’ (Schmidt, 2008, 314).

A fourth way of distinguishing between the variants was in relation to change and temporality. RCI was concerned with ‘snapshot’ relationships between actors and institutions. It was by comparing these relationships over time – as a series of snapshots – that change could be accounted for (Héritier, 2007). Although attentive to learning, SI was also rather static in covering change due to assumptions regarding cultural persistence. HI, by contrast, devoted much attention to temporality. Pierson (2004) identified a number of key concepts in the study of the temporal/historical dimension of politics, namely path dependence, timing, sequence and the nature of long-term processes. HI’s emphasis on path dependence led to criticism about its ability to explain major-order change: why and when ‘critical junctures’ occurred, bringing about transformative change (Capoccia and Kelemen, 2007). DI claimed an advantage in explaining change because of its focus on discourse and ideas. From the perspective of DI, institutions are both context and subject to actors’ discursive abilities. In other words, actors could step outside of the institutional constraints to re-shape the ideas through the logic of communication.

The variants of new institutionalism thus entailed rather different research agendas. Aspinwall and Schneider (2000) referred to the new institutionalist agenda in terms of ‘same menu, separate tables’ but it might be argued that there were even different menus.

## APPLICATIONS OF INSTITUTIONALIST ANALYSIS IN EU STUDIES: AN OVERVIEW

In reviewing the application of new institutionalism in EU studies, what follows is divided into the different variants discussed in the previous section, although some work using different variants is considered in the stocktaking section.

### **Rational Choice Institutionalism**

One of the first applications of RCI came before the terminology was even adopted: in Fritz Scharpf's work (1988) on the 'joint decision trap'. It sought to explain how decision-making rules – namely the commitment to working consensually – made it difficult to make major decisions in the EU and other federal systems. It was a classic case of rational action in the face of decision rules, shaped by interests, information and institutions. RCI has made important contributions on executive, legislative and judicial politics as well as addressing the EU's impact on member states (Pollack, 2019; Saurugger, 2014, 82–90).

RCI contributions on executive politics have been particularly significant. The main research theme has been principal-agent analyses, initiated in EU studies by Pollack (1997). A first concern was with the conditions under which the member governments (*principals*) delegated power to *agents*, namely supranational institutions, particularly the Commission, the CJEU, the ECB and various EU agencies. A second concern related to explaining how agencies gained autonomy from the original intentions of principals.

In the case of the former, states delegated powers in order to reduce uncertainty and to reduce transaction costs through making 'credible commitments', adding further regulation when it became clear that the original delegation was an 'incomplete contract' (e.g., see Pollack, 2003 and Franchino, 2007). However, the act of delegation runs the risk of agency autonomy. A loosening of control may develop, depending on the specific circumstances and how tightly the rules of delegation have been drawn (e.g., see case-studies in Pollack, 2003).

Delreux and Adriaensen (2018) identified a number of key developments in principal-agent analyses on the EU. First, they noted how principal-agent studies evolved from an initial focus on delegation to the EU as an organisation to micro delegation in specific areas. Accordingly, coverage of EU policy areas has become quite comprehensive, with particular emphasis on trade and external relations. However, they noted that the literature displays an intrinsic tension between the parsimonious assumptions of the principal-agent model, on the one hand, and the increased complexity of EU governance. Capturing the latter ran the risk of departing from the rationalist assumptions upon which the model was based (see Delreux and Adriaensen, 2018 for a literature review). A second trend identified was a shift from the politics of delegation to a politics of discretion, whereby the analytical perspective shifts from that of the principals to the agents.

RCI analysis on judicial politics had parallels to that on executive politics. Thus, a major debate concerned whether the Court of Justice tended to rule in ways consistent with the interests of the larger member states (as argued by Garrett, 1992; see also Larsson and Naurin, 2016) or whether it had achieved full independence from them as 'trustees' (Alter, 2008).

RCI's focus on legislative politics was also a rich field. Particular strengths were in: analysing organisational rules and voting behaviour within the EP; the interaction of voting rules and intergovernmental power in the Council of the EU; and the relative positions of these two institutions in decision-making (Costello and Thomson, 2013).

### **Historical Institutionalism**

The main focus of HI has been on the evolution of policy and governance in the EU. Analyses tended to be based on case-studies and consequently dependent on the empirical focus of researchers.

Paul Pierson (1996) was the first to deploy HI to explain the evolution of integration. While recognising the intergovernmentalist claim that national governments were the key actors, he developed the argument that their control eroded with the passage of time from original negotiating decisions. Thus, the ‘snapshot’ of a bargaining outcome between governments did not supply the full picture. A ‘movie’ was needed to show subsequent evolution. He identified four gaps that tended to emerge and erode the snapshot outcomes of intergovernmental bargaining: ‘the autonomous actions of European organizations, the restricted time-horizons of decision-makers, the large potential for unintended consequences, and the likelihood of changes in COG [Chiefs of Government] preferences over time’ (Pierson, 1996, 131–132). The first of these gaps challenged some of the assumptions of the principal-agent literature. However, the other three gaps concentrated on how the passage of time can result in political consequences that may depart from the original negotiating outcome. ‘Sunk costs’ and ‘lock-in’ result in incremental policy development and the potential for unintended consequences. Pierson (1996, 147) saw a link between his explanation and neofunctionalist spillover (see Saurugger’s chapter).

Armstrong and Bulmer (1998) made a detailed application of HI covering how the Single European Market (SEM) developed from initial agreement in 1985, helped by the institutional reforms and policy side-payments in the Single European Act (SEA). Their analysis sought to take an overall view of the SEM, explored six case-studies that were either in the SEM programme or in adjacent policy areas and, in particular, integrated both political and legal dynamics, revealing the different specific tempos of policy evolution in the individual cases.

A further interesting application of HI was to the EU’s constitutional reform process (Christiansen et al., 2002). Constitutional reform had tended to be the preserve of intergovernmental analysis (Moravesik, 1998). Thus, member-state preferences, developed domestically, played out in negotiations, with the larger states having a major influence. By contrast, Christiansen et al. (2002) sought to redress the balance between actor preferences and the structural context within which constitutional reform took place (and with the supranational actors also as participants). Constitutional reform was not just about the ‘summits’ represented by treaty reforms but also entailed what went on in the intervening periods – the ‘valleys’. Indeed, constitutional reform had itself become somewhat proceduralised with its own trajectory (Falkner, 2002).

There are many policy applications of HI across multiple policy areas. For instance, Yiangou et al. (2013) offered an analysis of post-crisis monetary integration in line with Pierson’s HI analysis, emphasising reputational sunk costs. Verdun (2015), by contrast, explored a carefully nuanced approach to policy change. Specifically, she applied the concepts of displacement, layering, drift and conversion – concepts developed by Thelen (2004, 35–36) – with a view to explaining the reforms to monetary union brought about by the Eurozone crisis. Most of the reforms, she argued, represented ‘layering’.

Another body of work associated with HI has used the terminology of ‘failing forward’. Jones et al. (2016) developed this work to explain the evolution of the Euro. The Eurozone’s original design was characterised in their account by intergovernmental compromises that created incomplete contracts. Confronted by the Eurozone crisis, however, states had too much invested in the Euro’s survival, resulting in a dynamic to make reforms (still incomplete) to the policy regime (‘failing forward’) rather than allowing it to collapse altogether.

The ‘failing forward’ analysis found resonance in other policy areas. Scipioni (2018) found similar problems of an incomplete EU policy regime exacerbating the migration crisis in

2015/16, with consequent attempts to patch up policy provision. Jones et al. (2021a) returned to widen the policy coverage of the ‘failing forward’ interpretation in the form of a journal special issue (Jones et al., 2021b; see also Bulmer, 2022).

### **Sociological Institutionalism**

SI placed emphasis on the ‘logic of appropriateness’, emphasising cognitive and cultural aspects of political life. This emphasis focused on ‘symbol systems, cognitive scripts and moral templates that provide the “frames of meaning”’ (Hall and Taylor, 1996: 947). It also brought learning into play and, consequently, linked in with the much more extensive literature on constructivism, including its emphasis on the social constitution of preferences (see Saurugger’s chapter). The difficulty arising was one of disentangling SI analysis from the much more extensive body of constructivist analysis that typically engaged with other theories of integration or international relations rather than the institutionalist debate.

SI analysts have sought to explore whether national representatives in the Committee of Permanent Representatives (COREPER) or in other high-level preparatory bodies followed national interests or were socialised into the shared norms engendered by the institutional setting (Lewis, 2005; 2003). Hooghe (2005) explored the socialisation of Commission officials (see also Checkel, 2005). In a different vein several analyses have investigated the causal impact of beliefs on the advent and reform of monetary union (McNamara, 1998; Argyroulis, 2022).

Jenson and Mérand, (2010) argued that institutionalist analysis on the EU has not been sociological enough. They suggested that SI has better potential to explore actors’ participation in the process of institutionalisation within the EU as well as to the social relations structuring that participation (Jenson and Mérand 2010, 81). They argued that SI could get to grips with issues of social relations, agency and power in a way that they considered the more structuralist HI failed to do. They were also critical of how some analyses (Lewis, 2005), sought to present political action as the result of *either* rational/strategic action to maximise position *or* more norm-based action. They argued that *any* strategy was socially embedded.

### **Discursive Institutionalism**

Vivien Schmidt has been the main proponent of DI (see also Carstensen and Schmidt, 2015). She applied it to key political issues in the twenty-first century EU. Examples included analysis of the Eurozone crisis (Schmidt, 2014), revealing how deficiencies in leaders finding a common ‘coordinative discourse’ at EU level in facing the crisis proved inadequate for matching the challenges faced, while leaders also failed to find adequate legitimating discourses at domestic level for the austerity policies eventually followed. These difficulties were attributed to the fact that political leaders were operating in two institutional settings: the EU and their respective member state. Another application has been made to the discursive origins of the populism leading to Brexit and the election of President Trump (Schmidt, 2017).

## WHAT HAVE WE LEARNED FROM NEW INSTITUTIONALISM? A STOCKTAKE AND PROSPECTIVE

### Stocktake

If the true test of new institutionalism's contribution is that it has shed light on the EU, then it has definitely succeeded. Each of the variants has succeeded in its own right, although DI is at an earlier stage of development. The empirical cases across the three variants have covered a wide range of institutions and policy areas.

RCI's strength is the rigour with which the analysis tends to be set up. Yet that rigour has also led to criticisms that RCI has 'verged on scholasticism, focusing more on model specification than on the empirical reality' (Pollack, 2019, 115). Its main contributions have been on actors' engagement with EU institutions. Some HI analyses have risked the reverse accusation, namely that their rigour and hypothesis-testing has not been entirely convincing, although these observations need to recognise that there are different ways to conduct social science research. Nevertheless, HI has advanced beyond its early insights that were often seen as being focused only on continuity and path dependence to give more attention to change. For SI there is a slightly different problem about the organization of research. Disentangling SI analyses from the closely related constructivist debate can be tricky. Moreover, the research costs associated with SI projects is high, given the need to get inside institutions to understand culture and norms but also not lose sight of agency. DI has launched an important research agenda anchoring discourse analyses around institutions but needs to build its findings to catch up with the track records of the other institutionalisms.

Particularly valuable insights have been secured where different variants of institutionalism have been juxtaposed and put to the test. The collection edited by Schneider and Aspinwall (2001), where exponents of one institutionalism were matched with a discussant from another variant was valuable in this respect. Another area has been in Europeanization research (see Bartenstein and Wessels' chapter), where Börzel and Risse (2003) set out two competing conceptual models of adaptation and change reflecting RCI and SI. Arguably the best operationalisation of this model came with various applications by Schimmelfennig and Sedelmeier that tested whether accession states got themselves to the finishing line of readiness for EU membership as a result of adhering to the incentives offered by membership or for reasons of reinforcing their European identity (e.g., Schimmelfennig and Sedelmeier, 2002). In other words, this body of work compared hypotheses based on RCI and SI as explanations of adaptation. Unfortunately, the temporal focus favoured by HI makes it difficult to offer a third, parallel explanation. However, HI generated comparable (and comparative) studies on member-state adaptation that showcased its insights (Bulmer and Burch, 2001; Johansson and Raunio, 2010).

### Prospective

As new crises have presented themselves in the EU – such as the rule-of-law challenges in central and eastern Europe, the Covid-19 pandemic, the Russian invasion of Ukraine in 2022 and climate change – more case-study material has become available for institutionalist analysis. For instance, the economic impact of the Covid-19 pandemic produced significant policy change, while the Russian invasion of Ukraine prompted a major re-assessment of the

purposes of the EU's Common Security and Defence Policy. Developments, such as these change the institutional settings that interest exponents of RCI, challenge the attention to policy continuity and change that interest exponents of HI, while bringing about normative and discursive changes that interest exponents of SI and DI. By contrast the pace of constitutional change to EU governance, such as through treaty reform, has slackened following the Lisbon Treaty and as a driver of institutionalist research. Even so, the workings inside the ECB and the CJEU remain relatively unexplored.

In terms of the different variants, three particular challenges may be identified. First, it would be welcome for there to be more work linking together the different variants rather than restricting theoretical debate to within one variant only: something which RCI could particularly be criticised for. There is more scope for HI to explore temporality in the EU (Bulmer 2009). For SI, the call by Jenson and Mérand (2010) for more sociologists to engage with institutions continues to hold, as the full potential of SI has not been realised (see Bonnamy and Canihac's chapter). DI is much more recent in origin, and more empirical work needs to be done.

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## 4. The European Union in search for legitimization: Theories and practices

*François Foret*

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Some of the most heated controversies since the beginning of European integration have revolved around the ‘nature of the beast’. The core of the debate has progressively shifted from foreign to domestic politics; from the strangeness of the European Union (EU) in a world of states to its internal dynamics; and from the EU as an institutional system to the EU as a political community. Subsequently, the question has become to which extent and how the nature of the emerging European polity commands its legitimization. Due to the development of its competencies impacting nowadays virtually all dimensions of citizens’ lives and to the growing dissensus about its ends, means and effects, the EU increasingly must justify not only its regulatory action on markets, but also on society and culture. The succession of master narratives declining the notion of European identity under different clothes suggests that the EU is still in search of a sustainable doctrine.

The polycentric and multicultural dimensions of European politics is an extra incentive to shape our reflection in terms of legitimization rather than legitimacy. The usual distinction in European studies between legitimacy through ‘inputs’, ‘outputs’ (Scharpf, 2009) and ‘throughputs’ (Schmidt, 2006) is helpful to characterize the interplay between interests and ideas. However, it tends to focus on the institutional and procedural dimension of governance (Steffek, 2019); to minor the importance granted by citizens to all forms of direct and indirect participation and inclusion (Strebel, Kübler and Marcinkowsky, 2019); and fails to take fully into account the normative, ‘messianic’ and ‘deep’ resources (Weiler, 2012) mobilized to justify European integration.

Therefore, the notion of legitimization understood as a social process is more relevant to fully grasp the identity, cultural and communicative dynamics of the conflict to impose the narratives framing political choices and belongings. Legitimization refers to the process by which actors justify their ends and means and strive to maximize the congruence between the ideal and actual political orders. The purpose of legitimization is to reduce as much as possible the gap between representations interiorized by citizens, those circulating in social communications and those underlying political structures, practices and discourses (Foret, 2009).

This chapter is organized as follows. The first part documents the main political and intellectual debates and the key historical moments shaping the EU’s legitimization as a political community. It shows how the agency granted to interests and institutions in European integration has been (partially) completed by the acknowledgement of the influence – and occasionally the resistance – of ideas and identities. The second part focusses on the contemporary challenges illustrated by the range and limits of the two last-to-date communicative and policy narratives in terms of ‘European values’ and ‘way of life’. The conclusion offers some prospects for the future.

## THE LONG QUEST FOR EU LEGITIMIZATION

Speculation on the existence of socio-cultural bases for a European polity (be it conceived as a common civilization, identity, ethos, people, values or something else) have by far preceded actual attempts to unify politically the continent in modern and contemporary history. The debate on the legitimization of European integration from the 1950s onwards must be understood against this background, and meanwhile recognized in its specificity and its theoretical diversity. All this scholarship concurs to cast a sceptical look at the structures of opportunity and constraint framing the ability of EU institutions to win the hearts and minds of the Europeans.

### **Europe before the Communities: Diversity and Unity**

Looking at the '*longue durée*', well before the start of European integration in the 1950, the existence of a corpus of values likely to serve as a bedrock for a continental political system was a bone of contention. Historians acknowledge the existence of a basic European ethos in the form of 'traditions' (Judeo-Christian, Greco-Roman, Medieval, Enlightenment, etc.) or 'values' (e.g., rationality, freedom, self-actualization) (Joas and Wiegandt, 2008), but insist that this ethos is plural; as well as discontinuous and conflictual (Schulz-Forberg and Stråth, 2010). Such a common heritage embeds factors of unity as much as divisions (Davies, 1996; Mazower, 2009; Judt, 2006) and comes with liabilities such as imperialism, totalitarianism (Chakrabaty, 2000) and anti-liberalism (Goselwinkel, 2016). There is no such thing as a single European modernity functioning as a path-dependence towards a political one-best way likely to be exported as a universal model (Eisenstadt, 2008; Delanty, 2013). Mainstream sociological attempts to encapsulate the evolution of European societies towards a unique pattern of values have met their limits despite of their great heuristic interest (Inglehart 1977; 1990; 1995; Inglehart and Abramson, 1997; see Bonnamy and Canihac's chapter) as national specificities have proved resilient (Norris and Inglehart, 2009; Inglehart and Norris, 2016). Large surveys like the Eurobarometer or the European Values Survey suggest the existence of common moral standards and converging worldviews throughout European societies by comparison with other parts of the world, coexisting with resilient national or local particularisms (Bréchon and Gonthier, 2017). European societies tend to evolve in the same direction but from various starting points and at different paces, which means that gaps remain.

### **From Europe to the EU: Continuities and Inflections of the Debate on Legitimization**

Narrowing down the prism from Europe to the EU (and its precedent institutional forms) but still at bird's-eye level (and at the risk of oversimplification), the question of the normative foundations of a European political community is framed very differently across time and theoretical trends in European studies. When European integration is seen mainly as an ongoing process (arguably the mainstream view until the end of the 1980s), cooperation between European states and societies is considered as a realistic way of reconciling conflicts of interests without much interest for social representations working as the bedrock for politics. Things have changed as soon as the EU has gained recognition as a polity in the making. Without claiming exhaustivity, we focus here on six of the most representative schools or concepts. The first four of these (neo-functionalism, intergovernmentalism, multi-level govern-

ance, and neo-institutionalisms) tend to explain the genesis and the development of European integration as a process, while the last two (federation/federalism and consociationalism) emphasize the EU as a whole polity.

*Neo-functionalism* conceptualized by Ernst Haas (1958; 1964) as a scientific rationalization of the political ‘Monnet method’ – still the underlying inspiration of many pro-European visions – postulates a ‘spill-over’ effect that will drive ideational factors to shift from national to supranational level in the wake of interests and institutions. The rich original toolbox proposed by Haas tended to be impoverished by epigons focussing more on the deterministic and realist logic of this approach and to neglect the sociological dimension of interdependencies supposed to cement an ever-stronger integration. A fundamental criticism of neo-functionalism is the risk to confuse sociability (interacting) with socialization (sharing a vision of the world). *Intergovernmentalism* through successive generations of scholars from the founding father Stanley Hoffman (1996) to the more liberal version of Andrew Moravcsik (Moravcsik, 1998; 1999) highlights the resilience of national authorities, arenas and loyalties. In this pattern, the EU is turned into a rescue rather than a threat for nation states (Milward, 1992). The last wave of intergovernmentalists however emphasizes that integration reshapes in-depth the very notion of statehood and nationhood by turning ‘nation states’ into ‘member states’ (Bickerton, 2013). Intergovernmentalism is still accused of focusing on static national interests, decision-makers and turning points and ignoring ‘low politics’ and grassroots practices where identities are frequently shaped. The notion of *multi-level governance* (Bache, Bartle, and Flinders, 2016) describes the pluralism of frameworks of regulation, public action and interest representation but says little about belongings. The conception of power in flows and networks may be instrumental to describe the fragmentation of political legitimacy and communication but struggles to conceptualize identities and values in such shapeless forms.

*Neo-institutionalisms* point out continuities and the structuring role of institutions despite crises and changes (March and Olsen, 1989; Steinmo, Thelen and Longstreth, 1992). Born at the end of the 1980s, it acknowledge that path-dependencies remain mainly national (Pierson, 1996), but also suggest the importance of formal and informal European socialization processes while maybe not questioning their social range enough. Social and discursive neo-institutionalisms pay closer attention to cultural references and belongings as possible incentives for political action, including support or resistance to European integration (Schmidt, 2020; see Bulmer’s chapter).

### **Acknowledging the EU as a Polity... and Doubting of its Agency to Siphon Loyalties**

From the original debate about whether the emergent Communities could be understood as mere international organizations or as *sui generis* unknown political objects in a world of states or requested, the reflection has shifted to focus on their internal dynamics requesting an update of traditional models of domination. Two concepts forged on stato-national realities and reframed to fit to the EU illustrate this shift. The twin notion of federation and federalism is instrumental in exploring the effects of European integration on the boundaries between the national and the supranational spheres as well as between the social/political and private/public spheres. The consociation emphasizes the dual role of the EU both to contain and to freeze identities.

The definition of the EU as a *consociation of states* refers to the model applied to small and strongly divided states such as the Netherlands or Belgium (Lijphart, 1991; 1977) with popula-

tions divided by language, culture, religion and/or territory. The purpose of the consociational model is to organize the coexistence of diverse segments of society without searching for homogenization, through a regulation by elites engaged in constant search of compromise and decision-making based on consensus. Transposing this model to the European level of a consociation of states (Costa and Maignette, 2003; Bogaards and Crepaz, 2002), member states are the segments united in a diversity regulated by national governments as elites bargaining in intergovernmental institutions. In this logic, no thick European sense of belonging is required and it is even counter-productive. The development of transnational solidarities threatening national loyalties would weaken the legitimacy of national elites and their capacity to engage their populations in the implementation of the deals agreed in Brussels. In this perspective the absence of both a European ethos and a European *demos* is not a problem but a necessity, and any attempt of transnational democracy relying on mechanisms of direct participation is bound to be controversial (Papadopoulos and Maignette, 2010).

The *federation* is a ghost haunting the political and intellectual debate regarding the nature of the EU, the eternal ‘comeback concept’ repeatedly denied by reality but resurfacing with each surge of integration. Federation as an outcome describing the distribution of power between national and European level may in tension with federalism either as centrifugal dynamics of European integration or as a moral doctrine drawing the boundaries between the political vs. social spheres and the public vs. private realms. Following major thinkers in the Western political tradition such as Rousseau and Kant, federalism in some of its understandings involves a strongly normative vision of politics imposing the renunciation to violence between individuals and between states and even granted with a religious signification (Eleazar, 2001). The work of Joseph Weiler is a prominent illustration of the ambivalence of the federal model applied to the EU. Weiler describes the later as an ‘inversed pyramid’ where legal authority comes from the top (the EU), but political authority comes from below (the national governments). This lack of congruence is a virtue as it prevents any ‘constitutional fetishism’, namely the sacralization of values enshrined in national constitutions leading to their culturalist interpretation and paving the way towards identity politics (Weiler, 2001). As the EU has no *demos* and no cultural identity of its own, it is immune to such risks. Meanwhile, Weiler points out the democratic deficit of European integration as a value deficit, open wide since the process ceased to be a means of attaining its original moral purposes to become its own finality (Weiler, 1995). More civic integration is needed, which requires a clearer definition of European identity and values according to Weiler (2003).

## LEGITIMIZATION AS THE MAIN CONTEMPORARY CHALLENGE FOR THE EU

From an acute recognition of a ‘democratic deficit’ since the 1970s to the ‘identity turn’ of European studies in the 1990s, legitimization has become the elephant in the room. Politicians and scholar still diverge regarding how to characterize the EU as a polity and, subsequently, how to shape policy and communicative narratives for its justification.

Societal evolutions and policy attempts have produced some effects both in favour and against the institutionalization of the EU as a sphere of belonging and identification by Europeans. The ambivalence of this political community in-the-making is best seen in the constant oscillation and overlapping of two narratives: one mirroring the symbolism of the nation

state and another one mobilizing an ad hoc market-oriented repertoire. The analysis of the two last-to-date legitimizing discourses revolving around ‘European values’ and ‘European way of life’ suggest no way out.

### **Which Narrative for which EU? Nation Building vs Policy Machinery**

On this uneven ground, is it possible to build a legitimizing narrative? Social sciences have offered contrasted evidence on the capacity of the EU to siphon allegiances and to re-socialize citizens in order to secure their loyalty (van Houwelingen, Iedema and Dekker, 2019; Oshri, Sheaffer and Shenhav, 2016). Successive waves of works have shown the limited and even the counter-effects of transnational institutions and interactions in terms of European identity-building (Deutsch, 1957; Fligstein, 2008). The sphere of experience of individuals remains deeply national (Kuhn, 2015) and even transnational families and loves do not necessarily produce faithful Europeans (Diez Medrano, 2020). The agency of EU political structures to frame political realities through structuring narratives have been scrutinized with a renewed attention in the 2000s and 2010s and found modest (Checkel and Katzenstein, 2009; Risse, 2010). The prevalence of identity politics is a fact and cannot be ignored in European multi-level governance (Börzel and Risse, 2018) but benefits little, to say the least, to the EU (McNamara, 2015). The latter defines its political identity mostly through its policies, in configurations and with outcomes that vary from one issue/policy sector to another and that do not imply the production of a consensus on European integration itself (Saurugger and Thatcher, 2019: 68).

As a functionalist project aiming to transcend political passions by creating bonds of interests controlled by rational-legal structures, European integration may appear as a sterile ground for political symbolism. However, the necessity emerged quickly for the EU to search for the consent and the loyalties of citizens. Two models of narratives have shaped the legitimization of European communities since their origins. The first narrative frames the EU as a *sui generis* political system that is justified mostly by its outputs, the public goods (security, prosperity) offered to the citizens. It relies on utilitarian arguments and draws on market-driven communication in terms of means and resources. The second narrative duplicates the nation-state model to shape the EU as an imaginary community in the making and mobilize ethnocultural claims. The two narratives have constantly alternated and overlapped in the legitimization of the EU according to the period, the context and the issue at stake. Both narratives have shaped European symbolism in different ways but have met the same constraints and limits (Foret, 2008).

We focus here on the second narrative mirroring nation-state building. The advocacy for congruence between culture and politics under a European roof in Gellner’s sense (1983) has taken different forms over the years: a common cultural heritage; a European citizenship; a European identity; a Christian heritage (Calligaro, 2021). The last expressions of this long series are ‘European values’ and the ‘European way of life’.

### **‘European Values’ as a Leitmotiv of European Governance**

In her 2021 State of the Union Address, the president of the Commission Ursula Von der Leyen gave a fresh example of the salience of ‘European values’ as a motto of European communication. She used the notion as a red thread of the EU’s history, action and justification, the

inspiration of European law and the compass in every crisis and for every policy. She bowed to Schuman and to its call for a ‘Europe with a soul’ as Jacques Delors had done four decades earlier.<sup>1</sup>

Beyond usual political lip service heard since the beginning of European integration, this reference to European values is emblematic of the prevalent repertoire of legitimization used by EU institutions in the last two decades.<sup>2</sup> This rise of the narrative in terms of European values can be traced back to the 1970s when the necessity emerged to win the loyalty of Europeans invited to vote directly for European elections in 1979. It was fostered by the end of the ‘permissive consensus’ and the conflictualization of European politics following the widening of EU competencies in the 1980s and the enlargement to new member states in the 1990s and 2000s. A crucial step was the enshrinement of European values in the Charter of Fundamental Rights of the EU in 2000; and the integration of this Charter in the Treaty of Lisbon that made them legally binding in 2009. Subsequent challenges of governance like the economic and financial crisis from 2008 onwards, the wave of terrorist attacks in several member states or the pandemic have all been framed as existential threats to European values and subsequently to the EU itself. Global warming, migratory pressures and the marginalization of Europe in a global competition dominated by superpowers like the US and China have even more enhanced the fear of decline and revived the defence – at least in discourses – of a common ethos.

Against this background, ‘value politics’ appears as a transversal discursive repertoire used by political actors (institutions, politicians, civil society, intellectuals and media) to frame policy goals and preferences, to (de)politicize issues and to mobilize public support. This repertoire is all the more controversial that the status and hierarchies of European values is not clear-cut. For instance, while the Charter of Fundamental Rights describes human dignity, freedom and equality as values and democracy and rule of law as principles, there are all named values in the Treaty on European Union.

The advocacy for European values is instrumental for many ends at all levels of the European multi-level governance. It may serve to enhance Europe’s singularity and/or superiority as norm producer in global affairs (Manners, 2002); to frame relations between politics, market and society (Smith, 2016; Warlouzet, 2018); to discuss asylum and migration policy (Lavenex, 2019); or to understand the triggers of Brexit and what it means for European identity (Leith et al, 2019). European values are also used as symbolic resources to disseminate standards to which countries, civil society and citizens are invited to comply with. Policy instruments such as prizes are examples of the diffusion of such soft norms (Foret and Calligaro, 2019; Foret and Vargovčíková, 2021b).

Nevertheless, the literature also highlights the many obstacles met by the EU in its political activation of values. First, the reception of European values varies strongly across social classes according to their capacity to take advantage or not of Europeanization and globalization, from generally high among mobile elites to low in the more fragile populations (Kriesi et al, 2012). Second, it proves difficult to determine whether some norms derive from European or global values, from EU governance or from broader technology- or market-driven evolutions. Third, the meaning of European values is bound to remain polysemic and indeterminate

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<sup>1</sup> [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_21\\_4701](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_21_4701), accessed September 21, 2021.

<sup>2</sup> What follows relies on Foret and Vargovčíková, 2021a; Foret and Calligaro, 2018.

and likely to backlash on EU institutions. The claim for democracy or human dignity may be counter-used by opponents to the EU polity or policies, be it the Hungarian Prime Minister Viktor Orban defending an ethno-culturalist vision of popular sovereignty against Brussels' technocrats or critics of the European asylum regime as inhumane (Giorgi, 2021).

### **'European Way of Life': Societal Paradigm or Brussels' Communicative 'Coup'?**

The European way of life (EWOL) has emerged as a recent bone of contention following its use to label a Commissioner's portfolio in the college led by Ursula Von der Leyen after the European elections in 2019. It is mostly its linkage to migratory stakes that sparked the controversy. The reference to EWOL was finally reformulated as the priority to 'protect' it was replaced by the purpose to 'promote' it. Looking at the broader institutional picture beyond Schinas' portfolio, the topics placed under the EWOL umbrella range from 'Fight against terrorism and crime', 'Judicial cooperation', 'Rule of law', 'Protection of fundamental rights' to 'Regulation of migration and asylum'.<sup>3</sup> This range and diversity of topics confirm that EWOL is both a policy and communicative narrative.

Before this clash, the notion has already a long – but rather discrete as long as European integration is concerned – history with positive or negative connotations. It is frequently associated with a worldview equating the European way of life as the expression of a superior civilization in order to justify colonialism (Borsboom, 1988). Meanwhile, it is also turned into a synonym of technological and economic innovation to boast the EU as a leading power for a sustainable green model of development (Perez and Murray, 2018). In European studies, EWOL was framed as an outcome of a 'pragmatic' version of European identity referring less to cultural than to economic and social aspects of life as a source of European specificity (Delanty, 2002, 345–359). Habermas himself mentioned the 'common European way of life' or 'shared European experiences' as a possible asset to give substance to the incoming political community beyond a too abstract and rational kind of constitutional patriotism (Turner, 2004, 294).

Compared to previous narratives and especially the one revolving around European values, the advantages of EWOL may be threefold. First, it may be more related to the grassroots experience of citizens than abstract values. Second, it sounds more distinctive than values claimed as universal at the risk of looking not European enough. Third, EWOL has no legal force and subsequently cannot be opposed to the EU.

The main challenge met by EWOL is to give evidence of its outreach beyond the original controversy in 2019 and the usual publics of EU information. A survey carried out at the end of 2020 suggests that, for citizens interviewed in eight European countries, a way of life is less salient than more classic topics of EU communication such as a collective identity or shared values as a feature to express European belonging. The definition of EWOL by citizens is relatively similar to the one given by the Commission, especially regarding the centrality of peace, law-abidance and fundamental rights. It does not seem to alter the well-known cleavages related to socio-economic and cultural factors (nationality, gender, age, professional status, religiosity, trust in institutions) that frame attitudes of individuals towards the EU (Foret and Trino, 2022).

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<sup>3</sup> [https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life_en), accessed September 21, 2021.

## CONCLUSION

The main danger of a reflection on the legitimization of any political order, and especially of the EU as a composite polity subordinated to national powers, is to sound overtly critical and disenchanted. One thing is to formulate a relatively severe diagnosis regarding the effects of political strategies to frame loyalties and identities. Another thing is to conclude from this diagnosis that the polity in question is doomed. The sustainability of a system of governance is not determined only by the action of its rulers and institutions and may prove resistant even in non-optimal conditions (that happen to be the norm in politics). To put it bluntly, the EU still stands. It has survived chronic diseases that have been pointed out since its birth, like its elitist tropism. In recent years, it has gone through existential crises that have shown once again both its fragility and its resilience. Brexit has broken the spell of a teleologic ever closer union but, so far, contributed to close ranks among those who remain. The marginalization of Europe in the global competition between external superpowers leads to painful revisions of European self-esteem and worldviews but reduce opportunities for dissent (see Krotz et al's chapter). Regulatory challenges on issues transcending largely the scale of the nation-state – from migration to technological and scientific innovation, pandemics or global warming – highlight the necessity as well the insufficiency of the EU as a level of power and a container of values. New European narratives of legitimization will emerge and most likely struggle to deliver or fail blatantly. Still, as long as they mobilize (an increasing number of) actors, references and issues around common stakes, the EU will remain a key object and arena of conflicts, or in other words, a political community.

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## 5. Demoicratic theory: Bridging positive, critical and normative approaches to European studies

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*Kalypso Nicolaïdis and Ulrike Liebert*

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Demoicratic theory was born from an attempt to show that the framing of the debate on the EU's democratic deficit was misguided, assuming as it did that democratic legitimacy requires a polity binding one single demos. Instead, since its original statement (Nicolaïdis, 2004a; 2004b), this brand of EU theorising has brought together a constellation of scholars who have offered a plethora of alternative approaches to resolve the seminal tension between nationalism and supranationalism in the EU and beyond (Besson, 2006; Bohman, 2005; Müller, 2010; Cheneval and Schimmelfennig, 2013; Cheneval, Lavenex, and Schimmelfennig, 2015; Scherz and Welger, 2015; Strumia, 2016; Lacey, 2017; Beetz, Corrias, and Crum, 2017; Bellamy and Kröger, 2014; Bellamy, 2019; Innerarity, 2018; Přibáň, 2021). By bringing together two components: 'demoi' – from the Greek 'peoples', and 'cratos' – the power to govern, the term 'demoicracy' speaks to the nature of the EU which unlike any intergovernmental organisation is a *cratos* proper, but one that is jointly instantiated by different democratic peoples.

As a result, demoicratic theory is not an alternative to the explanatory 'isms' that compete in EU studies and are reviewed in this handbook (neofunctionalism, intergovernmentalism, constructivism or institutionalism, see Saurugger's and Bulmer's chapters). Instead, it offers a conceptual framework to bridge positive, critical and normative claims in order to both *analyse* EU practices as they have developed over time to manage transnational interdependencies between European peoples *and* provide a critical and normative take by which to *assess* these developments. It draws on the insights of these other theories to the extent that they can inform a theory of democracy beyond the state applied to regional integration. In doing so, demoicratic scholarship has incorporated ideas, concepts and propositions derived from International Relations, European law, comparative Europeanisation, democratic theory and democratisation as well as political science.

The idea of European demoicracy is seductively simple: 'a Union of peoples who govern together, but not as one' (Nicolaïdis, 2013), regulating the joint democratic government of inescapably different yet also inescapably interdependent *demoi* (Ronzon, 2017) (leaving aside for the moment the question of how to define these 'peoples'). Crucially, European demoicracy is not an *in between* (an intergovernmental organisation and a supranational state) as the EU is generally depicted in mainstream EU studies, even if it borrows features from both. Instead, a demoicratic lens opens up a *third way* perspective on European integration, different from conventional views that equate democracy with the existence of a single demos, either national or supranational: the first alternative depicts the European Union (EU) as an association that receives its delegated powers from the democratic member states represented by their governments, while the second alternative conceives of European integration as a process of convergence and homogenisation towards a European supranational state.

A third way lens serves to emphasise two key points: the contradistinction with what the other two have in common (democracy requires a single demos), *and* the *horizontal* quality

of the EU polity, a polity of multiple distinct but interdependent peoples committed to the ‘mutual opening’ of their respective democracies. ‘Transnationalism’, as opposed to nationalism and supranationalism, elevates ‘horizontality’ from a positive concept, describing the nature of international or European cooperation to a normative status to the extent that it can convey the ideal of ‘ever closer’ mutual commitment short of modern nation-state-building, in keeping with alternative extant conceptions of the link between state and democracy (Tilly, 2007). As we will discuss below, such horizontality cannot be operationalised without deepening the links between European citizens themselves which in turn requires radical democratic innovations.

As a metaphor for such transnational space, we can imagine a Rubicon separating the dreaded land of anarchy from the promised land of unity (Nicolaidis, 2013). This is a river that Europeans have not and should not cross, resisting the sirens from the shores on either side, in order to navigate its choppy waters instead.

Arguably, the democratic third way is more demanding politically and sociologically than either of its alternatives and the most ambitious model of European integration on offer, including that of a federal state, grappling as it does with the uneasy but indispensable entanglement between peoples, and not only states. For as part of a democracy, European peoples must not only acknowledge their *economic* interdependence but also their *democratic* interdependence – namely, that they affect the health of each other’s democracies, and that this generates societal and not only diplomatic *reciprocal* obligations. No wonder that European democracy as an ideal is only ever partially approximated.

The rest of this chapter is structured in four parts. The first two succinctly situate democratic theory within first, critical and normative approaches, and second, in relation to other explanatory theories of European integration, specifically liberal intergovernmentalism, as well as functionalism and constructivism. The third asks how democratic theories fare in response to its critics. The fourth reviews open questions, contentions and dilemmas regarding European democracy and highlights some key questions for future research. The chapter concludes by pointing to the challenges ahead.

## CRITICAL THEORY AND NORMATIVE DILEMMA

We start by situating democratic theory within its family of ‘Critical Social Theory’ (CST) both descriptively and normatively (Manners, 2020; see also Balibar, 2017). In short, CST can help confront ideological orthodoxies and disciplinary fences in order to support the EU’s self-proclaimed fundamental principles, while breathing fragments of ‘another Europe’ into its present practices, and in so doing support its on-going transformative potential. Crucially, however, extant agreement among scholars on some fundamentals leaves many spaces open for variants, as follows.

### **What do we Mean by ‘Transformation’?**

If CST pays particular attention to the emancipatory promise of social transformation, the idea of democracy was meant to free up political energies from teleological tropes bent on describing the EU as a political endgame, by constructively stressing the on-going transformative quality of European integration in keeping with Kant’s process cosmopolitanism (Cheneval

2005). If a demoicratic order is about *process* rather than *finalité*, this process has neither been linear nor uncontested, owing in part to the tension between the messianist logic that has prevailed in the EU since its inception (Weiler, 2012) and a more open-ended demoicratic ethos and praxis. Traditionally erected on the two separate pillars of indirect (intergovernmental) and direct (supranational) electoral democratic legitimacy, the EU is evolving into a transnational democratic system relying for its evolving legitimacy on multifaceted representation, deliberation and participation which the label of ‘demoicracy,’ seeks to capture (Lord and Magnette, 2004; Lord et al., 2022). But demoicrats can differ on the interrelationship between three types of transformative dynamics which shape the novel transnational order on which a demoicratic EU builds: (i) the transformation of the European state *system* away from a classic regional order of sovereign states; (ii) the transformation of *nation states* into *member states*; (iii) the transformation of a diplomatic contract through intergovernmental EU treaties into a *democratic contract* within and between the peoples of Europe. In theory at least, this third transformation is underpinned by the transformation of national societies through processes of horizontal Europeanisation. Such a three-pronged ‘transformative’ logic unfolds in contrast with the ‘mimetic’ logic behind endeavours to build a continental state – at least in so far as it remains open-ended.

### **Is Demoicracy Contingent on the ‘No-demos’ Thesis?**

To be sure, the original formulation emerged as a response to the ‘democratic deficit’ diagnosis of the early 2000s that triggered calls by the likes of Habermas and Derrida (2003, see also Habermas, 2015) for bringing to life the missing ‘demos’ through a Europe Constitution. But demoicratic theory is not predicated on the ‘no-demos’ thesis as originally formulated, e.g., the belief that the EU can never be democratic *as such* (Grimm, 1995). It proposed instead to appropriate and subvert the ‘no-demos’ thesis in order to claim that the absence of a demos has not been an obstacle to a democratic Europe. Indeed, there is no need to deny the possible or desirable emergence of a *thin* European demos, while at the very same time arguing that what matters is (1) to acknowledge the plurality of peoples involved in managing their democratic interdependence, and (2) the importance of the interplay between a weak EU demos and the various, thicker national demoi (Lacey, 2017; Nicolaïdis, 2015). What matters in this regard is the growing Europeanisation of national public spheres, especially with regard to issue salience, which after all is the precondition for the emergence of a European demos (Risse, 2014). Nevertheless, demoicratic theory does encourage us to resist the recourse to a holistic notion of ‘European identity’ as the necessary underpinning of the EU polity, as many, if not all, federalists would have it. Importantly, this means that the European project needs not be built around the identification of some ‘other,’ as most national projects have historically been (Fisher Onar and Nicolaïdis, 2015).

### **Do the Demoi in Question need to be ‘National’?**

Mouffe (2013, 51–53) draws on the idea of demoicracy to argue for an ‘agonistic model of Europe’ with a ‘plurality of democratic spaces for the exercise of democracy’ recognising the tensions between all levels of authority including the subnational. Echoing Besson’s call (2006) to deterritorialise demoicracy, she argues for an EU where there would be a multiplicity of different kinds of demoi not only national ones. Alternatively, Cheneval and Nicolaïdis

(2017) argue that the possibility of popular sovereignty being exercised concurrently by several rather than just one demos must be grounded in demoi which are themselves constituted politically as ‘sovereigns’, that is self-determined. This does not necessarily mean that popular sovereigns are *national* sovereigns. We can in a demoicratic spirit celebrate a democracy of the multitude in Europe, less *à la* Negri as an exercise in disintermediation which simply aggregates the powers of individual humans, and more in the spirit of the Spinozian original, a demoicracy of intersecting multitudes where institutions structure and channel passions while pushing back against social, economic and geographic hierarchies (Field, 2012). One day such demoi may even transform into cloud communities as prefigured by Estonia’s sovereignty on the cloud (Orgad, 2018). And perhaps most importantly, the demoi in question must be expanded to include future generations. Arguably, the demoicratic frame is adequate to encompass various such ontologies.

### What Methodology to Encompass the Descriptive and the Normative?

A main methodological concern associated with demoicratic theory has to do with the risk of circularity from being both a *positive* theory which accounts for the EU reality as is, and a *normative* theory offering an ideal used to assess this very same reality. One solution adopted by Cheneval and Schimmelfennig (2013) is to reason from ‘first principles’ derived *à la* Rawls from a hypothetic original position which allows for a fair balance of all possible conflicting views on what principles the basic structure of a democracy ought to follow. Another option (Nicolaidis, 2013) inspired by the Frankfurt school’s *immanent critique* and termed ‘inductive normativism’ (akin to practice-dependence) starts with the presumption that the essence of European democracy can be found as immanent in the EU as it has developed over time, thus allowing for real life approximation of Rawls’s ‘original position’, but only under certain conditions which amount to learning from the bargaining, deliberation, and contestation inherent in EU practice while abstracting from its power asymmetries (ibid). As a non-ideal theory, this approach grounds the EU’s normative drive in what the EU has been meant to escape, namely transnational domination and denials of recognition.

### Two Normative Benchmarks

Thus, a progressive critical theory of European integration can be grounded in two core normative benchmarks (or ‘clusters’) of European democracy, namely:

- (1) ‘Transnational non-domination’ which stems from the core vocation of the EU as an anti-hegemonic rather than an anti-national project, a project that is bent on curbing the drive for domination by some states and within states by some people, over others. This is the deeper meaning of the Union’s peace project which brings to a transnational context the Republican concern for non-domination as democratic freedom by which humans are free from one another’s arbitrary power (Pettit, 2012; Bellamy, 2019), with a special concern for small states (Magnette and Nicolaidis, 2005). To achieve non-domination transnationally requires the balancing of horizontal (between states) and vertical (between the states or their peoples and the federal centre) power asymmetries, since dealing with one threatens to bring about the other, thus alerting us *inter alia* to the risks of EU institutions providing cover to horizontal domination by big states. Guisan

- (2013) argues for non-domination to be theorised through Arendt's work, recasting political power as action in concert.
- (2) 'Transnational mutual recognition' that aims at overcoming the deep-seated denials of recognition that – again from non-ideal theory – the original European project sought to escape (Nicolaïdis, 2017a). If the basic constraint of non-domination is meant to keep the European ship away from the two-nation state-centric shores of the Rubicon, political projects also need to catch wind in their sails, some kind of animating force. If Europeans are part of 'a community of others' (as Weiler famously put it, 1999) not brothers, who are somewhat at home anywhere in Europe but are nevertheless from 'somewhere', European democracy is predicated on the mutual recognition of their many European identities – not on their merger. Not only does a democratic ideal promote respect for their differences, in a classic communitarian sense, it also urges a true commitment to engaging with each other, referring to the entire realm of social interactions: identities and cultures, political traditions, social contracts, historical grievances and memories. In time, multinational politics and perhaps even a new citizenship will emerge from the confrontation, accommodation, and inclusiveness of Europe's varied political cultures. And from this in turn, an enlarged mentality may even emerge, as Kant would have it, of thinking and judging from the point of view of everyone else (Nicolaïdis, 2020b). Democracy cannot be reduced to the continued existence and desirability of diversity in an interdependent world threatened by powerful homogenizing forces. There may be enduring demoï but the challenge of democracy is for them to engage enough with each other in order to deliver *kratos* as part of the equation.

## HISTORICAL JUNCTURES: BRIDGING DEMOCRATIC THEORY AND EXISTANT THEORIES OF INTEGRATION

How then can democratic theory be mobilised to *explain* critical historical junctures in the EU? Here we compare and contrast it primarily with liberal intergovernmentalism (LI), as well as secondarily with neofunctionalism, institutionalism and constructivism (see Saurugger's and Bulmer's chapter). We can highlight seven conceptual pathways from a liberal intergovernmentalist understanding of European politics to democratic theory (Nicolaïdis, 2018; Ronzoni, 2017; Bellamy, 2019).

First, the idea of democracy shares LI's main premise that the EU is a political system grounded in the domestic politics of its member states. But democracy goes further than the realisation that cooperation serves mutual benefits and therefore the enlightened self-interest of its members. It is also grounded in the recognition of mutual responsibilities not only between states but between peoples. A democratic EU is not only a forum where different state actors come together to bargain but a space where more stringent and binding reciprocal commitments between the peoples themselves come to be entrenched *qua* responsibility over time (Ronzoni, 2017).

Second, in the LI story, national social and economic pressures, transmitted through domestic political institutions, define *state preferences* which in turn can be traded-off one another – that is, the set of overlapping substantive social purposes that motivate EU policies. In so far as the states are democratic, they confer their legitimacy to the decisions adopted in supranational institutions. In the democratic story, we ask further where this delegation normatively

takes us. It is this very process of *legitimate* aggregation of preferences, we say, that defines ‘European peoples’, or *demos*, rather than any ethnic and reified sense of ‘we’. In civic rather than ethnic terms, the boundaries of a *demos* are defined by the community where loser’s consent obtains. This may or may not be the case at the EU level. Hence, the bargaining over interests between states works differently for different issues. Especially from smaller states’ viewpoint, qualified majority voting (QMV) which can potentially overturn majorities in 22 member states is not always acceptable. And if this is true, the *demos* must remain *pouvoirs constituants* whether in their ability to enter, withdraw from or shape the EU’s primary law (e.g., Treaties) (Cheneval and Schimmelfennig, 2013).

Third, normatively, these considerations imply that the EU’s democratic credentials are to be judged first by how integration affects the qualities and pathologies of national democracies before asking what happens at the EU centre, underscoring the relevance of state-society relations when thinking of rights of interference between states. In a critical vein, a democratic approach asks under what conditions EU influence on national democracy may shift from democracy-enhancing (Keohane et al., 2009) to democracy-pre-empting, as we saw during the euro crisis (Matthijs and McNamara, 2015). The *raison d’être* of the EU is not merely to foster the *problem-solving* capacity of its member states, but the *democratic* capacity of its peoples. Therefore, the governments of member states should not be taken at face value if they do not suitably channel the voice of the people they represent, while the EU must commit *negatively* to ‘do not harm’ to national democracy and at the same time *positively* to strengthen the domestic democratic quality of its states.

Fourth, a democratic frame augments the traditional assumptions of global liberal politics by emphasising the normative weight to be given to the quality of *horizontal* ties not only between state apparatuses but through transnational networks at all levels (Slaughter, 2017). In other words, democratic scholarship shifts the spotlight from the vertical focus on domestic accountability of liberal theories to a horizontal accountability *among* *demos*, thus bringing transnationalism *all the way down*. Democratic theory therefore relates to some of the functionalist literature in asking how national democratic systems adapt to the imperative of ‘other-regardingness’ or legal empathy which is at the core of European law (Nicolaidis, 2017b). As leaders balance their respective democratic mandates, publics must demand cognitive tools for engaging in transnational societal empathy (Sternberg et al., 2018) and establishing a form of joint and equal control over the conditions that allow their reciprocal non-domination through institutional and legal safeguards at the (EU) centre.

Fifth, when LI simply notes *power* asymmetries as reflected in intergovernmental bargains through asymmetric interdependence, democratic theory starts with this diagnosis but focuses its normative gaze on the extent to which such power asymmetries are mitigated (or magnified) through prevailing institutions. Since democratic theory asks how the *cratos*, or ‘governing together’, avoids domination, it asks the analyst to assess whether this balancing act succeeds or fails.

Sixth, like LI, democratic theory recognises the crucial importance of *commitment* strategies in allowing for sustained cooperation over time. But it is normatively concerned with the foreclosing of democratic options that such commitments create as the product of intergovernmental collusion which may not reflect societal preferences *over time* and may contribute to the *invisibility* of power in the EU (Chalmers et al., 2016). Considering the joint decision traps which make it almost impossible to reverse gears in the EU, an institutionalist democratic lens calls for a much greater resort to mechanisms that are familiar to ‘cycles of federalism’

(Nicolaidis and Howse, 2001). These include appropriate reversions to state competences, sunset clauses as well as the strengthening of domestic institutions meant to endogenise commitments to other countries (Merlo and Fasone, 2021).

Seventh and finally, a constructivist demoicratic lens takes us beyond interests into *ideas*, by suggesting that the constitutional equilibrium we are concerned with also rests on the *social construction* of a polity separate from but connected to popular sovereignties (Lindseth, 2014; Cheneval and Nicolaidis, 2017). This balance depends in part on the kind of social imaginaries that can only follow from democratic praxis within and among societies (Příbáň, 2021; Nicolaidis, 2023). An incipient demoicratic EU must accommodate a diverse range of imaginings among its citizens of what it is, might be or should be (Lacroix and Nicolaidis, 2010; Matthijs and McNamara, 2015). Allowing for the coexistence of these diverse perspectives – contrary to the repeated and unimaginative calls for a *single* European story – has long represented a kind of narrative ‘constructive ambiguity’ which has helped avoid entrenched teleological struggles among European political actors (Pélabay and Nicolaidis, 2009). If such narrative open-endedness was lost on pro-Brexit voters in the UK, it is also often lost on the Eurosphere in Brussels (Nicolaidis, 2017b).

## CHALLENGES TO A THIRD-WAY EU

There is no doubt that the series of crises the EU has experienced over the past decade has put this ‘demoicratic model’ under huge pressure. From the international financial crisis to the refugee crisis to the COVID pandemic, exogenous shocks (sometimes with endogenous multipliers) have tested the fragile equilibrium on which the evolving EU demoicracy was built and which did not withstand public contestation, politicisation, and constraining public dissensus.

To simplify, the EU’s demoicratic equilibrium has been threatened through a double centrifugal force: on one hand, ‘nationalist sovereignism’, e.g., calls for renationalising politics and policies by right-wing populist politicians, sometimes leading to autocratic rule; and on the other hand, executive and expert-centred, ‘technocratic supranationalism’ e.g., greater bureaucratic centralisation and depolitisation as both a trigger and a reaction to these populist currents. This in turn has made the European demoicratic construct vulnerable either to functionally driven calls for fusion or to the unavoidable backlash into secession. As a result, the demoicratic third way is becoming hostage both to member states that are backsliding towards illiberalism, and to executive governance ungrounded in popular sovereignty – trends which in fact reinforce each other (Caramani, 2017). As a tragic political animal, our demoicracy may very well depend on an unstable and contingent equilibrium.

Real world developments have in turn provoked theoretical challenges regarding the resilience of the EU as demoicracy as concerns us here. Some have criticised demoicratic theory for not adequately accounting for the EU’s supranational elements (Patberg, 2020), or conversely for underplaying its grounding in classic international law (Dickson and Eleftheriadis, 2012), or for assuming that its distinctive normative ideal could find an institutional translation (Ronconi, 2017). In the latter view, the reciprocal non-domination of interdependent people which demoicracy aims to realise will necessarily imply an institutional choice for either a ‘thin’ federalism or a ‘rich’ or ‘moralised’ intergovernmentalism.

In response to these criticisms, demoicrats argue that the demoicratic ideal does have specific institutional implications, but these (a) are debated and contested among demoicrats

themselves, and (b) change over time as new challenges emerge, with many being contingent on learning from past failures and new developments.

### **Status Quo, Incremental Change and Radical Transformation**

The empirical starting point for a democratic institutional model is to take the EU *as is* and to eschew nation-state ‘mimetic’ departures from the existing EU design (e.g., turning the Council into a ‘Senate’ or the Commission into a ‘government’). Moreover, democratic theory asks what happens when the foundational equilibrium heralded by Weiler (1999) between judicial supranational empowerment and retaining the national veto, is put into question (Nicolaidis, 2017c). Arguably, and until the polycrisis, the EU had taken small steps to reinvent this equilibrium in other guise: the generalisation of opt-outs and the ‘exit clause’ introduced in the Lisbon Treaty; the retaining of elements of formal state equality through the continued rotation for the Councils of Ministers; the collective reassertion of voice on the part of member states in the face of growing EU (including Commission) competences in the financial area; and a management of enlargement that has not meant an abandonment of the consensus-and-compromise method of decision-making. Nevertheless, when democratic theory started as a benign defence of an EU accused of democratic deficit, democrats have increasingly advocated for more radical democratic transformation.

### **Democratisation as Process to Balance Centralisation**

A second line of response has been that this story is not about democracy as a type of regime but about democratic *processes* (in the spirit of Dahl, 1989). EU legitimacy calls for ‘democratization’ which is the process by which the continuous pull for uplifting national competences to EU level, especially core state powers (Genschel and Jachtenfuchs, 2016), is counterbalanced by a parallel commitment to ever greater anchoring of European action in national or local democracies (Cheneval, Lavenex, Schimmelfennig, 2015). In this view, vertical *demoi*-cratization has seen both the empowerment of the European Parliament (EP) and the strengthening of parliamentary oversight at the national level (see Costa’s chapter). By contrast, horizontal *demoi*-cratization has been promoted by governments as an alternative to majoritarian and legally binding policy-making in core areas of statehood, and to coercive and redistributive policy-area. This has led to soft, coordinative forms of policy-making aimed at protecting national autonomy (Nicolaidis, 2017a). Analysts disagree on the extent to which these developments actually meet the normative standards of democracy in practice.

### **Horizontality**

Critics tend to miss the core feature of democracy, e.g., the necessary mutual opening up of democracies is less the pre-condition than the result of a political-legal order centred around horizontal transfers of sovereignty between *demoi* and between their representative institutions. Such dynamics are neither inter-governmental (which concerns mostly governments), nor federal (which is a vertical aggregative logic). They occur both institutionally through the close cooperation between all parts of the disaggregated states or in regulatory terms through the managed mutual recognition of national regulation involved with the single market, the Schengen zone or Eurozone regulation. Important political reforms related to transnational

European party lists for EP elections, European citizenship or the establishment of transnational citizens's assemblies, are part of this equation (see Beaudonnet's and Van Ingelgom's chapters).

### **Polycentricity and Reversibility**

Polycentricity and reversibility, as inspired by the work of Margaret Ostrom, are at the core of the demoiratic agenda (Nicolaidis and van Zeben, 2019). For instance, against a hierarchical understanding of the EU's constitutional order, the EU should embody the idea that peoples in a demoiracy mingle their national democratic orders by choice, a choice for free association that needs to be seen as ultimately reversible and where consent and delegation cannot be assumed as given once and for all (see cycles of federalism above). What is more, such an idea of non-presumed consent calls for tempering with legal hierarchy. Constitutional pluralists (Avbelj and Komárek, 2012; Maduro, 2012) push this idea further and start from the empirical observation that the question of national constitutional authority in the EU remains open in law, in order, ultimately to ground their normative claim that the locus of authority ought to be left open. Polycentricity and 'heterarchy' – defined as the 'networks of elements in which each element shares the same horizontal position of power and authority' – is seen as superior to hierarchy as a normative ideal in circumstances of competing constitutional claims.

### **National Authorisation by Interconnected Demoi**

As part of a demoiracy, participating states must abide by the commitment to make their citizens author the laws that apply to them, thus putting national modes of authorisation of EU decisions and rules at the centre. If the EU is primarily accountable to its demoi, not just to their states, 'when governments make commitments to one another about their future behaviour, they simultaneously need to be responsible and accountable to their domestic populations in order to retain their political legitimacy' (Bellamy and Weale, 2015, 259). If the demoiratic legitimacy of the Union starts with whether the EU polity takes roots in the democratic practices of the member states, the Eurocrisis has exposed the insufficient effort made by national institutions to channel citizens' participation in European affairs and to allow for adequate controls over collective decision-making. EU accountability implies that every national democratic public, and not just their governments have the last word on EU law that matters most (e.g., primary law). In this spirit, many demoirats further insist on the role of national parliaments (inter alia, Bellamy and Kröger, 2014), and moreover, the connection between national parliaments at the EU level, including but moving beyond COSAC. Others explore the conditions for legitimate, and transnationally connected, national referenda (Cheneval and El-Wakil, 2018).

### **Demoi Occupying the Centre**

Even if European citizens tend to access the EU through national politics, direct EU-level accountability to European citizens is also crucial to a well-functioning demoiracy. Early demoiratic arguments to downplay the EU's democratic deficit were correct when first presented but lost their strength with the combined rise of executive and technocratic dominance in the contemporary EU. The first is part of a wider migration of executive power towards

types of decision making that eschew electoral accountability (Curtin, 2014). The second as part of the rise of non-elected EU agencies which took on disproportionate power over national governments and the EU to become sources of democratic pre-emption has been widely documented and debated (Crum, 2013; Hix, 2014; Sánchez-Cuenca, 2017; Chalmers et al., 2016). Demoicrats insist on the importance of transparency and throughput accountability (Schmidt, 2020), as well as of the European Parliament (Crum and Fossum, 2009), in managing these trends that have combined to make popular democratic control more difficult in the EU.

### **Residual Unanimity and Exit**

In the EU's story, as discussed above, pooled sovereignty in most domains of joint management is necessary for effectively 'governing together'. But some residual unanimity rule (or unanimity minus one) remains crucial on issues that affect the shape and reach of the union itself and therefore the status of demoi as *pouvoir constituant*. If this is the case, while the *right* to leave the union is a crucial part of a demoicratic contract, this *process* should neither be unilateral nor unconditional. A member state cannot just walk away from the network of obligations its people have entered into through the demoicratic contract, especially when its veto can be mobilised to hold hostage crucial decisions in the Union. Demoicrats debate ways of 'taming the veto' for treaty change and the appropriate conditions for exit. An important conversation has to do with 'mixed' constituent power that constituted powers ought not to act as constituent powers (Patberg, 2020).

### **Balancing Interference and Deference**

Like everyone else, demoicrats probe the contours of 'pooled sovereignty' and thus the vexed question of the 'right balance' between mutual deference and interference between states. It is surely not enough to state that the only measure of non-domination is whether a demos can decide for itself. Rules governing the different demoi are there to ensure that they are in a *reciprocal* relations of non-domination. Under the imperative of non-domination, the EU as demoicracy has adopted safeguards at the centre precisely to ensure that each member state: (1) binds itself to retain the kind of democratic channels that ensure authorship of EU rules by its own demoi; (2) and, especially if it is powerful member state, binds itself to ensure it does not dominate others. These rules stem from the mutual expectations underpinning the demoicratic contract in the first place that interference by the centre is best exercised to *empower* local actors to exercise their democratic rights. Conversely, control by the individual government over the conditions of their cooperation inside the EU should end if and when their country stops fulfilling the *preconditions* over the original entry into such contract in the first place (e.g., democracy and rule of law).

## **CAN A EUROPEAN DEMOICRATIC IDEAL BE SUSTAINED IN PRACTICE?**

As the EU will continue to deal with the aftershocks of the financial and Euro-crisis, its deep on-going cleavages around immigration, anti-democratic forces in all and democratic backsliding in some of the member states, political extremism and violent conflicts at its border

alongside the threat of hybrid warfare, demoicrats might be more optimistic than many other analysts regarding the resilience of European democracy. While the incompleteness of this project itself should not be seen to constitute an endogenous source of crisis (see Cheneval et al., 2015), and while it is arguable whether the EU should stick to its unique and uniquely stable ‘constitutional settlement’ (Moravcsik and Nicolaïdis, 1999), demoicrats have noted Europe’s democracy trilemma (Nicolaïdis and Youngs, 2014) and the progressive erosion of the socio-economic foundations underlying such a settlement (Nicolaïdis, 2018).

This concluding section reviews some of the most relevant avenues for further research asking under what conditions European democracy can live up to its ideal in practice in order to be sustained over time. In this spirit, we critically revisit debates over supra- and transnational constitutional and democratic innovations, including demoicratic reforms of a radical nature that are arguably pivotal for sustaining demoicratic norms in future Europe.

### **Revisiting Non-domination and Recognition in Practice**

Several exogenous crises and endogenous dynamics have severely challenged both fundamental demoicratic foundational norms discussed at the beginning of this chapter, raising the following questions.

On the question of dominance for instance by fiscally strong states, what is the line between the legitimate exercise of disproportionate ‘responsible’ power in the pursuit of common purposes and illegitimate albeit ‘soft’ domination? The issue of German power in the EU will continue to test the resilience of the demoicratic contract. But if one way out of the conundrum is to opt for differentiated integration, this path in turn raises new risks of dominance, this time between the ins and the outs of differentiated schemes of cooperation (Bellamy and Kröger, 2017; Faure and Lebrun, 2020; Fossum, 2021; Nicolaïdis, 2021).

And how can the emancipatory potential of mutual recognition be actualised? Some argue that mutual recognition does not suffice in providing the ‘ties that bind’, or that political mutuality cannot obtain under profound inequality and widespread precarity among young Europeans (Azmanova, 2020). Others seek to clarify the connection between recognition between peoples and recognition between states’ laws and regulations (Nicolaïdis, 2017a). And demoicratic theory will need to clarify the line between legitimate and the illegitimate use of recognition with regards to liberal vs. illiberal member states.

Specifically, the issue of backsliding represents a hard case in point for demoicratic tolerance. While in principle tolerance should mean openness to different democratic cultures and democratic practices (Dahl, 1989) sustainable demoicratic integration is also premised on a number of prerequisites, most importantly the rule of law as a *sine qua non* of mutual recognition regimes in the first place. At its best the EU as democracy fosters the health of national democracies. But what if the EU is indifferent to or even facilitates and magnifies national political pathologies? What do demoicrats advocate regarding democratic backsliding in countries like Hungary, Poland or Bulgaria? Some scholars doubt the coherence of the demoicratic and constitutional pluralist approach in this realm (Kelemen, 2017; 2019). In response, Kröger and Bellamy (2021) argue that a demoicratic approach to backsliding can allow for withdrawing EU funding and voting rights if and only if this contributes to democratic empowerment within these countries. More radically, as instances of domestic domination, rule of law offenses can be seen as incompatible with a demoicratic ethos, calling for more extensive non-arbitrary interference (Ronzoni, 2017).

## Can Federalism be Democratic?

A related question is whether Europe's polity is evolving organically or by design, and whether it should, and relatedly whether political leaders have to internalise the democratic constitutional grammar for a sustainable mode of European democratic integration to obtain. What is the relationship between the way a democratic polity comes about, how it develops over time and what political actors believe they are actually doing? Does the democratic nature of a polity need to be intentional, both for its founders at the origin and as it is reformed over time, following the path of integration through democracy (Tully, 2007)? Alternatively, instead of the foundational ideal and non-ideal theories discussed in part I, democrats could resort to what Hallstein labelled 'creative opportunism', namely a balance that no-one intended to begin with but is the non-intentional consequence of a pragmatic politics that navigates the Rubicon and eschews binaries. European democracy may result not only from 'rhetoric entrapment' but also from 'normative entrapment,' as a democratic ethos takes precedence over institutional design proper.

But what design, intentional or not, are we talking about? Framed in constitutionalist terms, some will continue to argue that democracy is just another way of speaking of 'federal democracy'. This question is underdetermined, especially if one steps back and deconstructs the various strategies of appropriation when it comes to ideals like 'federalism' or 'cosmopolitanism' (Nicolaïdis, 2021). Arguably, the 'real' federal vision (as opposed to the 'federalist' school) long predates its capture by the state in the nineteenth century (Nicolaïdis and Howse, 2001), even if in the public imagination of most (except for Germans), 'federalism' tends to refer to the centralisation of powers (see Foret's chapter). One can attempt to rescue federalism from its *etatist* incarnation by conceptualising EU democracy as a federal union not a federal state (Nicolaïdis, 2017c). Or alternatively, is federalism just too tainted by the particular conception of a 'federal state' to serve as background model for the ideal of democracy?

## Can a Democracy become a State?

These broad conceptual questions take us back to the vexed question of 'the state' in the EU – referring both the fate of national state and the nature of their supranational union. Parties in the 2022 German governmental coalition have called for a new convention to institute a 'European federal state'. How should democrats react? At which point will a democratic union have crossed the Rubicon whereby the EU's legal order will have taken on undeniable statist characteristics? How to take in Tilly's argument that democrats need to cherish rather than factor out state capacity all together, arguing that 'no democracy can work if the state lacks the capacity to supervise democratic decision making and put its results into practice' (2007, 15f.). In this vein, democrats need to further explore the preconditions and consequences of alternative forms of networked statehood (e.g., central bank, government, legislative as well as judicial networks) and assess their democratic legitimacy in the interconnected new world of European state organisations (Slaughter, 2004).

Specifically, some have argued that the monetary union is not soluble in democracy, given the irreversible centralisation of functions and loss of voice induced by a deterministic reading of 'market pressures', which in turn have led to overriding good practices developed by individual European states in the domain of accountability (Kovras, 2021). As discussed above under the label democratisation, while some developments in Eurozone reform can be read as

demoicratic too (Chalmers et al., 2016; Merlo and Fasone, 2021), more can be done to sustain the third way spirit of the EU in the face of functional pressure to centralise. Institutional demoicratic innovations have been proposed, most conspicuously a new interparliamentary body tasked with exercising national budgetary powers together but not as one (Hennette, Piketty, Sacriste, Vauchez, 2019).

### **Demoicratic Public Opinion**

Turning to the citizenry at large, can we have demoicracy without demoicrats? How do citizens start to think in demoicratic terms? Or is the ethos of demoicracy pervasive enough in the EU that a critical mass of actors ‘do it’ and ‘get it’ without labelling it, as Mr Jourdain spoke prose? Analysts of polarisation in Europe stress that European publics have allowed their political space to be monopolised by two antagonists integrationist and anti-integrationist camps, others highlight the importance of integrating both pro-European and openly Eurosceptic perspectives in order to gauge public opinion’s appetite for demoicratic third way (DeVries, 2018; Hurrelmann, 2015). It may be that for European publics to support the EU-as-demoicracy, democratic innovations will be required to tap both in their underlying ambivalence and their desire to make good on their democratic interdependence through greater mutual engagement and deliberation across borders (Nicolaïdis, 2020a).

### **Demoicratic Citizenship**

In short, demoicratic citizenship is grounded on *both* a bottom-up and a horizontal perspective focused on taking transnationalism *all the way down* to the citizens. How is this commitment translated both formally and in practice? Some ask how demoicratic agency is best exercised simultaneously through the dual route of national and EU citizenship (Scherz and Welger, 2015). Others argue that the key to EU demoicracy is to focus on the various channels of democracy from below, empowering both formal and informal civil society to make good on the Lisbon Treaty’s provision on participatory democracy (Liebert, Gattig and Evas, 2016; Liebert and Trenz, 2011). This involves enhancing formal mechanisms that allow *demoi* more effectively to borrow from one another and interconnect their different parliamentary, party political and electoral systems. For some, this agenda would best be served by introducing transnational party candidate lists for European elections or greater inclusion of non-nationals candidates in national elections. Others emphasise citizens’ shared rights, not only vis-à-vis the EU but also regarding residents from other member states, and their right to participate in all national elections and referendums.

Across these lines of enquiry, demoicratic scholars need to explore existing and potential mechanisms for mediating political contestation in different political and social fields of action in demoicratic ways, including through political sociological inquiries approach (see Bonnamy and Canihac’s chapter in this volume).

### **Deliberative Demoicracy**

However, to counter democratic disaffection and the fragmentation of the European public sphere we also need to move beyond voting and other traditional rights associated with citizenship (Van Reybrouck, 2018). A demoicratic ethos explores a ‘right to participate and

deliberate' jointly with citizens from other states, beyond traditional models of representative democracy which cannot achieve direct democratic interaction and debates across national or metropolitan polities and citizens in Europe. A democratic research agenda explores new ways of linking representation and participatory processes in the EU context, thus interrogating the meaning of 'representation' itself.

In this regard, the EU's Conference on the Future of Europe (CoFE, May 2021–May 2022) was a greatly valuable democratic experiment. Its use of European Citizens' panels demonstrated that transnational deliberative processes can be effective in enhancing the kind of mutual knowledge and entanglement called for by a sustainable democracy (Alemanno and Nicolaïdis, 2021). The democratic case is strong for democracy-through-sortition (Sintomer, 2023) at the EU level that would lead to substantive powers for transnational citizens assemblies, whose workings would empower citizens and civil society organisations *through* their deliberative, monitory and mobilising functions. More broadly, CoFE has opened a new window of opportunity for reflection on new kinds of political agency and interaction between citizens, political elites and bureaucracies to bring the deliberative wave, which has so far concerned only the local/national (Chwalisz, 2019) to the next level as a crucial way of managing democratic interdependence. Hence, we need to ask how the twin challenges associated with mere changes of scale and with the trans-national character of deliberation can be combined (Vergne, 2013). Accordingly, the EU could offer a new space for citizens' empowerment by refining modes of multilingual and transnational communications for a radically renovated European democratic public sphere (Evas, Liebert and Lord, 2012).

### **Inclusiveness and Boundaries**

Turning to the question of membership and inclusion ('who is us'), how does democratic theory deal with conflicts over boundaries and migration? A democratic view abides by individual rights protection but without eschewing logics of governmental discretion (Bellamy, Lacey and Nicolaïdis, 2018). But while Bellamy and Lacey (2018) argue for the primacy of duties owed to national citizens stemming from the national social contract, Strumia, (2013; 2016) defends a more porous understanding of what a democratic ethos entails, as a right to belong across borders, both EU and third-country nationals in the EU. Nicolaïdis and Viehoff (2017) similarly argue that a 'virtuous democrat' assigns particular urgency to the rights of the vulnerable and often dominated refugees. If it is true that conflicts surrounding asylum policies are more intense at the domestic than at the EU level we can hope for a transnational politics that might contribute to opening up democracies to each other when it comes to this crucial debate (Kriesi and Oana, 2021).

### **Generalisability**

Finally, is democracy bound up with the *sui generis* nature of the Union or is it applicable globally? It has become something of a commonplace to discuss the EU – understood as some version of the international, cosmopolitan, constitutional, Kantian, or otherwise federal – as an instantiation of more general theories of democracy beyond the state, of global law or global governance. But if there is no reason to exclude *a priori* the relevance of democratic theory to the global, it needs to turn its gaze beyond European confines if it is to be relevant (Nicolaïdis, and Youngs, 2023).

## CONCLUSION

Europe's democracy in the making may be partial and therefore imperfect but that means it is perfectable. Democratic theory was initially inspired by the 2001–03 constitutional convention and its pitfalls, from the tyranny of dichotomies dividing delegates into two opposite camps, to the temptation to define a 'European other' at the time of the Iraq war, and the risk that a kind of 'US envy' would lead to equating ambition for the European dream with a simplistic label: the 'United States of Europe' (Nicolaidis 2003; 2004). Instead, scholars who adopt this broad and fluid theoretical umbrella hark back to both republican and liberal ideals of democratic equality and self-determination to define the conditions under which the EU can both sustain and improve Europe's democracy, resisting the twin temptation of supranational overreach and nationalist retrenchment, and thus offering the best hope of bringing a majority of European citizens under one imaginary roof.

This chapter cannot do justice to what is probably the most recent theory of European integration, a theory still very much in flux, calling for interdisciplinary contributions around a vast range of exciting questions having to do with the fate of democracy within and across states in the 21st century. If EU governance is to represent the most advanced experiment to date in transnational democracy or democracy, it may not be sufficient to simply improve its existing playbook, such as strengthening the horizontal links between political parties or between parliamentary institutions across borders. Ultimately, European democracy will likely require innovative transformations of the existing liberal democratic representation, embedding elections, political parties and parliaments within a new transnational ecosystem for civil society and citizen participation and deliberation while leveraging the power of the internet to connect citizens in multilingual physical and virtual spaces. Much more research is needed if European democratic theory is to learn from the successes and failures that will unfold from these democratic innovations to come, innovations that hopefully can in turn inform European citizens, technocrats, and governments alike on how to continue to improve this precious Union of peoples that amidst all the uncertainties of our age, continue to govern together but not as one.

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## PART II

# APPROACHES AND METHODS

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## 6. European integration history: Beyond the Milward vs. federalism debate

*Laurent Warlouzet*

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At more than 70 years old, the European Union (EU) is now an historical character. Its current features are shaped by ancient bargains, especially the 1957 Treaty of Rome, which still forms the basis of our current treaties. Neither Brexit nor the quarrel over monetary integration can be understood without a deep understanding of distant historical events.

The academic historical approach's main added value is the recourse to additional documents available only after a long period of time – usually archives released after 30 years. The use of written documents deemed as secret is a better source to understand the motivation of actors than official speeches, memoirs or interviews, in which the actors (in particular the politicians) are often tempted to idealize their lives. Oral archives can be gathered through interviews, especially of actors neglected by the medias or their time.

At the same time, historians must overcome three main challenges. First, the archives have limitations. Written archives are difficult to access and to use, especially in the study of European integration history, since they require the mastering of several languages and cultures. Vital information, such as phone and corridor conversations, are missing. Oral archives are not more reliable as memoirs. Second, the use of archives is sometimes considered an end in and of itself by some historians, who simply summarize them without conceptualizing. Many historians still refrain from what they perceive as some superficial social science studies, which conceal a lack of innovative information behind neat literature reviews and pedantic jargon. Third, since they already know the end, historians might be vulnerable to teleology — i.e., a vision influenced by the end ('telos' in Greek) of the story. The risk lies in writing history as a preordained narrative and disregarding the possible alternatives and the notion of contingency. If they are especially sympathetic to their topic, European integration historians may interpret history as a giant struggle between the positive EEC/EU, which heralds the bright future of a federalized Europe, and the backwards nation-states (Gilbert 2008).

Paradoxically, the criticism of European integration history as being too unsophisticated and too teleological, implicitly guided by a federalist narrative, was made first and foremost by the most renowned member of the field, the British LSE and EUI professor Alan Milward. In his famous *Rescue of the Nation-State* volume released in 1992, he inserted a provocative chapter intitled 'The Lives and Teaching of the European Saints,' in which he castigated the federalist scholars which saw European interpretation as an idealistic endeavour towards the United States of Europe (Milward, 1992). He urged historians to engage in interdisciplinary debates and called historians to forge their own concepts and interpretative theories (Milward 1995).

This chapter argues that this traditional assessment of European integration history is still stimulating, but it has been overcome by increasing diversity and sophistication. Of course, some scholars still indulge in teleological narratives, but not more in this field than in others. A first part will show how both Milward and the federalist school are now surpassed by new

references and teleologies. A second part will address the wide diversification of works in this blossoming field, while a third part will underline three major interdisciplinary debates.

## MILWARD AND THE NEW TELEOLOGIES

The traditional vision of European integration history is dualistic, with the towering figure of Alan Milward – often the only historian quoted in non-historians' books – emerging from a ramshackle field of idealistic federalists. While not entirely false, this interpretation remains biased: Milward has certainly been the most influential scholar in the field, but the federalist narrative has been overcome by new teleologies.

### The Central Position of Alan Milward

Milward has certainly been an inspiring figure, able simultaneously to master archival sources in many different languages, conceptualize his findings, and encapsulate his insights in a few concise catchphrases. His provocative streak also helped him to become famous.

Milward has had a major influence on the field, through his masterpiece *The Rescue of the Nation-State*, in which he interpreted the early years of integration as part of the national strategies of reconstruction after the war. According to him, the whole process was driven by national materialistic interests, most of all economic ones, rather than by flimsy federalist ideas.

But Alan Milward's oeuvre also had limitations (Ramirez 2012). He largely ignored community institutions and did not take into account non-materialistic motivations. Born in 1935, Milward spent much of his career studying the 1940s and 1950s due to the 30-year time gap between the production of archives and their release. When he delved into the 1960s, it was mainly to examine the EEC from the outside, through British eyes (Milward 2002). Ironically, the most renowned historian of European integration had hardly ever studied the EEC/EU himself.

Paradoxically, Milward's limitations allowed the political scientist Andrew Moravcsik to massively influence the field of European integration history. His *Choice of Europe* was a comprehensive history of some of the critical junctures of EEC treaties promoting his liberal intergovernmental interpretation (Moravcsik 1998). While he did not resort to archives, he used a wide range of books, including many written in languages other than English.

Moravcsik was the first in a long list of political scientists who used long-term history to build their overall interpretation of EU integration, such as Stefano Bartolini (2005), Craig Parsons (2003), Berthold Rittberger (2005) and Chris Bickerton (2012), to name but a few. Conversely, some historians have eagerly taken on the challenge of interdisciplinarity put forward by Milward. In a nuanced and sophisticated article, Wolfram Kaiser has called for a more systematic, if selective, use of concepts by historians, not to ape other social sciences but rather to refine our understanding (Kaiser 2008). Others have actually put concepts borrowed from political science at the core of their studies (Warlouzet 2016 and 2018).

The only attempt by historians to counter Moravcsik with a large-scale volume driven by a single idea was ill-founded. The book released by John Gillingham in 2003 embarked in another teleology, this time of Margaret Thatcher saving European integration from its horrendous bureaucratic Franco-German roots (Gillingham 2003). Littered with errors, it is

considered to be ‘about as reliable on European integration as is Da Vinci by Dan Brown on the historical development of the Catholic church’ (Ludlow 2010, 53).

### **The New Teleologies**

Gillingham’s book demonstrated how unfair the criticism of the domination of the federalist narrative is and even was. In 1992, Milward criticized only a handful of federalist historians, notably Walter Lipgens. Milward himself was part of the first grouping of EU historians, known in those days as the ‘*Groupe de Liaison*’ (Liaison committee), which was made up both of economic and international relations historians, some of them with a federalist streak, but most of them clinging to a state-centred vision of history. In an influential article released in 2008, Mark Gilbert updated Milward’s argument on teleology by criticizing the oldest historians from this field (Walter Lipgens, born in 1925; Jean-Baptiste Duroselle, born in 1917; and Pierre Gerbet, born in 1918), while exempting the new generation of historians, such as Piers Ludlow, of this same criticism (Gilbert 2008).

On the whole, while it is true that some historians are federalists (which is, indeed, their right), the teleological streak does not seem to be particularly worse than in other fields. After all, many environmentalist historians praise environmental activists, many business historians lionize entrepreneurs, and, more generally, biographers tend to examine their subject with a positive lens. Regarding transnational history, Kiran Klaus Patel observed:

Trading the nation-state for international organizations and NGOs as subjects and narrative centres comes with obvious pitfalls and problems. It can easily obfuscate human agency in favour of institutional actors. Moreover, it might lead to new ‘Whig’ accounts, particularly if these organizations are identified as positive historical forces (Patel 2016).

In the same way, the role of illiberal internationalism has recently been explored to counter-act the teleological narrative of an inherently progressive liberal internationalism (Hetherington and Sluga, 2020).

Another criticism aimed at European integration history is the weight of official history. Indeed, European institutions commissioned historians to write their own history. By their own design, the volumes resulting from those enterprise are necessarily descriptive. They do not hide the internal division of those institutions, nor their limitations, even if they do not put them at the core of their message. The third volume of the *History of the Commission*, for example, treated more shameful events, such as the downfall of the Santer Commission and the accusations of corruption (Ludlow 2019). More generally, while the first volume of the *History of the Commission*, which deals with the formative period (1958–72) still contains eulogies of some of the first Commission Presidents (Gilbert 2014), this tendency is less visible in the other volumes (Patel 2019). Moreover, the historians taking part in this venture have not been transformed into servile neofunctionalists (see Saurugger’s chapter). To take just one example, Alan Milward’s pupil Lucia Coppolaro still keeps her state-centred perspective, despite having written the chapter on external trade in the third volume of the *History of the Commission* (Coppolaro 2018). All in all, those volumes are departure points rather than endpoints: they opened up new avenues of historical research, notably by providing oral archives, available to all, on the EU archives website and by pushing for the declassification of crucial archives for the entire scientific community, rather than promoting a specific interpretation of history. Official histories can contribute, in this way, to scientific knowledge without

being the obvious place for historiographical quarrels. As a matter of fact, many international institutions, national ministries, companies, and political and social movements commission official histories; Milward himself became the official historian of the British cabinet for his volume on the relationship between Britain and Europe (Milward 2002).

Moreover, a new critical teleological narrative has emerged from these criticisms. For John Gillingham and other neoliberal pundits, EEC/EU institutions have been dominated by Franco-German technocratic actors guilty of excessive bureaucratisation, a classical strawman of Anglo-American conservatives (Gillingham 2003). On the other side of the political spectrum, the eurocrisis fuelled the left-wing critical interpretation of European integration; in 2010, two renowned scholars, Bo Strath and Hagen Schulz-Forberg (2010), released their *Political History of European Integration* which was subtitled *The Hypocrisy of Democracy-Through-Market*, written in the context of the Great Recession. More generally, the multiple crises of European integration since the rejection of the Constitutional Treaty of 2005 have made criticizing the current EU the default mode among many historians, which does not mean that they are Europhobic.

## A BLOSSOMING FIELD OF HISTORICAL STUDIES

Thanks to the opening of many archival deposits, and to the passing of time, research on European integration history have thrived (Gehler 2016; Gilbert 2014; Kaiser and Varsori 2010; Loth 2009; Patel 2019). It has been quite attractive since prominent scholars of the field, such as Kiran Klaus Patel, Bo Strath and Antoine Vauchez, have turned to it after completing a PhD in a different topic. An embryonic structuration has emerged around the *Journal of European Integration History* and two associations promoting the work of young researchers, ‘Heirs’ and ‘Richie’. Some historians meet during conferences organized by the Group of EU-Historians (the rebranded name of the ‘*Groupe de Liaison*’), but those are relatively rare and limited in size. Hence, one of the main meeting points for historians remains the conferences of the Council of Europeanists (CES), an organization dominated by social scientists, which is logical considering the impact of researchers non-affiliated to Department of History on the field (Andrew Moravcsik, Antoine Vauchez, etc.). This reflects both the lack of unity and the diversity of this blossoming field.

### A Multi-angle Approach

The most stimulating methodological paradigm is one of multi-archival and multi-tiered research. It associates the exploration of several types of archives that come from different governments and different European institutions. Piers Ludlow’s exploration of the 1960s through British, German, French and Commission archives largely pioneered this approach and brought up a more nuanced understanding of this formative period (Ludlow 2006). He shattered the traditional narrative of the Empty Chair crisis (1965–66), pitting the arch-nationalist de Gaulle against a bunch of idealistic federalists. On the contrary, he underlined that France was ready to commit itself to supranational procedures when they suited it. De Gaulle wanted to reform the Treaty of Rome, but was forced to back down. On the other hand, the federalist rhetoric – often present in many government speeches – proved to be mere window-dressing. When Hallstein presented his plan to reform the EEC institutions in a slightly more federalist

direction in March 1965, nobody supported him bar the Dutch, who were at the same time adamantly in favour of enlarging the European Community to include the most intergovernmental country of all, the United Kingdom. Thus, Ludlow's book demonstrated how vain the nationalist French discourse, and the federalist rhetoric of the Five was.

This multi-archival approach has also been used to revisit the main EEC/EU accomplishments. Studies on the common agricultural policy have relativized the traditional narrative, according to which Paris was behind this policy, by putting an emphasis on neglected actors such as the European Commission, the Dutch and the Germans (Knudsen 2009; Patel 2009; Seidel 2010). The latter were the main culprits for the high prices of products set in the 1960s. In the same vein, the same multi-tiered approach has been used to test Kaelble's hypothesis about the European public space (Frank et al. 2010), and has tended to confirm a slow Europeanization of the debates in several quality newspapers, at least in the past (Meyer 2010a). The studies on European monetary integration have shed light on the interplay between the Franco-German debate and transnational networks of experts and of central bankers (Drach 2019; Mourlon-Druol 2012). Lastly, the perennial debate over European identity have been enriched by contributions delving into the EEC/EU policies devised to foster a sense of identification, often calling into question the official institutional narrative (Calligaro 2013; Cohen 2007; Krumrey 2018; Reinfeldt 2014). The history of the historians of European integration has even been attempted (Pichler 2010), in particular by showing the tensions between European institutions and the academic historians (Le Boulay 2010).

Beyond the Commission, the scope was enlarged to other supranational institutions such as the European Parliament. Historians have demonstrated that it had played an important role in socializing actors, in fostering debate, in agenda-setting and even, to some extent, in the decision-making process long before the granting of codecision rights in 1992 (see the special issue of the *Journal of European Integration History* of 2011, 17(1) and 2021, 27(1)). Traditional approaches, such as studies of 'great men,' are still practised; but they, too, are influenced by this multi-tiered approach including the various national lens as well as European institutions (Haeussler 2019). They have also concerned supranational actors such as European commissioners and civil servants (Ludlow 2005, Seidel 2010). At the other end of the spectrum, scholars have strived to include subnational actors such as local authorities, thus leading to an historicization of the concept of 'multi-level governance' (Hiepel 2016; Reitel and Wassenberg 2020; Thiemeyer 2019).

The geographical lens has widened too. Studies on transatlantic networks remain stimulating, as they were renewed by the multi-archival and multi-tiered approach (Bitumi 2013; Leucht 2010). In addition, the Community itself attempted to become a geopolitical actor. It remained extremely weak in this regard, even though it played a useful coordinating role in specific circumstances, such as the Helsinki conference (Romano 2009). Broadly speaking, the focus remain largely centred on the big three – Britain, France and Germany – but new works have emerged, especially considering the fact that the 30-year gap in the opening of archives has allowed historians to examine the case of Ireland, and of the southern countries that joined after the transition to democracy, such as Greece in 1981 (Karamouzi 2014), Portugal (Cunha 2015) and Spain (González Madrid et al. 2020) in 1986. The role of transnational socialist networks has been especially examined regarding the Southern enlargements, as the old left-wing parties, particularly the French *Parti Socialiste* and the German SPD, competed to influence their young counterparts that had emerged from the embers of the dictatorship (Salm 2016). In all of those cases, economic, political and geopolitical concerns played a role. Lastly,

the history of the former Soviet bloc's relationship with European integration has also been tackled recently, albeit in a piecemeal manner. Most notable is a wide-ranging and original book, mingling personal recollections and primary sources, that was released by Philip Ther on post-1989 Central and Eastern Europe and the region's painful, but also often successful, Europeanisation (Ther 2016).

### **The Transnational Turn**

The inclusion of transnational networks represented another step further in this multi-archival logic, with the inclusion of non-state actors such as political parties, trade-unions, multinational corporations, experts, etc. The logistical challenge becomes daunting since those actors' archival records are usually much patchier than those of governments.

The German historian Wolfram Kaiser took on this challenge in his *Christian Democracy and the Origins of the EU*, an impressive history of Christian-Democrat networks spanning a century and seven countries. His book underlines how important the watershed of 1945 was: political Christian networks existed before this date, but they had remained embedded in a nation-centred framework that was superseded only after the trauma of WWI, and the pressing urgency of the Cold War. At the same time, the pre-WWII experiences accelerated the creation of efficient transnational networks after the war. In other words, Kaiser confirms the caesura of 1945–47, which was necessary to materialize the idea of European integration, which had been around since at least 1919, while at the time unearthing the deeper structural dynamics that linked the pre- and the post-war period. As a matter of fact, actors such as the Frenchman Jean Monnet, who had played a major role in transatlantic networks since WWI and then again in the early years of European integration, epitomizes the deep roots of European integration, which has been examined for many years now (Bossuat 1996; Bossuat and Wilkens 1999; Bussière 2005).

In parallel, this approach has been practised by many scholars on transnational networks of business activists (Badel et al. 2004). Recent works have focused on peak organizations (Tsakas), or on multinational corporations and trade unions, particularly in the automobile sectors (Ramirez 2019; Suzuki 2020). Company records demonstrate that they closely followed the rise of EEC competition policy and adapted to it even when they were outside the Community (Rollings and Warloutet 2020).

In the same vein, the technological approach put into question the traditional chronology. Studies on the Central Commission for Navigation on the Rhine, established in 1815 by the Vienna Conference, considered that it was the first modern form of European cooperation. Wolfram Kaiser and Johan Schot's history of European technical cooperation aimed at uncovering what they call the 'hidden integration of Europe' (Kaiser and Schot 2014). Their study nevertheless confirmed the traditional vision of European integration: technical cooperation was especially strong in the interwar period among the 'core Europe' countries, notably France, Germany and the three small countries in-between, leaving Britain usually on the fringes. It shows how strong the roots of European integration at Six, between 1950 and 1973, were. More generally, a growing number of studies have bridged the WWII divide to uncover linkages (and breaks) between the League of Nations' experience and those of post-1945 international organizations, including European ones (Gram-Skjoldager, Ikonomidou, and Kahlert 2020).

To some extent, this burgeoning has also entailed a major drawback: the lack of synthesis in proposing an overarching interpretation of EU integration, since the latest attempt by historians was so very disappointing (Gillingham 2003). Instead, historians risking their work to wide-range synthesis have written nuanced accounts, emphasizing the diversity of European integration (within and beyond the EEC/EU) without overarching interpretative framework (Patel 2020).

### THREE MAJOR INTERDISCIPLINARY DEBATES

Three interdisciplinary debates are drawing history away from its near-isolation of the Milward years: the first on the EEC/EU in the world, the second on its institutions, and the third on its economics.

#### **Global History**

To begin with, the global turn has forced scholars to decentre their viewpoint by incorporating non-Western perspectives into their narrative. Regarding European Integration, Kiran Klaus Patel has echoed Dipesh Chakrabarty's call to 'provincialize Europe' by refusing to take the centrality of the EEC and of the EU for granted, and instead 'by comparing them to alternative organisations' (Patel 2013). Several edited volumes have since implemented this call by gathering various case-studies on the interlinkage between various institutions of European and of international cooperation (Kaiser and Patel 2017; Mechi, Migani and Petrini 2014).

For example, the debate on the control of large companies in the 1970s–1980s has been examined from such a global and multi-layered perspective, encompassing the European negotiations into a larger debate straddling many international institutions such as the OECD, ILO and UN (Warloutzet 2018). The comparative lens allows a better understanding of the strategies of left-wing actors, which prioritized first international institutions, as arenas that were more familiar to them, before turning – too late – to the EEC once they understood that the binding nature of the Community law was more advantageous for them. In technological cooperation as well, International and European cooperation were often intermingled, with the latter being often carried out by non-EEC/EU institutions (Bouneau, Burigana and Varsori 2010).

Environmental policy has been another natural area to implement this approach since debates on those issues started in the early 1970s in many international institutions established in Europe (the UN, the OECD, NATO, see Howorth's chapter). Scholars have examined the interlinkage between international, transnational and EEC actors and institutions in the complex negotiations over environmental protection, from bird protection to sustainable development (Bussière et al. 2020; Fasanaro 2019; Meyer 2010b).

Similarly, the approach to European social policies was renewed by its insertion into a wider framework than the EEC/EU, notably the interaction with the International Labor Organisation (ILO) and with Cold War concerns in the migration issue (Calandri et al. 2017; Comte 2018; Mechi 2012; Paoli 2016). The interaction between the EEC/EU and globalization is at the heart of historical studies on trade negotiations, either through the classical Western framework of the GATT (Coppolaro 2013) or, more recently, through the North–South lens. The difficult North–South negotiations of the 1970s, notably the 1973 'New International Economic

Order' and its European response, the 1975 Lomé Convention between the Community and 46 poorer 'associated countries,' led to several studies (Migani 2014), including some based on archival sources of the South, a rare feat even in global history (Garavini 2012; Rempe 2012). The incipient global governance was studied through the simultaneous emergence of both the European Council and of the G7 in 1975 (Mourlon-Druol and Romero, 2013) and through the EEC/ASEAN negotiations (Kuroda 2019).

To sum up, far from reducing the importance of the EEC/EU, the global perspective has enhanced its importance in international history by showing how Brussels has been able to forge many linkages with other international organizations, and also by demonstrating how versatile and sometimes effective the semi-federal institutional framework of the Community was.

### **Defining the European Institutions**

The second debate relates to the characterization of the EEC/EU institutions, often considered as hybrid and peculiar '*sui generis*' forms of international institution. Periodically, the old debate between intergovernmentalism and supranationalism is pronounced dead, only to be revived again like a phoenix. The first group, those that interpret the EEC/EU as a form of rationalized intergovernmentalism, take their cue from Milward and Moravcsik. Many scholars have followed this line of thought with more nuanced interpretation, such as Peter Lindseth with his masterpiece on the evolution of EU and national laws (Lindseth 2010). On the other side of the debate, neofunctionalism has been revitalized by multiple collective studies on the 'integration-through-law dynamic,' focusing on the role of the Court of Justice and the networks of lawyers (Cohen and Vauchez 2005; Davies and Rasmussen 2012; Davies and Nicola 2017).

As usual, historians have shied away from any full-blown conversion to neofunctionalism, preferring instead to offer a complex and nuanced history of the interplay between national and supranational dynamics. This is visible in Billy Davies' studies on West Germany and the Court, in Morten Rasmussen's (himself a pupil of Milward) examination of the Commission's Legal Service, and in Antoine Vauchez's (a socio-historian working on primary sources) study on transnational networks supporting the emergence of EU law (Davies 2012; Rasmussen 2012; Vauchez 2015). Some of those historians have taken part in the current debate over the Polish and Hungarian challenges to the federal character of EU law.

### **Neoliberalism**

The third debate deals with economics, and in particular whether the EEC/EU is inherently neoliberal. The discussion is lively as it is embedded in a wider debate about the return of the 'capital' and of growing inequalities since the 1970s–1980s, triggered by Thomas Piketty's book (Piketty 2014). Tellingly, the field has been energized by a debate directly linked to ongoing EU transformation. In the early 2000s, the European Commission's DG Competition revamped its approach both from the institutional and from the substantive points of view, largely putting into question the ordoliberal-inspired vision that had prevailed ever since. This has triggered an interdisciplinary debate on the ordoliberal influence over the 1957 Rome Treaty and over its early interpretation in the 1960s, since the articles on competition policy have remained the same ever since (see the synthesis in Warlouzet 2016 and 2019).

More generally, and in the same vein, some left-wing scholars, in the 1970s demonstrated that the choice of a social Europe was impossible, and that the path to neoliberalism was irresistible (Andry 2019). This debate resonates with Fritz Scharpf's argument about the institutional 'asymmetry' of EU institutions, which tends to favour 'negative' over 'positive' integration (Scharpf 2010; see Bulmer's chapter). To some extent, John Gillingham fits in the same approach, even though he clearly asserts that it is a desirable outcome for him, so successful were Thatcher's reforms in his eyes (Gillingham 2003).

Other scholars have, on the contrary, pointed out how versatile, flexible and multifaceted the EEC/EU has been. In a recent book focusing on the history of ideas, Quinn Slobodian has shown how ordoliberalism was at first very critical of European integration before investing this arena quite late (Slobodian 2018). More generally, a recent historiographical review explains the historical contingency of the triumph of neoliberalism linked to the crisis of social democracy in its attempts to reform Welfare states among national lines, and their ambiguity in favour of the development of a social pillar and European industrial relations, particularly in those countries with an advanced model of Welfare State (Ramírez Pérez, 2020). In my own book, I have interpreted European integration as a contest between three types of economic policies: i.e., socially-oriented, neomercantilist and market-oriented, with the neoliberal version being a radical version of the last one (Warloutzet 2018 and 2022). While neoliberalism has clearly been on the rise since the 1980s, it has co-existed with socially-oriented policies (such as cohesion, gender and environmental policies). Neomercantilist policies have remained limited, but not absent, especially during the 1970s and early 1980s. The EEC/EU remains embedded in a larger evolution of economic and social policies visible at the national and international levels, where the combination between the three types of economic policies have evolved over time.

## CONCLUSION

European integration history evolves toward normalization. It is not more teleological or inward-looking than other fields. The critical perspective has always been present in European integration history, including by its most famous representative, Alan Milward himself, and has grown stronger ever since.

As time passes by, the multiplication of archival openings has allowed historians to work on a wide range of topics. Overarching interpretations are still rare since historians are loath to engage in such a quest, preferring instead nuanced multi-causal explanations that emphasize the diversity of European integration and its deep historical roots, going far back beyond the Schuman Declaration of 1950.

Amid a blossoming field, three debates have emerged that clearly link European integration history to other fields: i.e., globalization, institutions and economics. The first two debates are especially useful to understand the specificity of European integration compared to other forms of international cooperation (Faure 2019; Saurugger and Terpan 2016), while the third reinserts it into a broader evolution of economic models also visible at the national and international levels. Even if the EU were to disappear soon (see Martill's and Faure and Lequesne's chapters), European integration history would continue to develop, just as the fall of the Roman Empire has not diminished the intensity of historical research about it. Therefore, the only certainty is that the historiography of European integration will flourish, hopefully in

greater intellectual synergy and mutual respect with social scientists, as Alan Milward wished it would 30 years ago.

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## 7. Law and the European Union

*Lola Avril*

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The study of the relationship between law and the European Union (EU) has long been framed in the following terms: how has the Court of Justice of the European Union (CJEU)'s case-law promoted the European integration process? When formulated in this way, the question has produced a threefold narrowing of the focus.

First, law was restricted to the judgments of the CJEU. The disciplinary background of the first researchers who took up the subject explains this narrowing. However, the object 'law' actually encompasses many other texts: legislative texts (directives, regulations), but also a body of soft law (guidelines, recommendations, opinions, etc.). This observation leads to the second narrowing: only the CJEU would be a producer of law, and only its members (judges) would be worthy of interest. By broadening the object of 'law' the analysis includes many other institutions: the Parliament and the Council, the Commission, and a set of agencies that can issue guidelines or technical standards (see Costa's chapter). All of these institutions generate norms governing the economic and social life of the EU. Finally, a relationship was established between European law on the one hand and the deepening of European integration on the other. As if law could only participate in a spillover effect of an ever-closer union (see Saurugger chapter's). This functionalist bias has long inhabited research on European law. However, law can contribute to the disintegration of the EU, or to its differentiated integration (see Martill's chapter). In other words, law does not mechanically produce integration.

This chapter will first explore how law has been intrinsically linked to the European integration process resulting in fruitful research but also producing the threefold narrowing described above. Since the seminal works of Eric Stein (1981) and Joseph Weiler (1991), which pointed to the importance of the CJEU in the European integration process, generations of scholars have studied the role of law and lawyers in the European integration process. Other disciplines (political science, history, sociology), complexified the story, identifying allies (actors, institutions) outside the CJEU who contributed to this process. These actors were part of a 'European legal field' (Vauchez and de Witte, 2013), and were involved in the preparation, dissemination and interpretation of the CJEU's judgments. These studies thus revealed a process of mutual legitimation, and co-constitution dynamics between a discipline – European law – an institution – the CJEU – and a professional group seeking dominant positions in the European field of power. The most recent research builds not only on this extensive body of work, but also on the subsequent socio-historical turn in the study of the relationship between law and the EU. However, addressing the contemporary concerns of a long-lasting and multifaceted crisis of the EU, they seek to deconstruct the established functionalist bias between law and European integration.

## INTEGRATION THROUGH LAW – THE CJEU AND THE DEEPENING OF THE INTEGRATION PROCESS

In order to understand the various consequences of the narrowing of the subject of ‘law and the European Union’, it is necessary to return to the early works on this topic.

The role of law in the European integration process was first studied by legal scholars from the late 1970s. They started from an observation on the contemporary state of this process, which seemed paradoxical: from a legal point of view, the European Community was getting closer to a federal state (constitutionalisation of the treaties, direct effect and primacy), while from the point of view of the political scientist, it was moving away from it (political crisis leading to the Luxembourg Agreement). These authors then stressed the importance of the CJEU’s contribution to European integration, through a process: the ‘constitutionalisation of the treaties’.

One of the first legal scholar who have pointed out the activist role of the CJEU was Eric Stein. In his seminal article published in 1981, he described how the Court ‘has construed the European Community Treaties in a constitutional mode rather than employing the traditional international law methodology’ (Stein, 1981, p. 1). This legal integration of Europe was carried out by a variety of actors within the Court (judges, advocates general), the European institutions (legal services of the European Commission and the Council of Ministers), the member states (governments and national courts) and the academic sphere. However, Stein limited his analysis to the first two arenas. Looking back at what he considered to be the most important judgments, he showed how a ‘constitutional law was made’ (ibid., p. 3) from an extensive reading of the treaties. After this seminal work, European law became an object of research in its own right. In this respect, the ‘integration through law’ (ITL) project, born at the European University Institute in the late 1970s and 1980s, is a landmark in the study of EU law. Bringing together an international and pluri-disciplinary team of scholars, it led to a series of publications (Cappelletti et al., 1986). With these volumes, ITL became a popular concept among European legal scholars to describe the role of the Court in the integration process. The authors put the focus on the political significance of the law and the active role of the Court in the European integration process. In particular, the Court would have used its power to interpret the treaties with the objective of giving them greater scope. Its judgments would have allowed, through the sedimentation of the cases decided and the interpretation given to European law, a constitutionalisation of the treaties.

Looking back at the jurisprudence of the CJEU, these legal scholars identified and analysed key judgments. In particular, they pointed to the importance of two principles established by the Court in the early 1960s. The first is the direct effect of European law, which would thus produce direct rights and obligations for private individuals (see *Van Gend en Loos*<sup>1</sup>). The second principle is the supremacy of European law (both primary and secondary) over national law (including constitutions, see: *Costa v ENEL*<sup>2</sup>). These two judgments resulted from preliminary rulings. This procedure is to be found in Article 177 of the Treaty (Art. 267 TFEU) and

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<sup>1</sup> Judgment of the Court of 5 February 1963, *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration*, Reference for a preliminary ruling: Tariefcommissie - Pays-Bas. - Case 26-62.

<sup>2</sup> Judgment of the Court of 15 July 1964, *Flaminio Costa v E.N.E.L.*, .Reference for a preliminary ruling: Giudice conciliatore di Milano – Italy – Case 6/64.

allows a national court to put questions to the CJEU regarding the interpretation of the treaties and the validity and interpretation of European legal acts. It thus makes national courts key actors in the building of European legal order.

The two founding principles were later reaffirmed and extended in CJEU rulings. They have contributed to the establishment and consolidation of a supranational European legal space. A third principle, mutual recognition, was progressively established in the 1970s (see: *Dassonville*<sup>3</sup> in 1974 and *Cassis de Dijon*<sup>4</sup> in 1979). Mutual recognition means that any type of goods lawfully produced and marketed in one of the member states can be sold in any other member state. The 1979 ruling led the path to the building of a Single Market and was described as initiating the development of a European ‘economic constitution’ (Weiler, 1999).

This interest of the legal discipline in European law has a marked integrationist bias, as well as performative effects. In this regard, it is interesting to study how the role of the Court as described by legal scholars has been seized by its actors themselves, such as judges (see Everling, 1984; Lenaert, 1990). These contributions tend to use ITL and related works to justify the Court’s activism: ‘the function of the Court of Justice as a constitutional court is primarily to interpret and develop the Community legal order. In doing this the Court does not usurp the position of the political institutions but it participates, as a judicial institution, in the creation of a constitution which is in a constant state of evolution in a pluralistic community’ (Everling, 1984, p. 1310).

## LAW, POLITICAL SCIENCE AND INTEGRATION THEORIES

Initially reluctant to take up law (Shapiro and Stone, 1994), political scientists gradually began to consider it as an object of study during the 1990s. However, they were approaching it under the terms of the theoretical debates specific to their discipline.

Joseph Weiler’s article ‘The transformation of Europe’ published in 1991 analysed the ‘community constitutional order’, putting the Court back in the broader European institutional system. By articulating the political and legal processes of integration, by referring to political science approaches (intergovernmentalism and supranationalism) or concepts (Albert Hirschman theory on exit, voice, and loyalty), Weiler helped building a bridge between disciplines (law and political science).<sup>5</sup> In 1994, he took part in a multidisciplinary publication on law and the EU: a special issue of the journal *Comparative Political Studies* (Shapiro and Stone, 1994) on the ‘New Constitutional Politics of Europe’. In this special issue, Karen Alter and Sophie Meunier (1994, p. 535) focused on the impact of the *Cassis de Dijon* case, analysing the ‘role of the Court in the creation of the ‘new approach to harmonization’ which emerged as the cornerstone of the 1985 Single European Act’. According to them, the importance of this judgment is the product of two institutions: the activist role of the Court, which ‘attempted to

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<sup>3</sup> Judgment of the Court of 11 July 1974, *Procureur du Roi v Benoît and Gustave Dassonville*, Preliminary ruling requested by the Tribunal de première instance de Bruxelles – Belgium – Case 8-74.

<sup>4</sup> Judgment of the Court of 20 February 1979. - *Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein*. – Reference for a preliminary ruling: Hessisches Finanzgericht – Germany – Measures having an effect equivalent to quantitative restrictions – Case 120/78.

<sup>5</sup> For a more detailed account of Weiler’s impact on legal and political science research, see also: Poiars and Wind (eds), 2017.

influence the EC policy-making process by writing its verdict in a provocative fashion', and the 'Commission activism' following the ruling, which interpreted and disseminated it.

These studies place the Court in a set of institutional strategies and insist on the political dimension of law. European legal integration is no longer the natural product of European law, but the result of diverse investments, of various actors – inside or outside the Court (Stone Sweet, 2004). The vast majority of these works tend to endorse the neo-functional theory, which emphasises the processes of spillover and socialisation that are at the origin of the continuous and almost mechanical development of the European integration process (Slaughter and Mattli, 1993, 1995; see Saurugger's chapter).

A minority, however, argues that the European legal integration process does not invalidate the intergovernmentalist theory (see Saurugger's chapter). According to Garrett (1992, 1995), member states remain the drivers of European integration and the ultimate masters of the treaties. CJEU's powers should not be overstated: 'The EC legal system is not based on a solid institutional foundation' and 'the operation of the direct effect doctrine and the referral of cases to the European Court for preliminary judgment are both contingent upon the continued willingness of domestic courts to acquiesce in the supremacy of EC law' (Garrett, 1992, p. 556). Ultimately, in line with a realist approach of the EU, the development of the EU legal order could only be explained by the fact that it remained 'consistent with the interests of the member states' (*ibid.*, p. 557).

The debate between political scientists that occurred during the 1990s was framed within classical theories of European integration.<sup>6</sup> However, these antagonist positions seemed to find a common ground at the end of the 1990s. While intergovernmentalists acknowledged the strategic role of the CJEU (Garrett et al., 1998), neo-functionalists recognised the strength of intergovernmentalist claims about the ability of the state to impose meaningful constraints on supranational actors such as the CJEU (Slaughter and Mattli, 1998). Divided over which theories of integration could best capture the role of the Court, political scientists thus came together, jointly recognising the need to integrate new actors, especially national ones, into the analysis of integration through law processes. For example, Karen Alter (2001) showed the crucial role of national courts and judges in the development of European law: they are the ones referring preliminary questions to the CJEU. She described the constitutionalisation process as a 'doctrinal negotiation', 'through which national courts and the CJEU developed the doctrine on the supremacy of European law' (*ibid.*, p. 38). By showing that courts and their judges have political interests, which may diverge, Karen Alter's analysis helps to understand not only why national judiciaries accepted the supremacy of European law but also why some courts remained recalcitrant and critical towards ECJ's activities.

As the political science of the EU seized the law, new actors and institutions were integrated into the study of the processes of legal integration. As a result, the law no longer appeared to be the natural product of the interpretation of treaties, but rather the result of various efforts, the political significance of which should not be overlooked.

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<sup>6</sup> Part of this debate was published in *International Organization* (see: 1992 46(2); 1993 47(1); 1995 49(1) and 1998 52(1)) and opposed Anne-Marie Slaughter, Walter Mattli, and Geoffrey Garrett.

## THE SOCIOLOGICAL AND HISTORICAL TURN OF EUROPEAN LEGAL STUDIES

In her 2007 literature review on political science and legal integration, Lisa Conant made two observations regarding this body of literature. First, the discussions ‘proceed within disciplinary boundaries’ (Conant, 2007, p. 46). Second, they ‘remained largely theoretical and descriptive’ (ibid., p. 49). Multidisciplinarity and empirical studies will be at the heart of the sociological and historical turn of European legal studies, starting in the mid 2000s. Ultimately, this body of work allowed to place legal integration in a network of actors and institutions, to nuance the process of constitutionalisation of the treaties but also to question the very genesis of these concepts at the crossroads of networks from European academic, political and administrative circles.

This movement was first led by scholars influenced by the French sociology of Pierre Bourdieu (Antonin Cohen and Antoine Vauchez, 2007) and the sociology of the legal profession of Yves Dezalay (1990). Methodologically, the sociological approach gives much attention to the study of actors and their trajectories, arguing for the agency of lawyers in the integration process. Moreover, political scientists invited to rethink the chronology of the constitutionalisation, by situating the analysis not downstream of the judgments (in order to study their reception by national courts or their dissemination by the Commission) but upstream. For example, Antonin Cohen (2007) historicised the notion of a European constitution, analysing early attempts to draft on in the 1950s. Julie Bailleux (2014) insisted on the fact that there is nothing ‘normal’ or ‘legally logical’ about the constitutionalisation. The Court’s major judgments are not points of departure but rather moments of consecration of a ‘*doctrine maison*’ developed by the European institutions’ lawyers. The same approach was applied to the Court in Antoine Vauchez’ book *Brokering Europe* (2015). He showed that the European legal field was a weak one, with the Court maintaining close links with the academic sphere and other institutions (European Commission, Parliament etc.). To understand its jurisprudence but also the success of the paradigm of constitutionalism, the analysis of these links is essential.

At the same time as this sociological turn was taking place – largely informed by publications from political scientists – historians also took up the question of law and the EU. The use of archival sources allowed to historicise the legal integration process, to better understand its genesis and to nuance it (see Warlouzet’s chapter). For instance, constitutionalisation could not have taken place without the work of lawyers in the working groups negotiating the Treaty of Rome (Boerger, 2012). Furthermore, the constitutionalisation paradigm has been ‘politically and ideologically motivated’, promoted by institutional actors such as the Legal service of the Commission (Boerger and Rasmussen, 2014). All in all, these studies show that this process was more the product of a performative narrative than a reality and that this enterprise has not been entirely successful: first because of the resistance of member states and second because of a lack of popular legitimacy (Rasmussen and Sindbjerg Martinsen, 2019; see Foret’s chapter). Finally, it is now the academic project itself that is subject to historical deconstruction: in her thesis dedicated to the ITL Project, Rebekka Byberg (2017) shows its embeddedness in a political project, product of a loose collaboration between academia and the Community institutions.

Legal scholars also attempted to revise ITL in light of this critical turn: by re-reading the Court’s case-law from a perspective broader than just a legal one, European law scholars integrated the developments of the *Law in Context* approach into the study of EU law (Nicola

and Davies, 2017). We have now truly multidisciplinary projects on how to work on the Court (Nicola, Madsen and Vauchez, 2022) and its rulings (Bailleux, Bernard, Jacquot, 2019 and 2021). The landmark cases of the CJEU have been extensively analysed with new historical material and sociological perspective, whether it be *Van Gend en Loos* (Rasmussen, 2014), *Costa v. ENEL* (Arena, 2019) or *Cassis de Dijon* (Leucht, 2018; Albors-Llorens, Barnard and Leucht, 2021).

At the end of this socio-historical turn, the focus has shifted: from the law to lawyers, from the Court to the institutions which surround it, from the judges to the peripheral and private actors (Pavone, 2022; Avril, 2022). From a methodological point of view, the socio-historical turn has triggered qualitative empirical research, based on extensive interviews and the building of collective biographies (see Fritz, 2018, for the judges of CJEU, and Joltreau and Smith's chapter in this volume). Historians have shown the importance of archival work. In this respect, the Court, after having refused for a long time to make its archives available, has opened them, first in 2017 (only files related to the cases: the *dossiers de procédure*) and then in 2020 for a partial opening of administrative files, triggering a wave of new projects to study these files.<sup>7</sup>

Ultimately, European case-law, the Court, and the integration process ceased to be the three cornerstones of the study of the relationship between law and the EU. For example, Daniel Kelemen (2011), studies the modalities of policy making and conflict resolution in the EU. According to him, they are based on a hybridisation of the American model that he refers to as 'Eurolegalism'. Hence, he studies the 'judicialization of day-to-day regulatory and administrative processes in the European Union' (Kelemen, 2011, p. 12).

## EU LAW AND THE POLYCRISIS – FROM INTEGRATION TO DISINTEGRATION THROUGH LAW

More recent research questions the validity of the propositions that have been put forward about the role of law and lawyers in the integration process in the context of the 'polycrisis' that the EU has been experiencing since the late 2000s (Avril, Faure and Lebrou, 2002; Coman, Crespy and Schmidt, 2020; Voltolini, Natorski and Hay, 2021). Three key topics have emerged. First, the question of the place and role of law in the responses to the economic and financial crisis of 2008. Second, the possibility of 'disintegration through law'. Finally, there is a shift from EU law to the rule of law in the EU and how 'illiberal' regimes challenge it, including through national courts.

The economic and financial crisis has prompted such major reforms that legal scholars now identify a 'euro-crisis law', understood as the 'wide-ranging overhaul of macroeconomic law, institutions and governance triggered when the banking and financial crisis from 2007 onwards' (Beukers, de Witte and Kilpatrick, 2017). Research by political scientists has shown that European economic governance is a legal construct, especially since the Eurozone crisis, which 'legitimiz[ed] political solutions through legal means' (Haagensen, 2020, pp. 24–25). From a sociological point of view, this means that actors with juridical capital have gained influence over economic issues. From an institutional point of view, if the powers of the

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<sup>7</sup> See the Court in the Archives Project at the European University Institute, directed by Marise Cremona, Claire Kilpatrick, and Joanne Scott <https://ecjarchives.eui.eu> accessed 15 November 2022.

European Central Bank (ECB) have increased, so have those of the CJEU, ‘European Union law has been attributed a new task: to regulate the relationship between the Union and its member states and above all between the member states in a crucial political field – their economic opportunities and their financial performance’ (Ruffert, 2017). Oppositions to European economic governance have led to a judicialisation of policy issues (Saurugger and Fontan, 2019), with the Court legitimising – for example in the *Gauweiler* ruling – the ECB’s competences through expertise (Fontan and de Cabanes, 2019) and broadly supporting supra-national sovereignty over national sovereignty (Saurugger and Terpan, 2019). The prominence of the role of law and the Court in post-2008 European economic governance has led Scicluna (2018, p. 1883) to suggest a shift from integration through law to integration through crisis: ‘In the emergency engendered by the euro crisis, law is to be interpreted flexibly, so as to enable agencies such as the ESM and ECB to take the decisions necessary – as deemed by the technocratic experts within those agencies themselves – to stabilize the currency union.’

In 1986, Hjalte Rasmussen drew on Cappelletti et al.’s work on ITL. He insisted on the limits within which the constitutionalisation of the treaties should take place and how judicial activism could undermine the Court’s authority and foster political opposition to the EU project. The debate was revived after the 2008 crisis. In 2012, Daniel Kelemen and Susanne Schmidt (2012 p. 2) observe the ‘unprecedented level of political criticism’ of certain ECJ rulings, and ask ‘whether the EU is experiencing an increase in countervailing forces that may diminish the Court’s ability or willingness to act as a motor of integration’. The spectre of a process of ‘disintegration through law’ emerges in shadow, whether through the non-compliance of Member States law with binding EU rules (Scicluna, 2021 on the migration crisis), or through judgment of national courts, including constitutional courts, challenging the European legal order. In this respect, the tumultuous relations between the German Constitutional Court and the CJEU are the subject of much debate. The former did not hesitate to question the supremacy of European law in the *Weiss* judgment of May 2020 by declaring that a judgment of the CJEU was not applicable in Germany.<sup>8</sup>

This latest judgment has generated a particularly positive response in Hungary and Poland. These two member states, described as ‘illiberal’ regimes, have adopted measures in recent years that threaten the rule of law, particularly the independence of the judiciary. These regimes and EU institutions are in a power struggle, which involves judicial disputes: the EU would experience a ‘Rule of law backsliding’ (Pech and Scheppele, 2017). Using courts to challenge EU law, this battle illustrates the limits of ‘constitutional pluralism’ (Walker, 2002) in the EU and how this theory can be used to undermine the rule of law (Kelemen and Pech, 2019) and EU law supremacy. The latest development in this regard is the judgment issued in October 2021 by the Polish constitutional tribunal stating that four articles of the Treaty on the EU clashed with the Polish constitution and that the latter should prevail over EU law, opening a perspective of a legislative Polexit.

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<sup>8</sup> <https://verfassungsblog.de/national-courts-cannot-override-cjeu-judgments/>, accessed 10 June 2022.

## CONCLUSION

Historically, law is intrinsically linked to the European process of integration. If the legal discipline was the first to take an interest in these links, the other disciplines have progressively seized EU law as an object of study. The development of multidisciplinary research has made it possible to show the importance of the process of legal integration as well as of institutional or private actors with legal capital in the European political system. The first researches were marked by a functionalist bias, European law being analysed as the engine, the tool and the product of integration. We have seen the limits of these analyses, and their performative effects. In recent years, new perspectives have emerged on the links between law and the EU, and the notions of ‘disintegration through law’, ‘integration through crisis’ or ‘Rule of law crisis’ show that the integrating power of law is not absolute and that it can also be a tool for undoing the achievements of decades of integration.

While this chapter has focused on the links between law and the European integration process, it is worth mentioning two sets of research that articulate the question of law and the EU in a different way. First, a recent body of research analyses the role of law in the analysis of the EU as a global actor. In this respect, the notion of ‘Brussels effect’ forged by Anu Bradford (2020), helps to grasp the role of law in the EU global actorness (see Krotz et al.’s chapter). She points to the ‘normative appeal of EU rules’ (ibid., p. 81): EU law act as an ‘attractive template for emulation’ (ibid., p. 68), leading third countries to adopt EU-style law. This research opens new opportunities to articulate law and the EU and promising research avenues regarding the role of Euro-lawyers on the international scene. Another part of the literature that is not covered in this chapter relates to the study of legal and judicial mobilisations. Since Rachel Cichowski’s book (2007), many researchers have been examining, from a bottom-up rather than a top-down perspective, the use of European law and judicial actions by groups from civil society, whether for the protection of the environment, the promotion of gender equality rights (ibid.), migrant protection (Passalacqua, 2021) or labour and social law (Loth, 2020).

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## 8. Sociology and the European Union

*Céleste Bonnamy and Hugo Canihac*

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In his classic exposition of the principles of his new discipline, the French sociologist Emile Durkheim emphasized that any truly scientific study requires the application of a specific method to a specific object (Durkheim 2001 [1895]). This implies, first, to clearly define the phenomena under scrutiny by distinguishing them from others; this also suggests that sociological investigation, to be scientific, needs to stay clear of other types of discourses, be they political, or other scientific approaches to the same phenomenon.

Accordingly, the use of rigorous sociological methods to investigate the social transformations brought about by the emergence of the European Union (EU) constitutes the core of the scientific subfield known as ‘sociology of the EU’. It revolves around concepts such as European identity, transnational fields, Europeanization or social integration. The sociology of the EU is practiced by a number of professionals using qualitative or quantitative methods, writing in journals and book series specializing in EU studies as well as sociology, and it is routinely taught in academic curricula introducing to European integration and its politics.

In both regards, however, the sociology of the EU faces dilemmas. The aim of this chapter is to offer a – necessarily selective – overview of the achievements of sociological studies of the EU in facing these dilemmas, as well as to point at some avenues where it can be developed by future research. We will mostly focus on empirical sociology, based on qualitative or quantitative studies, rather than on a social theory which, given its broad ambition, exceeds the field of EU studies strictly speaking (Outhwaite 2022; G. Delanty 1998). The chapter first presents the historical development of the sociology of the EU, and the early debates it faced. Then, it delves into the main issues with which sociologists of the EU are busy today, and reflects on the new directions the discipline has been following in recent years.

### WHAT IS THE SOCIOLOGY OF THE EU?

On the one hand, the very *object* of the sociology of the EU remains questionable: Is it about the slow formation of a ‘European society’ whose boundaries and very existence remain bitterly disputed – or is it mostly concerned with an institutional process, the organization of that society by a set of relatively stabilized institutions – specifically here, that of the EU? Each process raises distinct questions – for instance, do members of this emerging society actually share an identity, and if so how is it (re)produced? Or, how do transnational elites manage to use the supranational institutions in order to achieve certain goals? In this chapter, we will focus on sociological studies directly approaching the construction of European political, economic and legal institutions. In this perspective, the *sociology of the European Union* is concerned with the study of the social processes linked to European integration, and more precisely, to the construction of the European Communities (EC) and later the EU.

However, both dimensions and processes can hardly be completely separated: The interactions between the social changes at work in European societies and the building of new

institutions also beg for clarification. For instance, are these institutions the mere reflection of a solidifying pre-existing social order, or do they trigger the development of such an order? That is, what is the relation of social integration and of political integration? Of course, sociologists have long faced similarly intricate issues in analysing the social processes at work within nation-states. But attempting to equate the sociology of the EU and the sociology of national societies might well be methodologically and theoretically problematic, too.

Indeed, on the other hand, the *methodological and theoretical apparatus* specifically defining the ‘jurisdiction’ (Abbott 1988) of the sociology of the EU as a scientific discipline remains contested. This is not only because of the general situation of sociology – that is, the entanglement of sociologists with their object of study – but also because the study of an object reaching beyond national boundaries confronts different national traditions. Each carries with it a distinct representation of what it means to practice sociology for sociology has professionalized along different national lines. It results in a diversity of approaches to the EU by national sociologists – from wide-ranging conceptualizations dear to social theory, to in-depth qualitative studies, through quantitative researches bringing together an immense amount of data. As a consequence, the sociology of the EU often overlaps with cognate disciplines, in particular political science. Thus, one has to pay attention to these different, and at times conflicting, national disciplinary practices.

But this is only part of the issue. It should also be clear that applying concepts developed to account for national societies is normatively loaded, as it inadvertently prescribes a familiar horizon to European integration – eventually bound to turn into something similar to a nation-state. This certainly reflects the entanglement of European studies with the political construction of Europe (Rosamond 2016). More generally, though, it might well be that the concepts and methods applied to the study of the EU are ‘hopelessly confused by borrowing the conceptual vocabulary of the nation-state’ (Delanty 1998, 106) – that is, that the ‘methodological nationalism’ built-into most of the social sciences leads to misrepresenting the actual processes unfolding in the EU (Beck 2014). This is not to say that the sociology of the EU should ignore national sociologies and instead seek salvation by borrowing from ‘globalization studies’. Rather, this means that the concepts and methods it uses need a thorough examination before they can be meaningfully put to work. To that aim, a short historical detour will prove useful.

## A BRIEF HISTORY

Sociological studies have accompanied European integration, as well as its uncertainties and crises. The formal beginnings of the EC in the 1950s prompted dedicated sociological research on the construction of Europe. It benefited from the growing institutionalization of sociology in universities (Calhoun 2007; Ruegg 2011, 375–86). Furthermore, in the post-war context, studies of European integration were also shaped by political motivations (Rosamond 2016; Canihac 2020): Understanding Europeans and their endless struggles for power – as well as the way to overcome them. In this context, two approaches stood out during the early years: Transactionalism and neo-functionalism. Both regarded the first Communities as extraordinary attempts to consciously build a new type of supranational polity. But, in line with the functionalist theory developed notably by Talcott Parsons, both sought to analyse the EC as

social systems. In particular, they set out to sociologically understand the process of ‘integration’ allegedly taking place in Europe.

*Transactionalism* was mostly developed from the late 1950s around Karl Deutsch. An eclectic scholar, he tried to move beyond the study of political institutions only. To that aim, he proposed to start from the distinction between ‘community’ and ‘society’ inherited from the German sociologist Ferdinand Tönnies. While society is united by division of labour and mutual interest, a community is a function of the communication taking place between its members: It is not so much a certain type of institutional organization, as ‘a group of persons united by their ability to exchange information’ (Deutsch 1951, 243; 1967). Accordingly, he submitted that these various ‘transactions’, i.e., communications, are key in understanding the construction of national, as well as supranational, communities. He hypothesized that an intensification of communications would lead to the construction of shared values, habits and, eventually, a common ‘way of life’ (Deutsch 1957). In turn, this may result in a shift of ‘loyalties’ towards the new community. From this perspective, integration is the social process of constructing a ‘sense of community’ among the members of the integrated units.

*Neofunctionalism*, arguably the most famous early approach to European integration, elaborated on these ideas while slightly changing their empirical focus (see Saurugger’s chapter). It was initially theorized by Ernst B. Haas, a German-born scholar emigrated to the USA, whose book on the ECSC published in 1958 was to become a classic (Haas 1958). For Haas, too, integration was both an institutional and a social process: ‘Political integration is the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states’ (Haas 1958, 16). This is to say that the Communities are institutional systems following an expansive logic. The concept capturing this logic is the famous ‘spill-over’, i.e., the mechanism by which institutional integration in a limited area requires an extension to neighbouring areas by the force of practical and economic necessities set in motion by the actors. When looking at the EC as social systems, on the other hand, Haas proposed to focus less on individuals in general, and more on the activity of certain groups – the political, economic and social elites. These groups were expected to redirect their ‘allegiances’ towards the new centre being built, and thus to increasingly shift the focus of political action from national polities to the new European organizations. It is thus at the intersection of the institutional dynamics of overcoming the state and the social dynamics of recomposing national communities that neofunctionalism located the sociological originality of the first European Communities.

In spite of these early developments, sociological studies of the European Communities would stall from the late 1960s. This relative *eclipse* was driven by multiple factors. Changes in the main paradigms in the social sciences led to the domination of modes of explanation less sensitive to issues of community-building, shifting loyalties and socialization (Guiraudon and Favell 2011, 6); at the same time, the institutional study of the European Communities started to be taken over by the small but dynamic field of Community law, which remained largely impervious to sociology (Vauchez 2015). Besides, sociologically-oriented researchers experienced an ‘existential crisis’, as their theories seemed to be refuted by the political developments of European integration. Deutsch observed early on that it was hardly possible to empirically confirm the emergence of a true European ‘community’ (Deutsch 1963). Most importantly, the ‘empty chair crisis’ – when the French President de Gaulle stopped French participation in the institutions of the Community – seemed to confirm the ‘obstinate’ force of

nationstates (Hoffmann 1966). Neofunctionalists thus questioned their own ideas, and Haas himself wrote about the 'obsolescence' of his theory in the mid-1970s (Haas 1975).

The preparation and signing of the Maastricht Treaty (1992), however, brought the EC, now EU, back on the agenda of sociology. Indeed, the Maastricht reforms not only marked a significant extension of EU competences. It was also meant to complement the economic achievements of European integration by fostering the development of a 'citizens' Europe': Placing concepts such as citizenship, legitimacy or identity centre stage, the heated debates surrounding its ratification raised questions familiar to sociologists (Trenz 2016, 6). Both dimensions of the 'Maastricht moment' triggered numerous studies seeking to illuminate the *Europeanization* of the categories and practices usually attached to nation-states (Caporaso, Cowles, and Risse 2001; Radaelli 2004). This new research, that unfolded throughout the 1990s and early 2000s, schematically followed three main paths (for a slightly different presentation, Guiraudon and Favell 2011).

The first one tended to apprehend the EU as a special type of international organization (IO). Much work here attempted to account for the way the EU is governed. Updating neofunctionalist insights, the institutionalization of distinct European 'social fields' was carefully scrutinized (Fligstein and Stone Sweet 2002). But in line with the 'constructivist turn' in the study of IOs, many researchers displaced the focus away from formal institutions and legal rules. Instead, the 'social construction of Europe' (Christiansen, Jorgensen, and Wiener 2001) was explored through the emergence of *shared norms, ideas and strategies* (Parsons 2003; McNamara 1998). This led to empirical studies of the actors populating EU institutions, such as MEPs (Abélès 1993) and European Commissioners (Ross 1995; Smith 2004), or of policy sectors usually closely related to national sovereignty, such as defence or immigration (Guiraudon 2003; Mérand 2008a).

Crucially, on the other hand, the increase of available data, for instance the Eurobarometer and the European Social Survey, also opened a path to analyse the EU from the vantage point of its *citizens*. It led to discussing the production of a European public sphere (Koopmans and Erbe 2004), of European social movements (Imig and Tarrow 2001), or of a European identity driven by the institutional development of the EU, in particular the new European citizenship (Risse 2003; Duchesne and Frogner 1998; Inglehart 1977). Finally, others still used the tools of comparative sociology to move the inquiry from the EU itself, in order to explore its differentiated *interactions with national societies*. It was, for instance, illustrated by ambitious comparative social histories of Europe (Kaelble 2011; Crouch 1999) or by studies of everyday practices transformed by European integration, such as transnational mobility (Favell 2008a; Mau and Mewes 2012).

While echoing some older concerns of transactionalism and neofunctionalism, these works significantly broadened the scope of sociological research on the EU. They contributed to 'normalizing' it by demonstrating that the EU could be apprehended with the usual concepts and methods of sociology. However, they largely failed to approach it as an object deserving interest in itself: Instead, it was analysed either as a (special) case of IO, or as a 'secondary variable' explaining other processes. It is only slowly, in the wake of the intense controversies that surrounded the failure of the projected European constitutional treaty (2005), that the process of '*mainstreaming sociology*' in EU studies (Saurugger and Mérand 2010), that is, of treating it as a standard object of sociology, was further taken up. This still ongoing process means that the sociology of the EU is now confronted with standard debates about sociological

theories and methods; conversely, it also led to the fruitful re-evaluation of general issues of sociology through the lenses of the EU.

## SOCIOLOGY'S CONTRIBUTION TO EU STUDIES

Even though sociological approaches have gained importance over the last decade in EU studies, students or researchers will at some point face the question of disciplinary boundaries: What place is there actually for sociology in 'EU studies'? Indeed, more than ten years after Favell and Guiraudon's (2009) agenda for a sociology of the EU, the field remains dominated by integration theories (see Saurugger's chapter) and neo-institutionalist approaches (see Bulmer's chapter). Dialoguing with this literature still is one of the big challenges for sociologists of the EU. In this part, we try to contribute to this dialogue by highlighting the new theoretical and methodological paths opened by sociology for studying the EU.

### Sociology of the EU and European Integration Theories

EU studies gained autonomy as a disciplinary field through the *a posteriori* rebuilding of theoretical debate between functionalists and intergovernmentalists to explain European integration (Rosamond 2016). The 1990s–2000s have thus seen the multiplication of 'integration theories', still discussed, developed and updated today (see e.g., Schmidt 2018). Sociology remained rather at the margins of the field (Ross 2011), diverging from integration theories on at least three main aspects. First of all, they share the same object but differ in their purpose. One of the 'big questions' integration theories try to answer is 'who got the power' between the intergovernmental, supranational and parliamentary institutions of the EU as *sui generis* object. On the other hand, the objective of sociology is to understand objects such as public policies, identities, or power struggles through the EU as a *case* among others. It thus aims to understand the broader social dynamics the EU is embedded in (Georgakakis 2008).

Second, sociologists adopt an actor-based rather than institutions-based approach (Saurugger 2008; 2020). EU integration scholars tend to reify EU institutions to understand the distribution of formal powers and to a lesser extent informal powers between them, as an explanation for integration dynamics. Sociology of the EU, where constructivist structuralism (Kauppi 2018) tends to dominate, is on the other hand more interested in both the *internal* and the more *structural* power struggles. The first means opening those 'institutional black boxes' and looking at agency within and between the EU institutions and their representatives. The second implies analysing actors by replacing them in larger social structures, such as education (Michon 2019) or religion (Foret 2015). The attention paid to structures depends on one's epistemological posture. That being said, if not all sociologists are structuralists, they all share an interest for social relations. By doing so, they often offer nuanced and refined understanding that not only contribute to the analysis of processes such as institutionalization, professionalization or politicization, but also more indirectly of where power lies within the European space. In doing so, they often reject the hypothesis that power can be assigned to monolithic institutions (Smith 2010).

The third divergence lies in the theoretical ambitions of sociological approaches. Integration theories aim at producing a general theory of European integration, prioritizing theoretical discussions and deductive reasoning. On the contrary, sociologists value empirical-based

analysis and more inductive or abductive reasonings. Thus, a contribution of sociology to EU studies is bringing in ‘new’ methods. Micro-sociology for instance brought fieldwork into the picture (Adler-Nissen 2016). Sociologists study their objects notably by interacting with them, through semi- and unstructured interviews, as well as participant and non-participant observations (see below for examples). Macro-sociology also contributed greatly to the renewal of EU studies by bringing in tried-and-tested methods to explore new dimensions of EU integration. For example, it opened a research agenda on European social classes through the use of aggregated data-basis (Diez Medrano 2011; Lebaron and Blavier 2017).

These rather fundamental divides often lead to a mutual disdain between scholars sharing the same object, even though sociology of the EU progressively gained space in EU studies. For example, it is now more common to find dedicated chapters to sociological approaches in handbooks on EU studies (see, e.g., Jones and Menon 2012; Brack and Gürkan 2020; this handbook).

### **Sociology of the EU and Neo-institutionalism(s)**

Among the calls for more sociological approaches within EU studies that flourished in the late 2000s, Jenson and Mérand (2010, 75) defended the stimulating stand that sociology of the EU actually shares common roots with (neo-)institutionalism, especially its historical and constructivist variations, that tend to dominate EU studies since the mid-1980s. They argue that bridges can be built between the two literatures. The common ground between institutionalism(s) and sociological approaches lies in a shared acknowledgement of the importance of *actors’ strategies, ideas, identities, norms and interests*. The main difference then is that where institutionalism(s) treat them as separate independent variables, sociology doesn’t distinguish between them (Jenson and Mérand 2010). Indeed, institutionalists distinguish between a logic of consequences (interest-driven) and a logic of appropriateness (idea-driven), where sociologists consider them to be intertwined (Mérand 2008b; Jenson and Mérand 2010). Interestingly, this debate was taken a step further in another close but distinct field: international relations (IR). For instance, Samuel B. H. Faure and Christian Lequesne (2017) critically discussed the relevance of distinguishing a third logic, that is ‘of practicality’ (Pouliot 2008) – creating an analytical separation between actors’ interests, ideas and practices.

Following this critical perspective that first arose in IR (Bigo 2011), Didier Georgakakis (2021) underlined how political sociology, and especially the classical *field theory* (Bourdieu 2022), applied to the EU, provides a theoretical framework that encompasses all the preoccupations of the different variants of institutionalism. Indeed, like historical neo-institutionalism, it pays particular attention to the historical patterns that structured the field; like constructivist neo-institutionalism, it looks at the norms that sustain actors’ representations; like rational neo-institutionalism, it seeks to objectify the resources that drive actors’ strategies; and finally, like discursive neo-institutionalism (Schmidt 2008; Crespy 2010), it includes actors’ stances in the analysis. Further, applying the concept of field to the EU, both nourishes the debates around its heuristic value, and contributes to EU studies by covering understudied actors of EU integration (Kauppi 2018). For instance, Antoine Vauchez’s (2015) analysis of the EU legal and judicial arena as a ‘weak field’ both offers a take on how to apply field theory to a transnational object, and highlights the key role of lawyers in the building of the European community. Interestingly, US-based sociologists Doug McAdam and Niel Fligstein (2015) took a side-step from Bourdieu’s understanding of the concept. They suggest that social life is

composed of ‘strategic action fields’, where actors develop specific ‘social skills’. The difference lies in the fact that power relations are not part of the construction of their object, as such, they are closer to constructivist neo-institutionalism (Jenson and Mérand 2010).

## EU STUDIES’ CONTRIBUTION TO SOCIOLOGY

The ‘mainstreaming’ of sociology not only brought traditional sociological debates about concepts and methods back in EU studies. It also produced works that, while empirically analysing the EU, contributed in their own right to more general sociological debates. Here, we briefly illustrate some of these contributions to the debates about historical sociology; identity; elites; and public policies.

### Historical Sociology

One area in which the study of European integration has lent insights of major sociological interest is historical sociology. *Historical sociology* is concerned with the long-term historical social processes that have shaped the present – e.g., at the macro level, state formation and nation building, or, at the micro level, behavioural norms of politeness and citizenship (Gerard Delanty and Isin 2003). Similarly, a number of works (especially in the French-speaking tradition of ‘*socio-histoire*’) have relied on in-depth analyses of shorter episodes of European integration to bring to light the social and historical processes at work in the EU (Déloye 2006; Cohen 2007). Applying socio-historical lenses to the study of the EU has both contributed to normalizing the EU, and has allowed to shed new light on the processes of polity-formation (McNamara 2010; Vauchez 2015; Faure 2019). For instance, following early attempts by sociologists (Elias 1991; Marks 1997) or historians (Milward 1992), Stefano Bartolini has forcefully argued that it represents the sixth major transformation of European polities since the 16th century (following state building, capitalist development, nation building, democratization, and the emergence of the welfare-state). However, as an essentially economic project, the EU has not been built through the usual processes of monopolization of legitimate violence and cultural homogenization: It is a ‘disjointed’ polity in which economic, military or cultural boundaries do not overlap (Bartolini 2005). By showing how it departs from the standard account of nation-state building, this thus allows to conceptualize more systematically, in a non-state-centric manner, the general processes at work in the building of a polity.

### Identity and Citizenship

More recently, other studies have sought to complement this perspective by exploring the micro-foundations of such macro processes. This has for instance been applied to the (non-) emergence of a shared feeling of belonging about European citizenship, and to the issues it raises for the legitimacy of the EU (Delmotte, Mercenier, and Van Ingelgom 2017), or to the possibility of an EU-wide sense of solidarity in relation to social policies (Börner and Eigmüller 2015). Moreover, EU-building opens new avenues to study the effect of increased transnational mobility on identities (Favell 2008b), which leads to new multi-layered identities and, eventually, social conflicts (Fligstein 2009). In this perspective, Kristine Mitchell (2015) has demonstrated the existence of an ‘Erasmus effect’ positively impacting the European iden-

tification of its participants. European integration also constitutes an opportunity to conduct transnational qualitative inquiries on citizens' attitudes toward a shared object, the EU (Gaxie et al. 2011). Thus, questioning identities and citizenship in relation to the EU also allows to cast a new light on pre-existing (national, local) groups (see Van Ingelgom's chapter). For instance, Juan Diez Medrano (2010) showed how differentiated European integration from one member state to another can be explained by national histories.

### **Sociology of (EU) Elites**

The EU as a sociological object is a great 'laboratory' for those interested in studying 'elites' in a broad sense. Indeed, the EU and its myriad of actors constitute a timely case to study the emergence of *transnational elites*. Sociology of the EU notably participated in the understanding of the constitution and evolution of bureaucratic and political elites *beyond* states' structures. In that sense, it takes up with Ernst Haas early works on elites as social groups, leaving aside the neofunctionalist assumption of a shift of loyalty. It points out both common trends and peculiarities, testing state sociology concepts by applying them to the EU. For example, following Yves Dezalay's work on global elites, Antoine Vauchez and Lola Avril thoroughly documented the early formation of a group of European lawyers (Vauchez 2008; Avril 2020a), showing how the constitution of an elite is deeply intertwined with policy- and polity-building. In a different vein, Willy Beauvallet and Sébastien Michon (2010) studied the *socialization* of eurodeputies and demonstrated the unstable nature of the European Parliament's institutionalization. Further exploring the 'field of Eurocracy' through the study of EU *bureaucrats* (Georgakakis 2012), Didier Georgakakis (2017) highlighted how new public management overflowed national state administrations and affected the European commission. In her study of diplomats, Rebecca Adler-Nissen (2014) pointed to the struggle for *symbolic power* between state and European diplomatic corps, underlining the tensions between national and transnational elites. Recent works have paid special attention to the *practices* (Adler-Nissen 2016) of the latter within the institutions, showing how they concretely participate in the building of non-state polity. For instance, Laura Landorff (2019) has looked at the *informal practices* of parliamentary actors. Andy Smith (2019) and Frédéric Mérand (2021) have both highlighted the heuristic value of the concept of *political work* to study the policy and polity making practices of political elites. Aside from the usual suspects, sociologists have also paid attention to rather unexpected actors within EU politics, such as football players (Gasparini and Heidmann 2012), writers (Bonnamy 2017), wine producers (Smith, Maillard, and Costa 2007) or even surfers (Weisbein 2015). As such, the sociology of the EU paid great attention to lobbying practices and actors (Morival 2019; Beauvallet, Robert, and Roullaud 2021), extending the scope of the sociology of elites, and building bridges with the sociology of mobilization (Balme, Chabanet, and Wright 2002).

### **Sociology of (EU) Public Action**

Sociology of public action also paid greater attention to the development of European public policies (Balme and Smith 2015). One of its entry points had been the conceptualization of a *Europeanization* of public policies process (Radaelli 2002), which both contributed to public policies analysis and theories of integration (see Bartenstein and Wessels' chapter). Studying European public policies participates in the understanding of the transfer of powers among

sovereign states, especially through cases extremely closely related to core state powers, such as defence policy (Irondelle 2003; Hoeffler and Faure 2015; Faure 2016) or immigration policy (Guiraudon 2003). The EU also constitutes an interesting case for the sociology of instruments of public policy (Lascoumes and Le Galès 2005). For example, through her analysis of the EU gender equality policy, Sophie Jacquot (2010) shows how *gender mainstreaming* constitutes a *tool* of public action, along with others such as benchmarking and the open method of coordination (Bruno, Jacquot, and Mandin 2006). In her work on the Schengen visas policy, Juliette Dupont (2022) showed how short-term visas can play both as a security *and* a marketing tool, going beyond border control. Analysis of European public policies contributed greatly to the literature studying regulation policies and more generally state-market relations and the intertwining of polity- and market-building. Considering the EU as a regulatory state (Avril 2020b), it notably pointed to the inner tensions between liberalism and protectionism that irrigate European industrial public policies, from defence (Hoeffler 2012) to agri-food (Smith 2021). Finally, recent works in sociology of the EU applied a programmatic action framework (Hassenteufel and Genieys 2021) to EU public policy cases, as well as in a comparative perspective between member states bridging further sociology of elites and sociology of public action (Genieys and Joana 2015; Faure 2020). As such, this emerging literature contributes to a double dynamic of mainstreaming of sociology in EU studies and to EU as a timely case for sociologists.

## CONCLUSION

Today, sociology constitutes one of the most fruitful and dynamic disciplinary approach to the EU. This is the result of a long process of ‘mainstreaming’ sociology in EU studies – that is, of turning it into a normal way of studying the EU. Conversely, this has produced insights of interest for sociologists more generally, especially for those studying identity, elites, state formation and public action. It also has proven to be a timely case for sociological history. This process of normalization is still ongoing, though, on at least three respects.

First, the sociology of the EU has hardly touched on some traditional areas of sociology. For instance, questions and methods of the old field of sociology of knowledge have only recently been applied to the EU (Adler-Nissen and Kropp 2017). Likewise, despite isolated research in the 1990s, such as George Ross’s (1995) work on the Delors Commission, ethnographic methods remained rather unexplored territory. In this regard, following previous works such as Kathleen McNamara’s work (2015) on the role of everyday social practices in EU-building, Rebecca Adler-Nissen (2016) called for a ‘practice turn’ in EU studies. She seems to have been heard both by experienced and young researchers that recently conducted ethnographic fieldwork in various EU spaces such as the European Commission (Mérand 2021a), far-right groups within the European Parliament (Delaine 2021) or the College of Europe (Behar 2021).

Second, the EU itself is an evolving object. Sociological studies have to integrate this inherent historical dimension to specify how, exactly, they can contribute to sociology at large. The numerous crises of European integration, the study of the ‘resistances’ it triggers (Crespy and Verschueren 2009; Hamm 2022), as well as the prospects of ‘disintegration’ or of ‘differentiated integration’ they bring about, have become major objects of study for sociologists of the EU, opening new paths for further research.

Finally, the debates on the place of sociology in EU studies seem to have set aside its pluralistic dimension, with its own internal debates and controversies (Weisbein 2011). While sociology of the EU tends to be dominated by approaches inspired by Pierre Bourdieu's and Norbert Elias' fields and configurations' theories, other major authors such as Bruno Latour or Luc Boltanski remain at the margins. For instance, one can wonder why, whereas pragmatic sociology has proven heuristic to study national public policies (Zittoun 2013; Zittoun and Chailleux 2021), ten years after Julien Weisbein's call (2011), it remains anecdotic when studying the EU. It opens new paths for mainstreaming of sociology in EU studies: bringing long going ontological and epistemological controversies of the first into the latter.

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## 9. International political economy and the European Union

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How can the insights from international political economy (IPE) research, and political economy research more generally, improve our understanding of the opportunities and constraints under which European countries cooperate and interact in the context of the European Union (EU)? International political economy is the study of how domestic and international politics shapes the economy beyond the nation state, and how the international economy shapes politics. Because economic cooperation and integration of the EU member states lie at the core of what the EU is, international political economy research is well-placed to shed light on the EU. Issues such as the EU's common commercial policy, European Monetary Union (EMU), EU-wide regulation, and fiscal cooperation (see Piroška's chapter), but also issues related to migration (see Lavenex's chapter), Brexit (see Martill's chapter), climate change (see Gravey's chapter) all are issues on which international political economy research can contribute significantly to creating a better understanding of the dynamics, constraints, and opportunities associated with policymaking in these areas.

In this chapter, we review some of the areas where IPE research has made significant contributions to our understanding of EU politics and economics. In doing so, we discuss both historical developments and current policy debates and sketch out the main challenges and promising avenues for EU-related IPE research. A key theme that we highlight in the chapter is that IPE research holds significant potential for understanding and explaining key developments and outcomes in the EU, but this potential remains underdeveloped. Indeed, while IPE scholars were strongly interested in European integration in the 1990s, intellectual developments since have largely occurred parallel to research on the EU, and IPE and EU scholars have often not engaged with each other in meaningful ways. This presents a lost opportunity, and it is encouraging that in recent years a growing number of IPE scholars have begun to analyse EU issues, policies, and challenges from an IPE perspective. Likewise, EU researchers are beginning to draw on political economy research to understand the politics of trade, monetary, and other key issues in the European context. This presents a promising perspective for more fruitful interactions in the future.

### IPE AND THE EU: AN ON-AGAIN/OFF-AGAIN RELATIONSHIP

The EU is built on a strong foundation of international economic cooperation among its member states. Beginning with the European Coal and Steel Community (ECSC), European states have sought to intensify and institutionalize cooperation by increasing international economic exchange and opening their markets to cross-borders of goods, finance, and people. Eventually, the initial focus on coal and steel and industrial trade broadened to include much more wide-ranging policy fields, including the single currency and the single market, but

economic cooperation continues as a central pillar of European integration. The EU internal market and customs union, its common trade policy, EMU, efforts to harmonize regulation across member states, economic and fiscal policy coordination, and the more recent attempts to introduce some degree of fiscal burden sharing all lie at the core of the EU.

Consequently, it is not surprising that IPE research closely followed these developments. European economic integration both was analysed from an IPE perspective (Alter, 1998; Eichengreen and Frieden, 2001; Garrett, 1995; Keohane and Hoffmann, 1991; Mattli, 1999; Hallerberg, 2002) and influenced IPE theorizing more generally as a vitally important case in which to test broader theories about the political economy of international trade, money, and finance (Moravcsik, 1993, 1997; Sandholtz, 1993; McNamara, 1998). In the 2000s, however, the fields of IPE and EU studies grew apart. EU research took a comparative turn, focusing strongly on the inner workings of the EU and its institutions, and the ways in which domestic electoral politics and public opinion shaped – and were shaped by – European integration. This literature, while extremely rich (Pollack, 2005; Hobolt and de Vries, 2016a), drew little inspiration from insights from IPE research. Likewise, the EU has featured only marginally in mainstream IPE research over the last two decades, as scholars have increasingly focused heavily on the US and on cross-national studies. This is particularly true for the so-called ‘American’ approach to IPE (Cohen, 2007). Although there are notable exceptions – such as Christina Schneider’s or Andreas Dür’s work<sup>1</sup> –, oftentimes the EU was seen as a special, *sui generis* case (or even a nuisance, since it complicated the construction of country-level datasets on issues such as tariffs or exchange rate regimes) that did not feature prominently in IPE research.

This trend has slowly changed in recent years as interest in and appreciation of both in each other’s insights and contributions has grown again. This trend has been driven in large part by work on the global and Eurozone financial crises (Howarth and Quaglia, 2015; Copelovitch, Frieden and Walter, 2016; Dür, Moser and Spilker, 2020; Fligstein 2021), but also by a growing interest in the backlash against globalization and European integration more generally. IPE researchers not only increasingly apply insights generated by standard IPE theories (Owen and Walter, 2017; Moschella, Pinto and Martocchia Diodati, 2020) and from other contexts, including the US, to the European context (Ballard-Rosa et al., 2020; Colantone and Stanig, 2018a, 2018b), but also take a genuine interest in the EU as such (Dür and Mateo, 2016; Schneider, 2019). IPE research has also returned as a source of inspiration for EU studies more generally. Kelemen, Jones’ and Meunier’s (2016) concept of the EU’s approach of ‘failing forward’, for example, was developed in the context of an IPE-inspired special issue on the euro crisis (Copelovitch, Frieden and Walter, 2016), but has since become a widely-used framework for EU research on a variety of topics (Dierx and Ilzkovitz, 2018; Lavenex, 2018; Howarth, Policy and 2021, 2021; Rhodes, 2021). Likewise, the EU has returned as an insightful case that holds wider lessons for IPE research (Weinberg, 2016).

Research on European monetary cooperation perhaps best illustrates this development. Both the early forms and obstacles of cooperation, such as the European Monetary System (EMS) or the 1992 EMS crisis have been fruitfully analysed from an IPE perspective (e.g., Bernhard and Leblang, 2006; Eichengreen, 1996; McNamara, 1998; Oatley, 1997). The creation of an EMU initially also generated a lot of interest among IPE scholars (for a review,

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<sup>1</sup> See, e.g., Schneider (2009, 2017, 2019) or Dür (Dür and Zimmermann, 2007; Dür and Mateo, 2016).

see Enderlein and Verdun, 2009). In the process, they contributed to a better understanding of the reasons and rationales of voters, interest groups and governments to join the common currency (Eichengreen and Frieden, 2001; Frieden, 2002; Jabko 2006; Sandholtz, 1993) and the constraints and trade-offs this decision entailed in the realms of fiscal, monetary, financial, and exchange-rate policy (Hall and Franzese, 1998; Hallerberg, 2004).

When the euro crisis hit the continent, however, IPE initially had surprisingly little to say about it. Rather, during the first years of the crisis, research on its causes and consequences was dominated by economists (Lane, 2012; Pisani-Ferry, 2012; de Grauwe, 2013) and EU scholars, who concentrated on analysing crisis management in the special context of the EU (Featherstone, 2011; Menz and Smith, 2013; Wasserfallen *et al.*, 2018), the implications of the crisis for European integration (Fontan 2013; Schimmelfennig, 2014; Tosun, Wetzel and Zapryanova, 2014, Schmidt 2014; 2020), and the consequences of the crisis for European public opinion (Lewis-Beck and Nadeau, 2012; Kuhn and Stoeckel, 2014; Armingeon, Guthmann and Weisstanner, 2016; Hobolt and de Vries, 2016b). Likewise comparative political economy scholars began to pay attention to the crisis relatively early on (Hall, 2012; Scharpf, 2013; Mabbett and Schelkle, 2015; Baccaro and Pontusson, 2016; Schelkle, 2017). IPE scholarship, in contrast, was late to the game. This was surprising, given that IPE offers many insights about the politics of exchange rates, monetary unions, and financial crises that provide a rich understanding of the combination of political and economic constraints and opportunities created by the crisis.

When IPE scholars finally began studying the euro crisis, however, their analyses provided an original and useful new perspective that built on existing IPE research on the politics of the open economy trilemma, international economic institutions, and policymaking in a highly integrated world more generally (for overviews, see Copelovitch *et al.*, 2016; Frieden and Walter, 2017). These studies generated original insights into issues as diverse as the distributional conflicts associated with questions of internal and external adjustment (Bechtel, Hainmueller and Margalit, 2014; Fernández-Albertos and Kuo, 2016, 2018; Walter, 2016; Jurado *et al.*, 2020; Walter, Ray and Redeker, 2020), the power of economic ideas (Matthijs and Blyth, 2015; Matthijs and McNamara, 2015), the importance of domestic politics considerations (Moschella, 2017; Schneider and Slantchev, 2018), and the workings and involvement of international and supranational international actors such as the IMF or the Troika (Baerg and Hallerberg, 2016; Genovese, Schneider and Wassmann, 2016; Lütz, Hilgers and Schneider, 2019). A key feature of this work has been the focus on distributional conflict over economic policies and the political tensions that these conflicts create, both within EU member states and at the European level, as governments and the EU have sought to manage and resolve the Eurozone crisis.

## KEY DEBATES AND DEVELOPMENTS

As a field specialized in the intersection and interaction of politics and economics, IPE is well placed to provide a wider perspective on developments within the EU, and to be inspired by EU-specific developments. It is thus not surprising that international political economy research has contributed to debates about the European Union in a number of ways.

A key insight from IPE is that the political economy tradeoffs and political conflicts confronting EU policymakers and national politicians in EU member states are not entirely

novel, but rather parallel similar tradeoffs and struggles across space and time in the global economy. Indeed, the distributional winners and losers – as well as the political supporters and opponents – from European integration closely mirror those in other countries and times. The focus by European integration scholars on the EU as a *sui generis* phenomenon has sometimes obscured our understanding of the extent to which the EU is special and the extent to which it is representative of wider trends. This is unfortunate, because a better understanding of these general lessons and patterns from IPE can help us better understand what is unique about the EU – the scope and depth of European integration, the degree of supranational institutions' power and autonomy, etc. – and what is more common across space and time. Indeed, here the broader IPE literature on the political economy of financial crises, populism, and the domestic politics of foreign economic policy highlights how much of what we have observed in the EU over the last decade – during the Eurozone, refugee, and global economic crises – mirrors the political and economic developments that we have also seen in the United States and other countries around the world.

In what follows, we focus on three main areas where the IPE perspective on the EU has been most fruitful: First, by highlighting the constraints that an open economy imposes on national policymaking, but also the opportunities it creates, IPE provides insights into the tradeoffs policymakers face in a range of economic policy fields. Second, as the discipline that 'studies the political battle between the winners and losers of global economic exchange' (Oatley 2018: 2), it is particularly well-placed to study how material and ideational conflicts among different groups and actors within and across EU member states are key sources of support and opposition to the EU (Fligstein 2008; Smith 2016). Finally, IPE research provides tools to study the interaction between domestic politics and international markets, as well as the relationship between the economy and international and supranational institutions and decision-making.

### **The Constraints and Opportunities of an Open Economy**

IPE research, at its heart, focuses on the central political and economic tradeoffs, dilemmas, and often trilemmas that policymakers face when operating in an open international economy. These constraints are particularly pronounced in the EU, where European integration has not only created the world's largest single market, but also has led to particularly strong supranational constraints on government policymaking – again, most notably, the adoption of the single currency and the delegation of monetary policymaking for Eurozone countries to an international central bank, the ECB.

IPE offers a rich set of scholarly work that highlights how these tradeoffs and constraints affect politics and policymaking. Drawing on insights from economics, it spells out the political consequences of economic tradeoffs and trilemmas and hence highlights how difficult choices are made (or sometimes avoided). For example, the Open Economy Trilemma (Mundell, 1961; Fleming, 1962; for an IPE discussion see Cohen, 1995) means that it is impossible to at the same time have open capital markets, fixed exchange rates, and an independent monetary policy. This has important implications for the EU, which has liberalized capital markets and where Eurozone member states have given up their national currencies for a single currency, the hardest possible form of fixing the exchange rate (Oatley, 1997; Enderlein and Verdun, 2009; Schelkle, 2017).

The Open Economy Trilemma thus explains why the Eurozone states can no longer set monetary policy independently, why the ECB plays such an important role for these countries,

and why political conflicts can emerge over monetary policy that might be too tight for some and too loose for other member states. Likewise, research on the fiscal consequences of an open economy (Clark and Hallerberg, 2000) shows how Eurozone membership shapes political incentives to adjust national fiscal policies (Hallerberg, 2004; Enderlein, 2006; Howarth, Policy and 2021, 2021). And research about the tradeoffs associated with the liberalization of free trade (Milner, 1988; Rogowski, 1989) can help explain why the creation of the Single European Market (SEM) has not been enthusiastically received everywhere (because trade liberalization not only creates winners, but also losers) or how the EU acts in international trade negotiations (Dür and Zimmermann, 2007, Woll 2007; 2008).

### **Distributional Conflicts in Europe**

A second main focus of IPE scholarship is on the distributional conflicts – both within and across countries – between ‘winners and losers’ from various economic policies. This research highlights the importance of both material and (more recently) ideational variables in shaping perceptions about ‘winning and losing’, and emphasizes that the role that institutions play in mediating these conflicts and in constraining government policy choices. As such, IPE provides crucial insights for explaining the political struggles and policy outcomes in the EU across a range of economic, regulatory, and other policy issue areas.

Research on the distributional conflicts surrounding international trade, for example, highlights why some domestic actors – both firms and voters – support free trade and economic globalization more generally, while others support greater protectionism. Applied to the European context these insights not only shed light on how both material interests and ideational factors play key roles in shaping these political cleavages, but also on how the European context differs from the US context that has received greatest scrutiny in this literature so far (Walter, 2017; Colantone and Stanig, 2018b; Dür, 2019; Ballard-Rosa *et al.*, 2020; Dür, Eckhardt and Poletti, 2020; Milner, 2021). Because economic cooperation is such an important aspect of European integration, this research carries clear implications for better understanding the material consequences of the European project, and points clear ways on how to study the extent to which they underpin Euroscepticism (see Van Ingelgom’s chapter).

Similarly, work on monetary policy and exchange rates highlights how both domestic actors’ interests – such as the preferences of the financial sector and exporters relative to import-competing firms – and monetary institutions (both independent central banks and monetary unions) incentivize and constrain government commitments to financial openness and exchange rate policies (Eichengreen and Frieden, 2001; Frieden, 2002; Schelkle, 2017; Fernández-Albertos and Kuo, 2018; Moschella, Pinto and Martocchia Diodati, 2020; Walter, Ray and Redeker, 2020). Moreover, work in constructivist IPE (McNamara, 1998; Matthijs and McNamara, 2015; Morrison, 2016, 2021) demonstrates that ideas and beliefs about money, debt, inflation, and exchange rates also play key roles in shaping actors’ preferences, government policy choices, and international commitments. Moreover, as discussed above, IPE research on international finance also highlights how political factors shape international investors’ behaviour, and how government policy responses to financial crises are contingent on domestic interests and institutions, as well as public opinion.

### **Interaction Between Domestic Politics and International Decision-making and institutions**

A final major area of inquiry for IPE is the interaction between domestic politics and decision-making, bargaining, and international (non)cooperation at the international level, especially with regard to economic policy and international institutions (for a review with a focus on regional integration, see Schneider, 2017). IPE research emphasizes how domestic interests are aggregated through national institutions to produce national policy positions, and how these positions then feed into intergovernmental bargaining at the international level (Putnam, 1988; Moravcsik, 1993, 1997). This research points to the importance of the relative strength of political intermediaries, including voters, interest groups and political parties as well as variation in the national institutional architecture. Different domestic institutional arrangements, such as the electoral system, the party system or the interest group system, create incentives for policymakers to privilege different interests, which in turn receive more weight in the decision-making process (see Beaudonnet's and Berkhout and Hanegraaff's chapters). Domestic interests and institutions thus jointly shape government bargaining positions at the negotiation table and influence whether and which bargain will be struck.

Finally, a major field of inquiry in IPE research focuses on the international level and this research also sheds light on the political economy of regional integration (Schneider, 2017). At the international level, these domestic political battles also shape how countries negotiate with one another over the solution of international problems and how they design institutional solutions to address these problems (Schneider, 2019). IPE research also provides insights into why states create and join international institutions, and why the characteristics of these institutions vary. It examines how these institutions regulate interactions and resolve conflict, including distributional conflicts, when policies have externalities (for EU applications, see Lütz and Kranke, 2014; Genovese, Schneider and Wassmann, 2016). The focus of interest here is thus on the relations and actions of nation states and international institutions. IPE research also highlights that domestic factors interact with systemic factors (Chaudoin et al. 2015) and that international interactions can have feedback effects at the domestic level, for example by strengthening and weakening domestic groups or providing credibility at the domestic level. Finally, IPE research also contributes to our understanding of why some areas of international economic relations, for example the handling of sovereign defaults, are surprisingly little regulated (Helleiner, 2008).

### **IPE PERSPECTIVES ON RECENT CHALLENGES AND TRENDS**

IPE helps us not only to understand long-term patterns and trends in European integration, but also sheds much light on more recent high-profile debates, such as the rise of populist nationalism and populist authoritarianism and the challenges they pose for European integration, the EU's future role in the global political economy and world politics, and the future of EMU and the EU more generally.

First, the recent backlash against globalization and international cooperation (for reviews, see Hobolt and de Vries, 2016a; Copelovitch and Pevehouse, 2019; Walter, 2021) and against democracy (Waldner and Lust, 2018; Vachudova, 2021) in Europe pose a key challenge to the EU. IPE scholarship has made significant contributions to our understanding of both the causes

and the consequences of these developments. For example, IPE research has highlighted the role that international economic shocks have played in this regard. Significant increases in trade competition from China and other low-wage countries have for example been shown to increase support for populist-nationalist parties and policy proposals such as Brexit (Colantone and Stanig, 2018a, 2018b; Ballard-Rosa et al., 2020; Milner, 2021; see Martill's chapter). Likewise, the sudden appreciation of the Swiss franc contributed to the success of Fidesz in Hungary and the PiS in Poland, two parties that have contributed to democratic backsliding in these countries (Gyongyosi and Verner, 2018; Ahlquist, Copelovitch and Walter, 2020). IPE research also highlights the tradeoffs governments face when challenging EU rules or even membership (Walter *et al.*, 2018), as well as that the EU as a whole faces in responding to such challenges (Jurado, Léon and Walter, 2021; Walter, 2021a). Here, IPE research on renegotiation bids (Haftel and Thompson, 2018; Huikuri, 2020), unilateral withdrawals (von Borzyskowski and Vabulas, 2019b) and suspensions from international organizations (von Borzyskowski and Vabulas, 2019a) can provide stimulating inspiration.

A second fruitful avenue of inquiry is the EU's future role in the global political economy and world politics. Here, the IPE literatures on money, finance, and foreign aid are particular illuminating. Work on exchange rates and reserve currencies (Strange 1971, Frieden 1991, Kirshner 1995, Cohen 1998, Posen 2008, Cohen 2015, McDowell 2016, Eichengreen et al. 2017) explains why the euro has not – and is unlikely to ever – supplant the dollar as the world's dominant reserve currency. At the same time, this literature, as well as work on how the EU's central role in global money and finance give it enormous power in global economic institutions like the IMF (Copelovitch 2010a/b; Vreeland 2006), highlights the continued centrality of European states and the EU's role as one of the primary 'great powers' in the 21st century international system (Dür and Zimmerman 2007; Dür et al. 2020; Poletti and Di Bièvre 2014). Similarly, the IPE literature on foreign aid highlights the EU's major leading role as both a bilateral donor (or, more accurately, a group of donor countries within the OECD DAC) and a key player in the World Bank and regional development banks like the Asian Infrastructure Development Bank (AIIB) and European Bank for Reconstruction and Development (EBRD) (Wright and Winters 2010). A key question in this literature is the degree to which EU aid promotes democracy, development, and other policy goals (e.g., stemming refugee flows), with scholars finding mixed evidence (Crawford 2007, Carbone 2011, Dreher et al. 2019), in line with the evidence of other donors on these outcomes.

Finally, IPE provides fresh insights into questions regarding the future of EMU and the EU more generally. Work on the political economy of exchange rates and central banking highlights how domestic political – and, most centrally, the preferences of societal interests and the role of domestic institutions in aggregating and filtering those interests – plays a central role in shaping policy decisions and outcomes (Frieden 1991, Eichengreen 1992, Broz 1997, Bernhard et al. 2002, Bearce 2003, Obstfeld et al. 2005, Clark and Arel-Bundock 2013, Copelovitch and Pevehouse 2013, Frieden 2015, Matthijs and McNamara 2015, Morrison 2016, Manger and Sattler 2019, Ahlquist et al. 2020). These domestic political factors, of course, are also central features of the EU's long-standing pattern of 'failing forward' from crisis to crisis. Major challenges such as the Euro crisis, the refugee crisis, or the challenge of far-right authoritarian governments in EU member states have been met mostly with 'muddling through' that leaves the EU cycling from crisis to crisis and the process of European integration incomplete and uncertain (Jones et al. 2016).

## CONCLUSION

In this chapter, we have argued that key insights from IPE research can improve our understanding of the politics of the EU. We note that, while research in IPE and on the EU was tightly integrated in the 1980s and 1990s, this has become less so over time, and we believe there are substantial gains to be made by reversing this pattern and rebuilding the linkages between IPE and EU studies. Indeed, major events and developments in European political economy today simply cannot be understood and explained without attention to domestic politics in EU member states and international level strategic interaction between member state governments. This is the bread and butter of modern IPE research, and the literatures discussed above offer a rich trove of insights and theories to better understand and explain recent developments in European integration.

At the same time, these developments within the EU must also be understood and explained as part of broader developments in the politics of international trade, money, and finance that have transformed politics and political economy over the last four decades of globalization. Here, again, IPE research can help to illuminate these connections, showing how major crises in the EU (the Eurozone crisis, Brexit, etc.) are not independent from broader global shocks and crisis, such as the Great Recession and cross-national trends in rising populism and nationalism around the world over the last decade. Theories of European integration and European political economy, in our view, could strongly benefit from more explicitly incorporating the broader general lessons about the political economy of international trade, money, finance, and migration from IPE.

Conversely, IPE scholars can benefit from richer and deeper engagement with the EU, a case of regional integration and international cooperation where integration is extremely deep (arguably, the deepest anywhere in the world) and where there is substantial variation at the domestic level in the key explanatory variables (interests, institutions, ideology, public opinion, etc.) which IPE scholars look to as the central factors driving national economic policy choices and international cooperation. In sum, both ‘sides’ stand to gain enormously from deeper and richer engagement with each other in the years ahead, and to pursue more constructive engagement with each other to wrestle with the puzzles and problems that remain at the heart of European integration and EU policymaking across a wide range of issues and policies.

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## 10. Qualitative research on the European Union: What interviews and observatory participation bring to the party

*Thibaut Joltreau and Andy Smith*

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Interviews and *in situ* observations have been at the heart of research on European integration since at least the mid-1970s. Reflecting on its early days, one thinks spontaneously of Helen Wallace's path-breaking early work based on repeated encounters with civil servants, politicians and societal actors (1973), a practice taken up even more systematically in the 1990s by a new generation of European researchers (Lequesne, 1993). Indeed, since that decade these two methods gradually became standardized parts of how the European Union (EU) was to be actually studied. Notwithstanding the empirical knowledge generated in this way, however, and contrary to other subfields of social sciences, the use of these methods has rarely been systematically and reflexively assessed within EU studies itself. The contribution this chapter therefore seeks to make is to revisit interview and *in situ* observation successively, discuss what they have brought to EU studies, and suggest how researchers working within this field could do even better both in terms of methodological rigor and, quite simply, in the very production of qualitative data.

More specifically, having first provided a brief overview of the existing literature on qualitative research methods as applied to the EU, the chapter then argues that EU studies can and should benefit from generic scientific propositions which reflexively analyse the use of semi-structured interviews. In particular, such guidance enables research to go considerably beyond mere 'fact-finding' to target instead recurrent and structuring actor practices and representations of 'reality'. The chapter then proceeds to set out the opportunities and constraints offered to researchers who have engaged in observatory participation within EU-relevant political arenas. As regards this method, examples of carefully designed research, some drawing heavily upon political anthropology, are again mobilized to underline the heuristic value of actor observation, together with what EU studies scholars can learn from such research in terms of reflexivity and maintaining critical distance as regards their object of study. Finally, we conclude with a reflection concerning the benefits EU studies could reap by taking a further step towards rigorously constructed mixed-methods research designs. Such a move would provide researchers with robust options for triangulating interviews and observatory participation with other qualitative methods and – when relevant – quantitative methods as well.

### QUALITATIVE METHODS WITHIN EU STUDIES: TOWARDS A REFLEXIVE APPROACH

Reflecting on a field of study's methods is a crucial step to both bridging the gap between meta-theory and empirics and doing so in the most rigorous way. As a growing and developing

field, EU studies has been particularly concerned with the need to undertake such reflection collectively. Firstly, because meta-theory has precisely been one of its central focal points since its very inception (Favell and Guiraudon, 2009). Secondly, because constructivist researchers and political sociologists working on the EU, particularly committed to, and skilled in, using interviews and *in situ* observation, have often been criticized by non-constructivists for their 'loose empirics', thus feeding a methodological debate that extends way beyond the frontiers of EU studies.

On the latter point, it is indeed significant that a field characterized by both its geographical focus (Europe) and its object of study (the EU), has sparked a methodological debate with such potentially widespread ramifications. Through expressing more deeply-rooted ontological and epistemological differences between rationalism and constructivism, this debate over methods has brought to the fore a fundamental scientific disagreement about what 'good' empirical research entails. As is well known, 20 years ago Andrew Moravcsik set out harsh criticism of the methods used by the first grouping of constructivists who sought to stake out a position as regards the study of the EU. Specifically, he denounced 'a characteristic unwillingness of constructivists to place their claims at any real risk of empirical disconfirmation' (Moravcsik, 1999, p. 670). He went on to assert that instead 'empirical confirmation requires, most fundamentally, that constructivist hypotheses differ from those generated by the best alternative hypotheses, and then shown to be consistent with an objective empirical record of state behavior' (Moravcsik, 2001, p. 226). We shall not enter here into the details of the debate that ensued, which needs linking to different strands of constructivism (Parsons, 2015) and their respective epistemological stances. Indeed, some of Moravcsik's opponents, such as Checkel (2001), responded that constructivists are in fact well equipped to conduct rigorous empirical research, while others closer to post-positivism just did not feel concerned by Moravcsik's criticism in any way whatsoever. For our purposes, however, this debate shows that the social sciences and EU studies in particular cannot shy away from methodological self-assessment. It also serves as a reminder that whilst we focus below on only the two most commonly used qualitative methods, concerns about methodological rigor should always be linked to broader reflections on the philosophy of social sciences that take into account the articulation between ontology, epistemology and methodology.

Having underlined the importance of methodological 'reflexivity', one can now ask a more specific question: how have EU studies scholars reflected upon their qualitative methods? Two textbook chapters have notably and heuristically tackled this question.

Firstly, in a chapter of a 2006 textbook on the EU (Cini and Bourne, 2006), Joseph Pupille presents a stimulating study of the articulation between meta-theory and methodology within EU studies. As a prerequisite, he refers in this text to Overton's definitions of meta-theory as 'a set of interlocking rules, principles, or a story (narrative), that both describes and prescribes what is acceptable and unacceptable as theory – the means of conceptual exploration – in a scientific discipline' (Overton, 1998), and of methodology as a set of interlocking rules, principles, or a story, that describes and prescribes the means of observational exploration in a scientific discipline. Then, after noting that EU studies operate within 'a meta-theoretically and methodologically permissive environment within which a thousand flowers might bloom' (Pupille, 2006, p. 216), the author proceeds by distinguishing between three methodological ideal types – qualitative, statistical, and formal – to empirically trace back their respective distribution within the research practices of EU studies. To do so, Pupille examines three academic journals that he considers are references for EU studies political scientists (*Journal*

of *Common Market Studies*, *Journal of European Public Policy* and *European Union Politics*), as well as two others that are more IR-oriented (*International Organization* and *European Journal of International Relations*). Within his sample which extends from each journal's inception to 2003, and is made up of 1,231 EU-oriented articles within a total of 2,853 articles, qualitative methods clearly dominate, accounting for 85 per cent of all articles surveyed versus 10 per cent for statistical methods and 5 per cent for 'formal' ones. Distribution across journals approximately corroborates these results, with the notable exception of *EUP* where qualitative methods only concern 32 per cent of its articles. A transatlantic comparison generates similar results which, moreover, nuance the hasty supposition that a 'methodological divide' separates American from European analyses of the EU. Pupille nevertheless notes that American journals are more inclined to deal with general theory than their European counterparts, but without this preoccupation also filtering down to the level of methods. If, he concludes, methodological pluralism is thus alive and well within EU studies, he also underlines the pre-eminence of qualitative methods within the field, thereby providing solid backing for our own emphasis in this piece on the need to collectively reflect on the concrete use of such research techniques.

Secondly, Ben Rosamond has also sought to assess the state of methodological debates within EU studies in a 2015 chapter, this time with a focus solely upon political scientists. However, he makes a more clear-cut distinction between methodology and methods, the former being conceived as 'the logics, structure and procedure of scientific enquiry' and the latter as 'techniques for gathering and analysing bits of data' (Rosamond, 2015, p. 18). He makes the argument that the political science of EU studies has not reflected enough on matters of methodology, thus rendering methodological cleavages solely implicit. In order to test that claim, he too examines the titles and abstracts of the articles of three leading journals - *Journal of Common Market Studies*, *Journal of European Public Policy*, *European Union Politics* - to find that very few articles have dealt directly with matters of methodology. He thus warns against a form of methodological mainstreaming within political science that could be detrimental to pluralism within EU studies.

To sum up, if these two texts tell us a lot about the academic distribution of methods within the field of EU studies, as well as the lack of methodological reflection within it, they themselves do not advocate any specific reflection on *how* these methods are used, to what ends, and what their respective limits are in this context. The next two sections will attempt to fulfil this goal by successively reassessing the two central qualitative methods deployed within the field: interviews and *in situ* observation.

## INTERVIEWS: FROM 'FACT-FINDING' TO ANALYSIS OF PRACTICES AND REPRESENTATIONS

Within social science as a whole, interviews as a method of qualitative data collection and analysis have benefited from a rich methodological literature, particularly in the field of public policy analysis. Such reflection is particularly useful in the case of the parts of EU studies that interview political, administrative and socio-economic elites, and indeed for all those who undertake interviews that are EU-relevant.

In the case of interviewing the elites from EU institutions - be it from the Commission, the Council, the European Central Bank, etc. - one always needs to pay heed to the methodological precautions applying to interviews with any elites, a term that refers to individuals

in privileged positions of power and who have the ability to exert influence through ‘social networks, social capital and strategic position within social structures’ (Harvey, 2011, p. 433). A rich literature developed in the 1990s and 2000s on elite interviews that has identified challenges and provided solutions regarding (1) their *raison d’être* for a research program (Peabody et al., 1990), (2) *access* to political and economic elites interviewing (Goldstein, 2002), (3) *sample selection* and the *drafting* of questions and structuring of interviews beforehand (Peabody et al., 1990; Berry, 2002), (4) the *conduct* of the interview (Richards, 1996; Cohen, 1999; Lilleker, 2003; Harvey, 2011; Laurens, 2007), and (5) post-interview data *analysis* (Aberbach and Rockman, 2002). One can thus delve deeply into this literature to learn how to construct sound questions, establish trust with respondents, optimize note-taking, and code responses accurately and consistently. These research skills – that are also and above all acquired through practice – limit the amount of measurement error contained in interview data and thus help generate robust and reliable data collected through carefully-designed interactions with EU elites. Mastering the English language is an indispensable skill since it constitutes the main way of communicating amongst EU elites (although competence in several other European languages is common). Furthermore, one also needs to be aware – as the more general literature on qualitative methods underlines (Roulston, 2014) – that interview data are ‘co-constructed’ rather than just ‘collected’. This invites researchers to account for the contexts in which interview data are generated in relation to specific interviewers, as well as how the co-constructed nature of interview data might impact upon research findings. All EU-relevant interviews are not solely bound to elites, however. On the contrary, the rationale of a research project can of course bring social researchers to conduct interviews with anyone in civil society. Hence the need to be trained in adapting interviews as regards each targeted population.

More generally, a debate that occurred within French political science in the mid-2000s, discussing the use of interviews in public policy analysis, has shed light on the very analytical benefits of interviews. Starting from the observation that interviews had become mainstream in French public policy analysis and in political sociology more generally, Bongrand and Laborier (2005) feared that a lack of reflexivity regarding their use in the discipline had set in. After several discussions that took place as a result (notably at the French Political Association Congress of 2005, in Lyon), Pinson and Sala Pala (2007) published an article intended to ‘redeem’ the use semi-structured interviews by demonstrating their multiple analytical benefits. They showed that interviews constitute a powerful method to trace policy processes through social agents’ narratives, as well as analyse their practices and the underlying social representations that structure their perceptions and preferences (Pinson and Sala Pala, 2007). Within a qualitative research design, interviews thus enable research not only to trace political processes back through time by triangulating the agents’ recalling of events with written sources. They also help uncover the multi-agent games that drive these processes, and the power relations and social representations that condition them. Moreover, interviews make possible the collection of up-to-date sociographical data on policymakers, thus allowing complementary prosopographical analysis to be conducted. In the light of Pinson and Sala Pala’s convincing arguments, the EU thus appears to be a particularly relevant research object – being both a policy producer and would-be supranational polity – around which interviews can and should be conducted using methodological rigor with its political, bureaucratic and economic elites on the one hand, as well as with its citizens on the other.

This said, are there any specificities in conducting interviews with EU officials? One can first note that EU institutions are generally particularly open toward social science research – a feature that is in line with its transparency policy. In the case of our own research, for example, we have managed without too much difficulty to interview even senior EU officials such as commissioners and members of their *cabinets* (Joana and Smith, 2002). This inclination of EU institutions toward research can also be seen through the various research programs that they have financed. However, Georgakakis (2012, pp. 3–4) has rightfully warned against a form of self-censorship within EU studies when conducting research that was institutionally commissioned by the EU, and also against researchers getting too ‘close’ to the elites during field work. This implies the need for reflexivity when designing a research project – which is the case we make in this text – and clearly-drawn lines regarding research independence when answering institutional calls for tenders. Apart from that, we do not see any specificities in conducting interviews with EU officials that would require to radically change the generic methodological standards already mentioned regarding this method.

As for concrete examples of EU studies research that have successfully used interviews, the task of singling out a few among the many is almost impossible (see Rosamond, 2005). By way of illustration, let us thus just cite François Foret’s book *Légitimer l’Europe* (2007) which presents the results of an in-depth study of the EU’s communication practices, and those of the European Commission in particular. Here Foret uses interviews not only to discover how these practices institutionalized over time, but also to analyse what his interviewees thought they were doing through developing certain techniques that depoliticize European integration, as well as why they chose not to develop other more politicized ones.

Interviews thus remain a fruitful and diversified method that is central to EU studies, especially when used reflexively, and which can both be combined to quantitative methods in a mixed research design, as well as with other qualitative methods such as *in situ* observation.

## **IN SITU OBSERVATION: BEYOND STORYTELLING TO ROBUST ANALYSIS OF DAILY EUROPEAN POLITICS**

Since the 1950s, scholars studying European integration have regularly taken up chances to observe actor engagement in the practices of deliberating, making policies and laws, and their implementation. In some cases, this really was just chance in that they happened to be in the right place and at the right time and, consequently, managed to get themselves invited to attend meetings and other events normally reserved only for practitioners. In other cases, such the early work of Helen Wallace cited above, social scientists were invited to participate in these moments in order to feed in their own knowledge and expertise. Since the 1990s, however, *in situ* observation has been used by EU specialists more deliberately as a more explicitly defined research technique which, despite its potential drawbacks and when allied firmly to social science-based questions, possesses a certain number of advantages that can add to other modes of empirical research.

Perhaps not surprisingly given the importance of this research technique in their home discipline, the pioneers in making this shift towards more structured and reflexive actor observation within research on the EU were anthropologists. Marc Abélès had already made significant strides towards theorizing *political* anthropology and its methods during his early fieldwork in Ethiopia, then subsequently in the world of French local politics. He then proceeded to apply

his methods of observation to better understand the 'daily life' of the European Parliament, together with its impacts upon the structuration and the legitimation of this organization, and EU decision-making and political representation more generally. Beginning in 1989, this fieldwork not only generated a much-cited book (1992), it also laid the foundations for a subsequent study of the European Commission conducted in 1993 by Abélès, Irène Bellier and Mary McDonald. Indeed, whereas Abélès's research on the European Parliament had been initiated and set-up by him alone, that on the Commission was funded, and partly structured, by that organization's 'Future Studies Unit' (1993). Headed by a senior European civil servant, Jérôme Vignon, close to the then -Commission president, Jacques Delors, this unit thus directly supported a study which explicitly set out to 'observe Europe as it is being invented'. In terms of research methods, the anthropologists involved had licence to attend a variety of meetings on subjects ranging from EU regional to internal market policies. They also took part in more informal gatherings of Commission officials and other actors (at lunch, during coffee breaks and after work drinks) which, together with many interviews with the individuals involved, enabled them to produce a considerable amount of empirical material. On this basis, they then generated a number of publications which described in detail the 'ways of thinking and doing' they had encountered and, in particular, the 'intercultural' mediations that reaching decisions within the Commission itself, then beyond, constantly entailed. Specifically, in contrast to the 'conformist image' which, according to them, the organization as a whole had previously sought to present to the world, these researchers sought to highlight the 'bizarreness' of the Commission. This was achieved by stressing the importance of differences in language and sociability between the European civil servants they observed, but also the role common codes and conventions played in the production of its organizational outputs. Indeed, these observations were channelled into a central hypothesis concerning why 'the production of compromise' within this organization so often entailed the usage of 'compromise-made concepts' such as *subsidiarity*, *cohesion* and *universal service* (Abélès and Bellier, 1996).<sup>1</sup> In so doing, these pioneering research projects, by producing very precise depiction and analysis of the daily practices of EU officials, also highlighted the enormous potential that *in situ* observation could bring to EU studies.

Interestingly, the last years of Jacques Delors' presidencies were also when his own leadership of this organization was studied using observation as a method, this time by an American sociologist, George Ross. The latter spent a whole year in 1993 actually inside the Delors *cabinet*, watching meetings and other events that Delors himself attended, but also, and above all, how members of his team had set-up and gone about their support work. As the book based on Ross's fieldwork relates, a Commission President's cabinet has considerable power within the Commission, throughout Brussels and often within at least some of the member states. Observing the *cabinet* members in action, therefore enabled Ross to capture their resources and skills, but also the limits to their power and that of their President.

Of course, few scholars manage to create themselves the openings for *in situ* observation obtained by Ross and the Abélès team. Nevertheless, at least in the 1990s, a number of PhD students managed to come close by successfully applying for an internship (*stage*) within the Commission. Generally of six months in duration, these internships are of course formally

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<sup>1</sup> It is important to note that another anthropologist, Cris Shore (2000), also conducted extensive fieldwork on the EU, principally in 1996. However, most of his material was derived from interviews rather than *in situ* observation as such.

designed not to facilitate the production of doctoral dissertations but rather to provide both work experience for young people looking to learn about making EU policies, as well as support staff within hard-pressed administrative units. However, as Michelle Cini and Eve Fouilleux showed in particular, such internships can become an excellent means of studying the Commission and the EU more generally. In Cini's case, this enabled her to produce original data about the making of competition policy (1994), then a much-cited book on the Commission as a whole, in particular by using the concept of 'administrative culture' (1996). As for Fouilleux, in 1995 she conducted her internship within the 'conception unit' of DG VI (Agriculture and Rural Development) just three years after it had piloted through a radical reform of the Common Agricultural Policy (CAP). The book she published on the basis of her observations and interviews enabled her to explain the central role in the reform played by this unit, as well as the ideological core of its key members (Fouilleux, 2003).

Despite their undoubted qualities, the publications of Ross, Fouilleux and Cini in particular contain very little in the way of reflection about the strengths and weaknesses of their respective approach to *in situ* observation. Indeed, at least until very recently, to find such reflexivity within EU studies one actually has to go outside public policy and leadership studies in order to discover the highly robust and original work of the first specialist of the EU's communication practices, Olivier Baisnée. In the late 1990s and early 2000s Baisnée constructed his own PhD in political science around a sociological study of the specialized journalists covering the EU (2003). Importantly, in addition to numerous interviews and sociographic analysis of the training and trajectories of these journalists, Baisnée also observed them directly during the daily press briefings given by the Commission. His practice of *in situ* observation thus entailed watching the behaviour of both journalists and representatives of the Commission (in particular its commissioners, their spokesmen and women and director generals) over nearly a year. On this basis he developed fine-grained analyses of this 'Brussels milieu', but also more generally of its impact upon the EU's public space as a whole. Moreover, Baisnée took pains to develop long-term relationships with many of his subjects of study, but also to maintain sufficient distance from them so as to be able to develop his own, scientifically-solid, interpretation of their behaviours and roles.

To our knowledge, between the early 2000s and the late 2010s, observation-based analysis of the EU went through a dry period during which virtually nothing which used this methodology was published. However, this situation has been partly rectified by the recent work of Frédéric Mérand on the college of commissioners, and on one cabinet in particular: Pierre Moscovici's. Explicitly following in the footsteps of George Ross, and despite being based at the University of Montreal, Mérand managed to obtain sustained access to Moscovici and his *cabinet* over a period of four years (2015–19), spending two months of each actually in their offices. In the book published on the basis of this fieldwork – *The Political Commissioner: A European Ethnography* – Mérand sets out clearly how he sought to develop close relations with the actors under study whilst maintaining the distance sufficient for him to conduct his analysis as objectively as possible (2021: chapter 1). Indeed, in certain passages of this book he is remarkably frank regarding the intellectual, and even ideological, proximities that existed and often deepened during his research between himself and his 'subjects'. Nevertheless, by taking nourishment from specialists of *in situ* observation techniques and backed up by a methodological protocol signed by Commission representatives and validated by his home university's scientific council, this researcher clearly considers that without this method he simply could not have explained what made Pierre Moscovici such 'a political commissioner'.

Thus, Mérand's work is as much a legacy of the pioneers of *in situ* observation within EU studies, as it is an innovative complement that has taken their original approach a step further in terms of methodological reflexivity.

In summary, as for observation as a set of research techniques in general (Beaud and Weber, 2010; Spradley, 1980; Murchison, 2010), those who have deployed it at the EU scale have generally been aware of its possible risks and drawbacks. By getting so close to their subjects of study, they were aware they might lose critical distance and even no longer notice key traits of politics at this scale. Indeed, as with other methods but perhaps even more so, there is always a danger one's research question will lose out to the easier option of descriptive storytelling. Nevertheless, the body of work outlined above also illustrates the distinct advantages that observation-based research can possess. In particular, it enables research to follow over time the uncertainties and quests for certainty of the actors involved, to better understand the constraints under which they consider they operate and, more fundamentally, to capture the impact of cultural and educational influences, together with the EU's own organizational background, upon the ways of thinking and acting of both individual and collective actors.

## CONCLUSION

As this chapter has highlighted, qualitative research methods have already brought an enormous amount to 'the party' that is EU studies. Through interviews, not only has a vast amount of information been generated about how a variety of actors have gone about building EU actions and policies or, on the contrary, diluting or resisting such public intervention. In addition, interviews have also enabled researchers to develop compelling data about the perceptions, preferences and values that have motivated and led these actors to engage in European-scale politics in their respective ways. In addition, social science using *in situ* observation has been able to build upon all the above by following actors over time and seeing how they behave both 'in action' but also at other significant moments of exchange and sociability. Indeed, in this way, be it 'national' or 'administrative', culture has been brought into analysis in ways that are often both robust and creative.

All this work also shows that although the EU does raise some minor specific challenges for empirical research, the deeper ones are generic to all social science: in particular, maintaining critical distance from one's object of study, while constantly linking interview and observation questions, and the data they generate, to the underlying research question being addressed. Throughout, reflexivity about research methods, their rigor and what they can and cannot do, is therefore not only vital when studying the EU; it is a prerequisite for conducting social science at all.

Being even more reflexive about methodological coherence is therefore something that EU studies, like social science in general, simply must continue to strive towards. In so doing, however, lessons from reflection on other methods, and indeed mixed-methods designs, would no doubt help us all to move forward in this direction. Here we would like to finish with just one example of a method rarely used in EU studies – that of 'focus groups' – as a means of illustrating this point. Within a collective research project focusing on EU citizens' reactions to EU integration (Duchesne et al., 2013), four social scientists generated empirical data through 24 focus groups (in Paris, Oxford and Brussels), each gathering together four to six participants selected for their social proximity but also their political diversity (workers, employees,

managers and activists). During these three-hour meetings, questions were systematically put to the participants regarding several aspects of European integration (identity, institutions, benefit and membership, political sophistication). While producing important and stimulating comparative results on EU citizens' perceptions and reactions to the integration process, all of which go considerably beyond a binary vision of Euroscepticism, this study also contained a substantial methodological section reflecting upon the opportunities provided by mixing quantitative and qualitative methods. A heuristic new frontier for EU studies could be to repeat this exercise when reflecting over how interviews and *in situ* observation could be combined with more statistics-based analysis focusing upon actor trajectories, on the one hand, and the textual analysis of their discourse, on the other (see Laloux and Le Gall's chapter).

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## 11. Quantitative analyses of the European Union

*Thomas Laloux and Cal Le Gall*

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As this handbook exhibits, the study of European integration is diverse and multifaceted. Indeed, multiple academic disciplines, such as history (see Warlouzet's chapter), sociology (see Bonnamy and Canihac's chapter), law (see Avril's chapter) and, of course, political science, now consider the European Union (EU) as a relevant field of study. In this framework, quantitative analyses of the EU, i.e., techniques that use mathematical and statistical modelling, measurement, and research to understand behaviour of individual or collective actors, seem to have flourished over the years after being largely absent in this field or research (Gabel et al., 2002; Jupille, 2005). Yet, the existing literature provides few historical accounts and almost no contemporary overview mapping out whether and how political scientists have analysed the EU using quantitative analyses over the years.

In this chapter, we propose to fill this gap by providing an historical overview of the development of quantitative analyses of the EU until the 2000s. Besides, we also survey the evolution of quantitative analyses of the EU in the main journals dedicated to European integration and examine the main topics studied in this framework since 2002. By taking a step back from the production of quantitative knowledge in EU studies, we can identify blind spots and gaps in these studies and thereby suggest avenues for future research to increase the validity of existing results and, eventually, to improve our understanding of the EU.

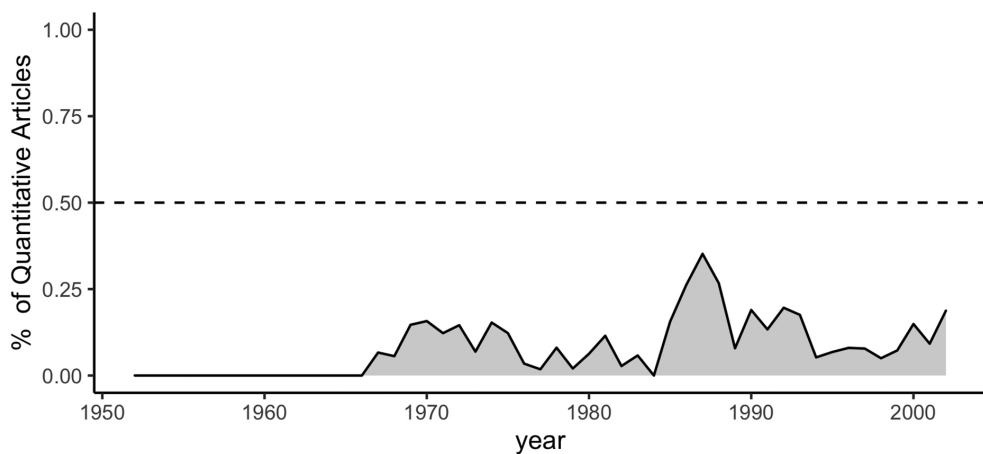
We show that the use of quantitative methods started with the development of public opinion studies on behalf of the Commission. With the EU's transparency policies and the development of new data collection methods and new datasets, quantitative analysis of the EU gained momentum in the early 2000s and tackled new topics such as EU decision-making and EU parliamentarians' behaviour. Since then, quantitative analyses of the EU have increased significantly, but quantitative analyses of the EU remain largely devoted to the study of public opinion, EU-decision-making and, to a lesser extent, political parties.

The remainder of this chapter is organized as follows. In the next section, we present the historical origins of quantitative analyses of the EU. In the following section, we present our data which compile the articles using quantitative analyses that have studied the process of European integration since 2002. In the fourth section, we identify the main challenges that still impede the development of quantitative analyses of the EU, while proposing solutions to circumvent current problems in the next section.

### THE ORIGINS OF QUANTITATIVE ANALYSES OF THE EUROPEAN UNION

Quantitative methodology is characterized by an emphasis on numbers and by the use of datasets that allow generalizations to populations. Moreover, it includes a whole set of techniques, ranging from the regression analysis-widely used techniques in social sciences, to many more sophisticated econometric tools (Jupille, 2005). When scholars started to investigate European

integration in the early 50s, quantitative methods were largely absent (Canihac, 2019, 2020). At this time, lawyers and political theorists sought to understand whether European Communities were classic international organizations, subject to the states, or entities of a new type, autonomous from the states. Specifically, this scientific debate regarding the definition of the European Communities started among lawyers, who were divided between international lawyers and domestic lawyers. The former argued that European Communities could be apprehended with the help of international law and were thus comparable to other international organizations, while the latter fostered the supranational singularity (Canihac, 2020). Meanwhile, similar debates were also apparent in political science and, later, in international relations. Indeed, many political theorists such as Haas (1958) or Hoffmann (1966) developed theories to explain the dynamic of European integration (see Saurugger's chapter). In this context, the use of quantitative analyses was scarce, nay non-existent, because studies mainly investigated the ontology of European Communities via the interpretation of legal texts or through political theory. Besides, the theories of integration could not yet be falsified empirically at this stage because of a lack of temporal perspective – and obviously alternative cases. This lack of quantitative research is shown by Figure 11.1, who displays the percentage of quantitative papers in the main EU studies journal (data from Jupille, 2005).



Source: Jupille, Joseph (2005). 'A Thousand Flowers Blooming? Methodological Practices in European Union Studies'. EPS Newsletter, 3.

*Figure 11.1* Percentage of quantitative articles between 1950 and 2002

In fact, the first quantitative analyses of the European integration can be traced back to the development of research on public opinion (see Van Ingelgom's chapter). Indeed, a series of public opinion surveys were conducted in the early 50s to gauge citizens' attitudes toward European communities (Aldrin, 2010). Specifically, the idea was to measure the support of the community project among Europeans and eventually create a 'European opinion'. In this framework, contacts were established between national polling institutes and the communication department of the European Commission under the supervision of Jacques-René Rabier – after the failure of the European Defence Community (EDC) – to develop a more

systematic research agenda on this matter. In this context, the *Journal of Common Market Studies* (JCMS) published a first peer-reviewed article which examined the structure of public attitudes towards European communities in the six founding countries (Gallup International, 1963). Most importantly, the creation of Eurobarometer surveys and the development of the European Consortium of Political Research (ECPR) in the early 1970s largely contributed to the flourishing of quantitative analyses of European integration by fostering the production and diffusion of datasets across academic networks (Rokkan, 1973). In this context, a first peer-reviewed article using quantitative methods analysed the 1975 UK Referendum on the European Community was published in *European Journal of Political Research* (Särilvik et al., 1976). This publication was soon followed by a special issue, which examined the first direct European parliamentary elections. In this special issue, a couple of studies mobilized quantitative techniques to study the results of the first 1979 EU elections (Reif and Schmitt, 1980; Schmitt, 1980), the attitudes of candidates (Inglehart et al., 1980) and political parties' elites (Reif et al., 1980). This initiative considerably broadened the scope of inquiry of the nascent field of quantitative analyses of the European integration to other units of analysis.

Meanwhile, quantitative studies of the functioning of the EU remained marginal until the mid-1990s (Gabel et al., 2002). For long, the study of EU institutions and decision-making largely relied on case studies of decision-making and, to a lesser extent, on formal modelling (Hagemann, 2015). It is noteworthy that the latter led to many debates among scholars, that could be assessed only by the former until the development of quantitative research (Burns et al., 2013). Yet, this changed with the progressive development of institutional open database as well as the development of techniques to collect and analyse large amount of data in an automated way (König et al., 2006). In this context, scholars developed a diverse body of work studying EU decision-making by applying quantitative techniques in the early 2000s.

To sum up, the first quantitative analyses of the European integration process were mainly centred on public opinion and elections. Yet, up until 2005, the share of publications using quantitative methods remained largely lower than qualitative analyses (Gabel et al., 2002; Jupille, 2005; see Joltreau and Smith's chapter in this volume). In the next section, we describe in more details the recent evolution of quantitative analyses of the EU, but also the main topics tackled in these studies by systematically reviewing articles published in the main journals dedicated to European integration (Jupille, 2005).

## AN OVERVIEW OF THE FIELD OF QUANTITATIVE ANALYSES OF THE EUROPEAN UNION SINCE 2002

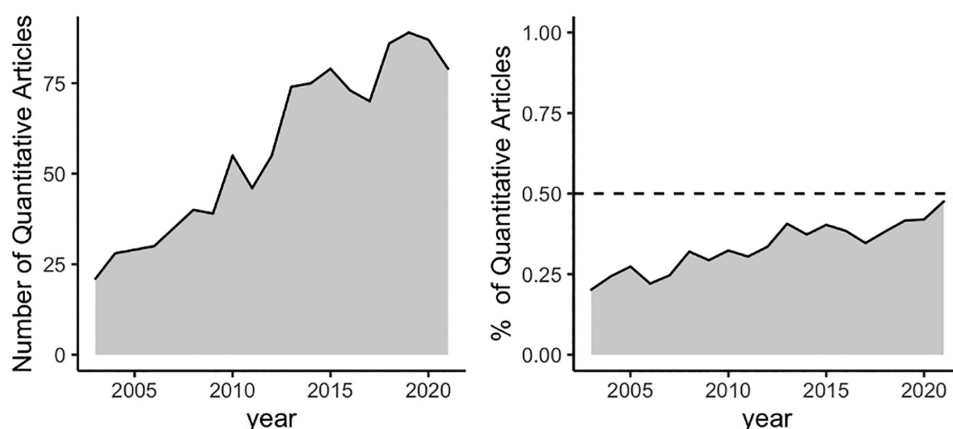
Drawing on Jupille (2005), we collect articles that study European integration using quantitative methodology from the three leading journals in EU studies, namely *Journal of European Public Policies* (JEPP), *European Union Politics* (EUP) and *JCMS* to analyse the recent development of quantitative analyses of the EU. We also added a more generalist journal to this list, i.e., *EJPR*, because it has been of paramount importance in the development of EU studies as mentioned.<sup>1</sup> For each journal, we scrapped the pdf of all the articles published between 2002

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<sup>1</sup> Because it is more generalist than the other outlets, we only selected articles having in the title, the keywords or the abstracts, the words 'European Union', 'EU', 'European Integration' or European communities.

and 2021. We start the data collection in 2002 because Jupille (2005) stopped at this point, thus providing a more recent overview of quantitative studies of the EU. For each article we collected the following data: whether they used quantitative methodology, the keywords<sup>2</sup> and the year of publication. To assess whether an article used quantitative methods, we searched for several words in the articles that we considered to be related to these methods using automation. If they were present, the article was coded as using quantitative methodology. These keywords were logit, Ordinary least squares (OLS), randomized controlled trial, probit, poisson, binomial, text mining, quantitative text analysis and network analysis. Overall, we collected information about 3,644 articles, among which 1,090 (35 per cent) used quantitative methods.

Figure 11.2 below first presents the percentage and number of quantitative papers published per year since 2002. Consistent with Jupille's results (2005), it shows that quantitative research has been steadily increasing since the early 2000s, both in absolute and in relative terms. While in 2003, 23 quantitative articles on the EU were published in our selection of journals (21 per cent in total), this number tripled in 2020 to reach 87 (47 per cent in total), that is a 223 per cent increase in the overall share of articles. Hence, quantitative articles now constitute nearly half of all articles in our sample, which includes introductory and review articles. This evolution clearly indicates the importance that quantitative analysis of the EU has taken over the last two decades. Also note that the number of articles on the EU has increased, but to a lesser extent than the quantitative articles.



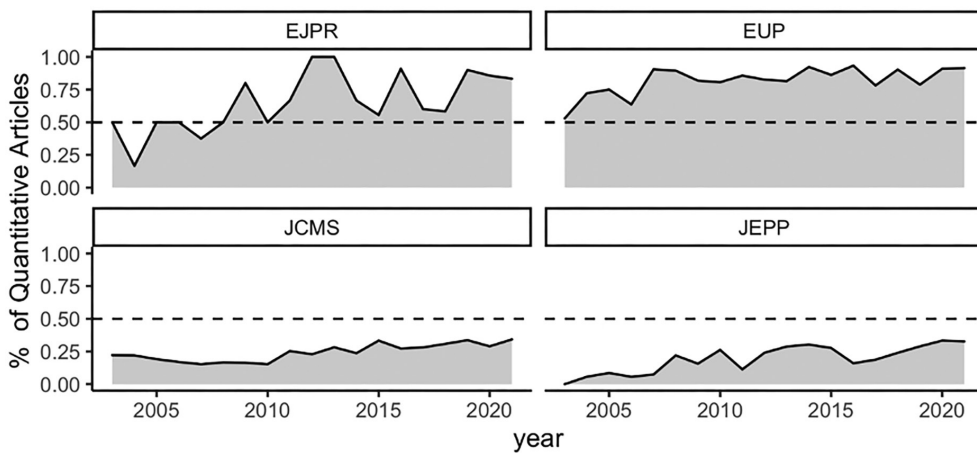
Source: Created by Laloux and Le Gall

*Figure 11.2 Total and percentage of articles using quantitative methodology in the four main journals of EU studies*

As regards the distribution by journal, Figure 11.3 below presents the evolution of the percentage of quantitative articles journal by journal. Results first show that there is still a clear

<sup>2</sup> It should be noted that not all articles had keywords before 2010.

difference between journals. The two main academic outlets publishing quantitative research on the EU are *EJPR* and *EUP*. In our sample, the part of quantitative studies in these two outlets are above the threshold of 50 per cent (0.65 for *EJPR* and 0.83 for *EUP*). In fact, *EUP* publishes almost exclusively quantitative studies. In contrast, *JCMS* and *JEPP* have published far fewer quantitative studies on average (0.25 and 0.2) than studies using other methodologies (formalization but mostly qualitative methodology). That said, we can discern a clear trend in all four journals: the publication of quantitative analyses of the EU increases systematically over time. For instance, the part of quantitative articles in *JEPP* increases by approximately 25 points between 2003 and 2020 to reach 35 per cent of the overall articles' distribution. This trend is present in all the journals of our sample (it increases by more than 20 points in *EUP*). In sum, our data indicates a huge growth of quantitative analyses of the EU in the last two decades, a regardless of the journal in our sample.

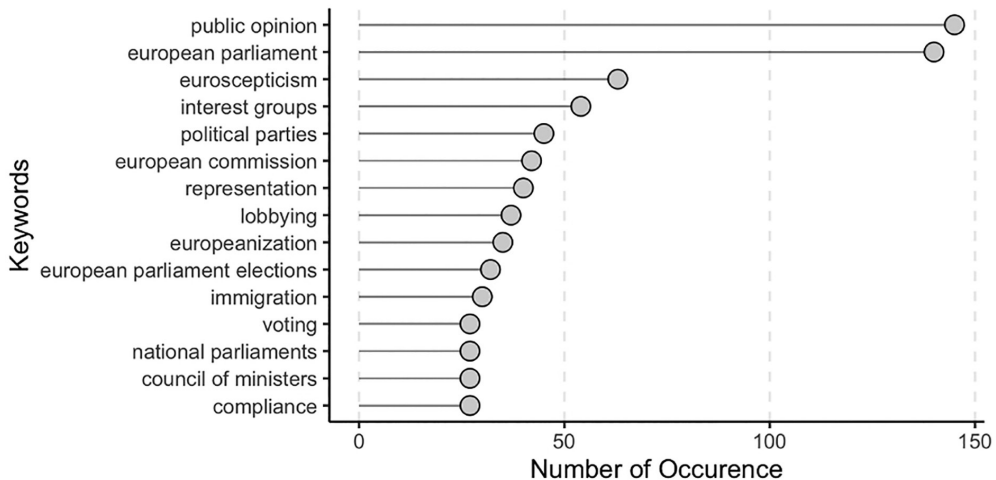


Source: Created by Laloux and Le Gall

Figure 11.3 Distribution of articles using quantitative methodology in the four main journals of EU studies

To identify the main topics present in those studies, we examine the most used keywords in our preselected articles. Specifically, Figure 11.4 below shows the 15 most common keywords present in our dataset. It can be noted that the words 'public opinion' and 'European parliament' are the most studied topics by far. More generally, those results indicate that the most common topics are linked either to citizens and perceptions of the EU (e.g., public opinion and Euroscepticism, see Van Ingelgom's chapter); to actors of the EU decision-making (e.g., European Parliament, see Costa's chapter; or interest groups, see Berkhout and Hanegraff's chapter) or to the functioning of the decision-making (compliance and lobbying). In addition, we also find one word related to the EU impact on its members states (Europeanization, see Bartenstein and Wessels's chapter). It is also interesting to note that only one public policy is represented (immigration) while there is no reason, *a priori*, that this one is more inclined to provide quantitative data than others (money, economy but also agriculture for example). This

may be related to the salience of this issue in the recent public debate (Grande et al., 2019). All in all, these results are in line with Jupille (2005) since the main topics in the period 2002–21 are very similar to those found before 2002.



Source: Created by Laloux and Le Gall.

Figure 11.4 Fifteen most common keywords in articles using quantitative analyses

Overall, scholars have mostly used three main kinds of data to study the EU in a quantitative way. First, they have used surveys, either of EU citizens, of participants to the process of interest – or of experts in EU politics. while the main use of the first two has been to identify the positions and opinion of the actors of interest, the former is much used to examine the practical organisations of EU institutions. Second, they have used the various official documents issued by the EU institutions or actors, that they either code manually or, more recently, through text-mining technique. This has enabled them to identify the positions or the preferences attainment of actors. Eventually, a third source is semi-structured interviews with – again – expert and participants (see Joltreau and Smith's chapter). This source is rarer and, in fact, has almost uniquely been used to identify the positions and thereby the bargaining success of the actors involved in the EU decision-making.

## CURRENT CHALLENGES: THE N=1 PROBLEM, THE LACK OF AVAILABLE DATA SETS AND CAUSALITY ISSUES

The development of quantitative analyses of the EU is not without general challenges. As mentioned, the definition of the EU has been subject to a long discussion since the contribution of Haas (1958). Since its creation, it has been labelled a *sui generis* political and economic association. Indeed, the EU appears to be an atypical form of supranational regime and the process of European integration is qualitatively different from other regional forms of asso-

ciation in many respects. It then raised the question of comparability with other processes of regional integration and with polities, notably in a Seattle ESCA meeting in 1997 where the ‘ $n=1$  problem’ was put on the agenda. At this occasion, several renowned EU’s scholars asked whether the EU is an instance of a more general class of phenomena and whether enough observations can be found to falsify theories and thus allow comparisons with other forms of associations, political regimes or free trade associations. Eventually, a consensus was built on the premise that no epistemological reasons overturn the possibility to compare the EU with other international regimes or polities based on its uniqueness. In turn, there are several ways to conceptualize the EU meaningfully as part of a larger universe of cases.

In addition, the availability of data sets on which academics can rely to put their competing theories to the test can also hinder the development of quantitative analyses of the EU. This concern was first raised by Gabel et al. (2002, 481) who worried that ‘too little attention has been given to disseminating information about available data and, more fundamentally, to the collection of such data’. Indeed, social sciences build on the accumulation of knowledge through the repeated and competitive testing of its core propositions. Yet, the production of datasets was limited or too much fragmented prior to the 2000’s, hence limiting the scope of validity of existing theories in EU studies; and fragmentation is still an issue nowadays (Ovádek, 2021). Moreover, many processes in the EU remain opaque. For instance, legislative negotiations between the EP and the Council take place in secluded meetings, called trilogues, where little information is available to the general public or to scholars (Laloux, 2021), but this is also the case in the COREPER. Besides, several variables have been proved hard and time intensive to measure in a quantitative way (e.g., the influence of actors in the EU decision-making process, or the sociological legitimacy of an institution to name a few).

In fact, the accessibility of data greatly varies depending on the topic. This can push scholars to focus on the research problem for which data are available rather than on more complex questions, or on the institutions that are more transparent. For instance, the study of interest groups has long focused primarily on studying their organizational characteristics rather than their positions or influences because data were less readily available (Gabel et al., 2002). But it is worth noting that many efforts of data collection have been made since the 2000s to develop the access to quality database in diverse aspects of EU studies. Among these are two important data sets constructed under the supervision of Gary Marks and Liesbeth Hooghe: the Chapel Hill Expert Survey (CHES) and the Regional Authority Index (RAI). The former estimates party positioning on European integration, ideology and policy issues for national parties in a variety of European countries since 1999, with subsequent waves in 2002, 2006, 2010, 2014, and 2019, while the latter measures the authority in self-rule and shared rule exercised by regional governments within their countries in more than 80 countries from 1950 to 2018. One could also mention the three ‘Decision-making in the European Union’ (DEU-I-II-III) datasets (Arregui and Perarnaud, 2021), which identify the policy preferences of the EP, each member state and the Commission for a large number of controversial legislation and were largely used to study EU institutions.

In addition, the exact method to analyse data can be contested in several instances. Given the real-world complexity, quantitative research often requires the use of advanced techniques to establish a causal relationship between two variables in a robust way, which implies several choices and specification from the author. More broadly, even simple models such as ordinary least square regressions require several assumptions to be respected. In this respect, the quantitative literature has been subject to several debates regarding the specifications and

choices made by authors. One example of such debates can be found in the literature trying to explain the length of EU legislative decision-making (Golub, 2008; König, 2008). While the measurement of the dependent variable is relatively uncontested, a disagreement between scholars has taken place as to specify the best models to explain it, thereby making the validity of the results hard to interpret.

Another debate lies in the way in which data is measured. It is common that variables of interest are not observable as such but must be operationalized in a rather complex way. The results are that different methods of operationalization can hardly speak to each other and might even lead to diverging results, making it hard to disentangle the real effect to be tested. An example of this issue can be found in the debate on how to measure the influence of interest groups on European decision-making (Bunea and Ibenskas, 2015; Klüver, 2015; see also Princen, 2012). The reverse problem also exists, i.e., the same measure can be used for different concepts. For example, the legislation recitals have been used to measure both the salience and complexity of a legislation, although these two concepts are likely to have different causes and consequences.

Finally, a last problem rests in the test of the causality. This is a well-known adage that correlation does not equal causality (Toshkov, 2016), yet a great deal of the research still primarily relies on different kind of regressions analysis, the choice depending on the structure of the data. This might raise several issues such as selection bias, omitted variable bias, and endogeneity concerns, that might blur the results (Samii, 2016). Similarly, the lack of in-depth information might create observation equivalence, namely that the absence of a phenomena can be explained by two contradicting causes, ‘each of which therefore predicting, albeit for different reasons, the phenomena’ (Pollack, 2002). An example is the apparent fact that many decisions in the Council are adopted by consensus can be due to both the lack of conflict and to anticipated reactions of participants, that foreseen they will be outvoted (Warntjen, 2010). Even though some progress has been made since the early 2000s (Gabel et al., 2002), there is still much to do to circumvent the numerous challenges that are posed to scholars using quantitative methods to study the process of EU integration. Yet, many solutions can be proposed that we outline in the next section.

## APPROACHES IN SUPPORT OF NEW SOLUTIONS: MORE COMPARISON, MORE DATA AND MORE MIXED-METHODS

In this section, we discuss potential responses to those challenges to increase the internal and external validity of quantitative research about the EU, by identifying both existing trends that we believe should be pushed further as well as original advancements that could be made.

To improve the quality of quantitative analysis of the EU, a first step would be to continue increasing research transparency, by expanding the availability of datasets. While an increasing number of studies now make their data public, data seclusion remains a common practice. This despite the acknowledged benefit of transparency for facilitating findings and developing more credible research agenda, resulting in various call for more transparency in quantitative political science (Elman et al., 2018). Second, in line with the ‘credibility revolution’ in economics (Angrist and Pischke, 2010), recent years have seen the development of an important concern regarding the quality of causal identification in quantitative research (Little and Pepinsky, 2021; Samii, 2016). This has led to an increase of the quality of data as well of

research designs' methodological rigor. Particularly, the use of various robustness checks and the progress in statistical methods for causal inferences, going beyond mere linear regressions (e.g., difference-in-differences or regression discontinuity design), have enabled to increase the internal validity of quantitative research about the EU. Third, EU scholars have increasingly made use of innovative data to address issues that could not be studied in a quantitative way previously (e.g., twitter or video recording of institutional meetings). For instance, Rauh (2020) made use of both web-scraping and data mining to collect and analyse the fate of all commission proposals between 1985 and 2006.

That said, we also argue that other paths should be followed to overcome remaining shortcomings to improve findings of quantitative research in EU studies. First, more studies should aim at comparing and cross-validating different research results regarding similar questions. While many quantitative studies examine similar phenomena related to the EU, there is still few rigorous comparisons between their work – if any. Doing so would not merely enable to increase the external validity of the results if they converge (Findley et al., 2021), but also allow to better understand the phenomena of interest by identifying the cause of divergence between different studies, as well as to allow the identification of avenues for further research and theoretical revisions. Second, quantitative scholars should engage in meta-analysis, that is, the quantitative synthesis of the results of different studies to enable thereby more credible results (Dacombe, 2018). While a common feature of many scientific fields there exists no such analysis yet in the field of EU studies. Another way to cross-validate existing results is to compare different measurements of the same variables to test how they are linked. An example of the added value of such work is the study of Beyers et al. (2017) who showed that different measure of saliency used in the literature did in fact measure different things.

Finally, scholars could better complement quantitative results with qualitative research through mixed method design. Mixed method implies the combination of two different sets of data collection and analysis methods in the same research: one quantitative and one qualitative (Creswell and Plano Clark, 2011). Combining both methods enables one to have a more comprehensive understanding of the phenomenon under study, but such design is still rare in the quantitative study of the EU. This is more surprising since the existing studies have shown the benefit of such approaches to either refine or contradict the theoretical mechanisms behind the quantitative results (Van Ingelgom, 2014). Similarly, another possible use of qualitative data to test the validity of one's quantitative operationalisation (Laloux and Delreux, 2018), that is to say, be sure that one measure effectively what one wants to measure.

## CONCLUSION

In this chapter, we have first reviewed the historical development of quantitative analyses of the European integration. More precisely, we show that quantitative methods have been mainly mobilized to study public opinion and elections in the early stage of integration. With the EU's transparency policies and the development of new data collection methods and new datasets, quantitative analyses of the EU gained momentum in the 1990s and in the early 2000s and spilled over to other topics such as EU decision-making and EU parliamentarians' behaviour. That said, EU studies remained largely qualitative until then (Jupille, 2005; see Joltreau and Smith's chapter in this volume).

To complement this literature review, we analysed, in a second stage, the more recent development of quantitative methodology in EU studies by collecting data from four of the most prominent journals in EU studies. Our results show that quantitative analyses of the EU have increased in significant fashion in the last two decades, eventually providing empirical evidence that these techniques have become mainstream in EU studies. Yet, we also find that they remain largely devoted to the study of traditional topics: public opinion, EU decision-making and, to a lesser extent, political parties (see Beaudonnet's chapter). This finding thus indicates that there is still much to do in terms of research diversity in EU studies using quantitative studies.

Overall, there remains multiple challenges for quantitative analyses to study UE that we have listed in this chapter. As Gabel et al. (2002), we believe that the availability of reliable and diverse datasets constitutes a major obstacle to the development of quantitative analyses of the European to increase the scope of inquiry to understudied units of analysis, but also to further investigate the extant literature. For instance, most public opinion studies have used the general approval or disapproval of EU membership and European unification as dependent variables to explain variation of attitudes toward European integration (Hobolt and de Vries, 2016; but, see Stockel, 2013). As a result, as Hobolt and de Vries (2016) indicate, we still have a narrow conceptual understanding of public attitudes toward European integration. Instead, the literature should try to gather data considering the potential multidimensional perceptions of citizens regarding the process of integration based on qualitative work (Van Ingelgom, 2014). Finally, we also strongly believe that quantitative scholars should devote more effort at comparing and cross-validating different research results regarding similar questions more systematically. In line with the recent development in social and natural sciences (Dacombe, 2017), this would improve the credibility of findings in EU studies, not only by cumulation, but also by replication.

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## PART III

# GOVERNANCE AND DEMOCRACY

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## 12. EU institutional governance

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The institutional system of the European Union (EU) is the result of original choices made in the 1950s, tempered by 70 years of reforms and evolutions. The treaties of Paris (1951) and Rome (1957) have created a unique institutional set-up that is difficult to analyse and theorize, and that allows for various political and theoretical interpretations (Saurugger 2013; see Saurugger's and Bulmer's chapters in this volume). Overall, the objective of the Founding Fathers was to establish an institutional system that would be efficient, i.e., capable to propose functional solutions to concrete challenges, and to avoid political and national divisions. The treaties were thus driven by pragmatism: the system was called to pursue economic goals via legal tools, in other words, to propose technical solutions without normative impact. Hence, most of the competences (drafting and implementation of norms and the budget; relations with the stakeholders and member states; day-to-day management of European policies; international negotiations...) were devoted to the High Authority/Commission. The Council was created only at the request of the smaller member states (Benelux countries), that were concerned about a possible domination of the High Authority/Commission by the bigger ones. There was also a parliamentary assembly, but it was mainly symbolic and had very limited competences. Finally, a Court was instituted, in order to solve the potential conflicts between the member states and/or the Community institutions.

The European institutional system was thus not intended to be democratic and to ensure citizens' participation, and politics had no place at supranational level (Wallace and Smith 1995). The legitimization of the Communities was to be essentially legal and rational: legal, as a result of the implementation of treaties, negotiated and ratified at unanimity by the member states; and rational, as the outcome of a process giving much room to experts and stakeholders. This choice was not a surprise, as the drafter of the Paris and Rome treaties were not themselves politicians and were determined to avoid political and national divisions (Featherstone 1994).

The European Communities (EC) institutional system faced several evolutions – but was never fundamentally challenged or reformed. In 2022, the main original institutions are still in place and the Commission is still at the heart of the system. It has nevertheless undergone a double process of 'inter-governmentalisation' and 'parliamentarization', in order to answer the expectations of national leaders and citizens, and to face the challenges of legitimization. On the one hand, the member states' leaders have claimed to better control the initiatives of the Commission (Hoffmann 1966). On the other hand, the EC have addressed the issue of the 'democratic deficit' (Robinson 1972), leading to the direct election of the EP (1979) and its progressive empowerment in the 1990s (Corbett 1998). The Commission and its supporters have however avoided the complete transformation of the European political system in a strictly inter-governmental organization – in which the Commission would have become a simple general secretariat – or in a parliamentary regime – through which it would have become a government. The institutional governance of the EU thus remains very specific, and subject to various theoretical and political interpretations.

We will first present the logic and design of the institutional system instituted by the treaties of Paris and Rome that created the Communities. We will briefly describe the main EU institutions and the way they operate. We will then underline the duality that has always structured decision-making at European level, with the coexistence of an integrated, supranational approach and of a more inter-governmental one. The third section will turn to the centrality and resilience of the Community method, and to its difficult theorization. Next, we will discuss the two evolutions that have shaped the EU governance since the 1970, namely the inter-governmentalisation and the parliamentarization. To end, we will see that the EU institutional governance is animated by three distinct logics, which proves to be functional, but which is not very favourable to the intelligibility of the system, and therefore to its legitimization.

## AN INSTITUTIONAL SYSTEM BASED ON A *SUI GENERIS* DESIGN

The EU institutional system derives from the one instituted in 1951 by the treaty of Paris, for the European Coal and Steel Community (ECSC). It has often been qualified of '*sui generis*', as it was (and still is) the only of its kind and was not inspired by a pre-existing organization (Klabbers 2016). It is, today, a very crowded system, with a large set of institutions and organs. According to article 13 of the Treaty on European Union (TEU), the institutional framework comprises seven institutions: the European Parliament, the European Council, the Council of the EU, the European Commission, the Court of Justice of the EU (see Avril's chapter), the European Central Bank (see Piroška's chapter), and the Court of Auditors. The European Economic and Social Committee and the European Committee of the Regions are organs with an advisory function. We can also mention the existence of the European Ombudsman, the OLAF – the European Anti-fraud Office – and no less than 45 European Agencies.

The definition of the overall action of the EU and the development and management of its policies involve four main institutions.

The European Commission is the executive branch of the EU. It is composed of 27 members, including the President, who are appointed by the member states, with the approval of the European Parliament (EP) (Nugent and Rhinard 2015). It has an administration of around 35,000 people. The Commission is supposed to act in the EU's 'general interest' and to be totally independent from the member states, but it is accountable to the EP. It has the right to draft most of EU norms and may be given the right to adopt delegated and implementing acts. The Commission also drafts and runs the EU's budget and oversees the good application of EU law. Finally, it represents the EU during international negotiations linked to the European policies, on the basis of a mandate from the Council.

The EP is composed of 705 members, who are directly elected by the EU's 450 million citizens every five years (Corbett, Jacobs and Shackleton 2016). Each state elects a number of members determined by its population – from six for Malta to 96 for Germany. Members of the EP (MEPs) are currently sitting in seven political groups, and not in national delegations. The EP, that was originally deprived of competences, has today several key functions. It shares, for most legal acts, the legislative power with the Council through the 'ordinary legislative procedure'. It votes the budget, also together with the Council, and approves a wide range of EU international agreements. It has the power of control over the Commission and can ask questions to the Council. It can express its views on any topic related to the EU. It 'elects' the

President of the Commission, approves the other members, and participates in the appointment of several EU organs.

The Council of the EU is composed by ministers from the 27 member states (Puetter 2014). Its sessions are convened and chaired by the six-monthly presidency exerted by one member state. It meets in ten thematic configurations; the ‘General Affairs’ one is responsible for the overall coordination. The work of the ministers is prepared by the Committee of Permanent Representatives of the Member States (COREPER) and by working parties and committees composed of national civil servants and diplomats. The Council carries out, together with the EP, legislative and budgetary functions and is lead decision-maker for the Common foreign and security policy (CFSP). Depending on the subject, it takes its decisions by simple majority, unanimity or qualified majority – which has become the voting rule by default.

The European Council is composed by the heads of state or government of the member states (Werts 2008; Wessels 2011). It started to meet informally in 1974 and was fully institutionalized in 2009 only. It now has a full-time president, elected by its peers. Today, the European Council consists in the 27 heads of state or government, together with its President and the President of the Commission. It gathers at least four times a year, and whenever needed. It provides the general political directions for the EU, but it also has a specific role regarding CFSP and the area of freedom, security and justice. It takes its decisions by consensus, and, exceptionally, by qualified majority – for instance to appoint its own President or the President-designate of the Commission.

One cannot understand the dynamics of decision-making in the EU without considering also the role of ‘non-institutional’ actors (Coen and Richardson 2009). Thousands of experts of various kinds – independent consultants, member states’ officials, researchers, academics, representatives of think tanks, etc. – participate in the development and implementation of EU policies. In Brussels, there are also over 10,000 lobbies, which employ around 30,000 people who develop contacts with EU actors (Mazey and Richardson 2006; Dialer and Richter 2018). They were part of the original ‘Community method’, that aimed at finding a consensus between the Commission (representing the Community general interest), the Council (expressing member states’ views), and the stakeholders (as the main recipients of European policies, and experts *de facto*). Non-institutional actors play a crucial role in the European decision-making, thanks to various peculiarities of the EU political system: polycentrism and absence of hierarchy; technicality of norms; weakness of European political parties; absence of a European public sphere; limitations of the logic of representation; governance by committees; importance of expertise, as a tool to overcome national and political conflicts. They take advantage of the openness of the Commission and EP, which are in search of expertise, feedback, and legitimation. Non-institutional actors form a European elite that follows closely the EU’s activities, understands them, and undertakes a whole range of lobbying practices. They also make a proficient use of the possibilities for action offered to citizens by the treaties (Alemanno 2017). Paradoxically, the more EU institutions try to be opened to the civil society, in order to ensure some pluralism in interest representation, the more they offer channels of influence for lobbyists.

## THE DUALITY OF EU DECISION-MAKING

The initial EEC treaty (1957) already held a dual logic of decision-making at Community level. Based on a Commission proposal, decisions could be taken by the Council either unanimously or (after a ten-year transition period and only in certain domains) by a qualified majority. In both cases, the EP had no real influence. The rationale was that the second option, called the ‘Community method’, would gradually become more widespread. The French President Charles De Gaulle however protested this method in 1965 by withholding his country’s participation in the Council. The ‘Luxembourg compromise’, which was adopted in 1966 to put an end to that situation, provoked a suspension of the use of the qualified majority rule until the late 1980s. As consequences, the Council became a central decision-making actor, where proposals were carefully reviewed and amended, and the Commission gradually favoured bland texts. The Community method was still applied to routine decisions and to the management of core policies (the so-called ‘low politics’), but the inter-governmental decision-making was relied upon for key decisions and less integrated policies (‘high politics’).

This duality was formalized by the Maastricht Treaty in 1993. Its objective was to transform the European Communities – created to conduct a limited number of market policies in partnership with the economic, political and administrative elites – into a European Union – i.e., a policy organization expected to develop activities in all areas and to establish direct relations with its citizens. In order to ease a consensus on the new treaty, negotiators proposed the creation, alongside the Community ‘pillar’, of a second and third pillar with a more inter-governmental form of cooperation. It was largely based on Council and European Council actions, with a very limited involvement of the Commission, the EP and the Court. In 2009, the Treaty of Lisbon has merged the three pillars, made co-decision the ‘ordinary legislative procedure’ applying to most texts, and extended the use of qualified majority voting in the Council. However, the EU still blends the Community method and the inter-governmental approach for the most sensitive issues.

The duality of decision-making logics at EU level is not fortuitous or insignificant: it reflects the enduring reluctance of national officials regarding the initial ‘Community’ approach which they perceived to be too federal (see Bartenstein and Wessels’ chapter). Formally, the inter-governmental style seems to be limited to exceptions, but the management of the various recent crises (sovereign debt, refugees, tensions with Russia, Brexit, ‘illiberal’ trends in some member states, Covid-19, etc.) has shown that it can be very preponderant, and that the European Council has become the leadership organ in the EU – replacing the Commission (Schimmelfennig 2018).

To sum up, the turbulent history of European integration has led to the crystallization of two main approaches of decision-making. When member states agree on clear priorities (the single market and the policies related to it), decision is governed by qualified majority voting at the Council and involves the supranational institutions (Commission, Parliament), as well as the stakeholders. When there is no strong consensus on the objectives and the urgency of action (foreign policy, cooperation in criminal matters, fiscal policy, etc.), the EU uses inter-governmental mechanisms, leaving little influence to the main EU institutions and non-institutional actors.

The dynamics of decision-making in the EU are very different from that in a classic international organization or in a parliamentary regime. They are closer to the latter, but there is no systematic political support to the Commission emanating from the Parliament and the

Council: each proposal is the subject of intense negotiations between the three institutions, that promote their own views. In short, there is no situation of ‘fusion’, like at national level, where the party or the coalition that won the general elections holds the executive power and enjoys a stable majority in the low chamber. The EU has nevertheless experienced a process of gradual pacification of the relations between the institutions. It takes the form of inter-institutional negotiations on the budget (Hagemann 2012) and on legislative matters – via the so-called ‘trilogue’ negotiations, that involve a limited number of representatives of the Council, the Commission, and the EP (Héritier 2012). This approach of policy-making has led to a spectacular reduction of conflictuality; during the Eighth EP term (2014–2019), the EP and the Council were able to adopt 99 per cent of the legislative texts subjected to the ordinary legislative procedure at an early stage: 90 per cent during the first reading, and 9 per cent during the early second reading (Marié 2019). However, this is not the result of a partisan logic, but of the capacity of the three institutions to negotiate in a constructive way. There is a tendency of pro-European political parties and parliamentary groups (Christian-democrats, socialists, liberals and, to some extent, the Greens) to work together, especially to limit the influence of their Eurosceptic counterparts, but there is no stable coalition.

## THE COMMUNITY METHOD: STILL ALIVE, BUT DIFFICULT TO LEGITIMIZE

Today the EU decision-making is mainly governed by the Ordinary legislative procedure, that applies to 80 per cent of the legislation; the EU budget is adopted through a procedure that is quite similar. The Community method is thus very much at play. It was originally focussed on the relationship between the Commission and the Council; the Parliament only gradually came into the frame in the late 1980s. This scheme resulted in the neo-functionalist interpretations of the Community experience (see Saurugger’s chapter) that emphasized the autonomy of the Commission and described European integration as a process beyond the reach of member states, gradually depriving them of their sovereignty (Haas 1958; Lindberg 1963).

As said, the legitimacy of the Community method resulted primarily from duly negotiated treaties ratified by the member states. The Council could also rely on the legitimacy of its members, and the Commission became gained confidence from the political, administrative, and economic elites as it was capable to design and implement effective policies meeting their interests. In breaking down the barriers of the Luxembourg Compromise (1966), and therefore of the systematic search for unanimity, the Single European Act (1987) expanded the scope of the Community method. The following treaties (Maastricht, Amsterdam, Nice, and Lisbon) have generalized the Ordinary legislative procedure and qualified majority voting in the Council: today, the Community method is the EU’s principal method of decision-making (Dehousse 2008; 2011).

This approach of decision-making has nevertheless been impacted by a double evolution: the emergence of an inter-governmental leadership and the parliamentarization of the EU regime. The Commission has thus mobilized itself to preserve the centrality of the Community method. It has, for instance, taken advantage of the Single European Act (1987) to rebuild a supranational network of stakeholders able to support its action, by developing a strategy of ‘co-option’ (Wallace et al. 2005; Vandermeersch 2017). In the context of negotiations on a possible institutional reform, the Commission has also adopted a ‘White Paper on European

Governance' (July 2001) (Georgakakis and de Lassalle 2012). Implicitly, this document was advocating for the preservation of the existing system and of the Community method. The communication was also an attempt to theorize the functioning of the EEC: by calling it a system of 'European governance' (Shore 2011), the objective was to account for several of its peculiarities (institutional complexity; absence of hierarchy and centrality; role of expertise, etc, and to assume them. In short, the European 'governance' – a concept borrowed from social sciences – was supposed to be more efficient and more adapted to the challenges of the time than the traditional 'government' (Hooghe 2001; Foellesdal 2003; Kohler-Koch and Eising 1999; Smith 2010). The Commission considered that this approach to public action was desirable and searched to improve it by promoting various internal reforms and defining norms of 'good governance'. The Commission also claimed the concept of 'multilevel governance' used by social scientists to describe the emergence of a system adopting and implementing policies as the result of the interaction of multiple actors belonging to public institutions, private companies and civil society organizations, positioned at different levels (local, regional, national, European, global) and structured in informal networks of negotiations (Marks and Hooghe 2001).

The concept of European governance failed to clarify the functioning of the EU and to legitimize it among citizens; it has even acquired a negative connotation (Ritleng 2019). However, it certainly helped to save the Community method. Despite the many crises experienced by the EU and its constant treaty reforms, the Commission has remained in a central position in the European political regime and has even expanded its scope of activities and competences (Bauer and Becker 2014; Fabbrini 2013). The Community method is, nevertheless, questioned by a double and somehow contradictory evolution: inter-governmentalisation and parliamentarization.

## THE RELENTLESS PROCESS OF INTER-GOVERNMENTALISATION

Very early, the Community method was challenged by a more inter-governmental approach of European integration, initiated by the *de facto* suspension of qualified majority voting after the Empty chair crisis (1965–66) and, in 1974, by the creation of the European Council. After its institutionalization (2009), the European Council has played a key role in the management of multiple crises that have hit the EU. It has developed the habit to give precise instructions to the Commission regarding decision-making, not only in intergovernmental matters. The institutional triangle has thus become a square (Costa and Brack 2017), and the Commission appears now as a kind of government placed under the authority of the European Council (Bressanelli and Chelotti 2016). This evolution has challenged the EU institutional governance, and has led to complaints, for instance by Martin Schulz, then President of the EP (2014):

The Community institutions are increasingly being marginalized as a result of this trend towards 'summitization', the fixation with meetings at which the heads of state and government, in a clear

breach of the spirit of the treaties, take more and more decisions themselves and seek to put their stamp even on the fine print of legislation.<sup>1</sup>

Those developments have also led to a new theorization of the EU and its functioning, with the emergence of the concept of ‘liberal intergovernmentalism’ in the 1990s (Moravcsik 1998) and ‘new-intergovernmentalism’ in the 2010s (Bickerton, Hodson and Puetter 2015; see Saurugger’s chapter in this volume). The proponents of new inter-governmentalism consider that, despite its centrality in the decision-making process, the Community method has been called into question, especially with the economic and financial crisis (2008). Because it was touching sensitive issues, national leaders have favoured inter-governmental decision-making methods, giving a central role to the European Council and the Eurogroup – an informal body gathering the 19 ministers of the Eurozone. Many decisions have also been decentralized within the member states’ capitals.

In sum, there has been a form of integration without ‘supranationalisation’, relying on an inter-governmental approach, at the expense of the Community method. This applies to EU’s areas of intervention in which legislative and non-legislative mechanisms are mixed, such as foreign policy, energy, economic regulation, internal affairs (Fabbrini and Puetter 2016) and, today, public health (Wolff and Ladi 2020). The rise of Euroscepticism within EU institutions (Brack and Costa 2012) and in most member states (De Vries 2018) has made it difficult to develop new initiatives within the EU frame, thus leading to a reduction in the number and scope of EU legislative activities, and to the development of other forms of cooperation. Some researchers have hence argued that the crisis is not about European integration itself, but about the Community method (Majone 2014; Fossum and Menendez 2014).

## PARLIAMENTARIZATION, AT LAST

The parliamentarization of the EC/EU regime is the second trend that has impacted the Community method. European institutions and member states’ leaders were indeed constrained to take into account the needs for more legitimation and the growing criticisms about the EC democratic deficit. This led them to agree, in 1976, on the direct election of the EP. Once elected, MEPs have claimed for more power, and obtained it through evolutions of the day-to-day operations of EC institutions and more ambitious treaty reforms. Those were not intended to overhaul the EC regime, but to answer the denunciations of the democratic deficit, by streamlining the institutional system and clarifying its objectives and values (Magnetie 2005). Nevertheless, there was a cumulative evolution over time: today, after 45 years of constant developments, there is obviously a process of deep ‘parliamentarization’ (Héritier 1999; Rittberger and Schimmelfennig 2007).

There has been a shift towards a more political functioning of the EU, with the increased powers for the EP, the institution of a European citizenship, the strengthening of European political parties, and the ‘governmentalization’ of the Commission (mode of appointment, composition, style of governance). The parliamentary model has been an implicit reference for treaty reforms – even if not the only one. In 2009, the treaty of Lisbon has confirmed this

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<sup>1</sup> M. Schulz, President of the EP, Speech to the Parliamentary Assembly of the Council of Europe, 30.01.2014.

trend by devoting a title to ‘democratic principles’: article 10 TEU now provides that ‘the functioning of the Union shall be founded on representative democracy’ and establishes the concept of the dual representation of citizens within the EP, on the one hand, and the Council and European Council, on the other. Article 10 TEU has allowed the leaders of the five main European political parties to impose the logic of ‘*Spitzenkandidaten*’ in 2014 (Hobolt 2014), and thus to favour a parliamentary interpretation of the EU political system.

Two meta-theories can account for this evolution. The first one is post-functionalism, a theory that aims at integrating the recent developments of European integration and the rise of Euroscepticism (Hooghe and Marks 2018). It underlines the growing tensions that exist between the functional needs for integration expressed by European leaders and the concerns that EU raises among citizens (Hobolt and De Vries 2013; Hooghe and Marks 2009), especially as a result of austerity (Streek and Schafer 2013). Post-functionalists observe that European integration now includes sensitive issues such as defence, justice, migration, and taxation, and that debates on the Union refer to issues as fundamental as religion, culture, sovereignty and identity. EU affairs generate strong political divisions and national tensions, both at domestic and European levels. European elections are becoming more successful – with a massive rise of participation in 2019 – thus increasing the legitimacy and influence of the EP. Federalism is a second theory accounting for the parliamentarization of the EU (see Foret’s chapter; Sbragia 1993; Beaud 2018). It predicts the emergence of a European-level public and political arena, its growing interconnections with national spaces, and the deepening of European citizenship (Borriello and Crespy 2015; Navari 2019). The parliamentarization of the EU can be seen as the result of those combined tendencies.

## CONCLUSION

EU’s institutional governance is characterized by a triple neo-functional, inter-governmental and parliamentary logic. It is still guided, to a large extent, by the original pursuit of efficiency, and the balance of multiple interests through decentralized decision-making and intense contacts of supranational institutions with stakeholders and civil society representatives. Nevertheless, it is more and more governed by the key decisions taken within the European Council and in national capitals in a strictly inter-governmental logic. At the same time, it is also driven by a parliamentary rationale: today, the EU is a political system based on citizens’ participation and parties’ interactions, and the EP is a powerful and independent legislature. The Commission can no longer be described as an autonomous body or an agency: it looks like a government, appointed and controlled by the EP, and instructed by the European Council.

The double-trend of governmentalization and parliamentarization, combined with the persistence of the Community method, does not make the EU political system very readable for citizens. Its ambiguities and ambivalences lead to misunderstandings and an often negative assessment of its functioning, and to the questioning of its legitimacy. The EU is reputed to be obscure and distant, disconnected from the concerns of citizens and hermetic to the principles that underpin democratic systems. However, it is functional and resilient, has proven its capacity to surmount crises and tensions, and allows for the conciliation of various conceptions of the European integration – neo-functional, federal and inter-governmental.

Thus, it is unlikely that major institutional reform will occur in a foreseeable future. By default, the relative consensus that exists about its current architecture is an obstacle to change.

Adaptations will be made at the margins, in an incremental and selective manner, while respecting the current complexity of the system. This is undoubtedly the price to be paid for the political integration of 27 nation states, which are considered sovereign, very jealous of their prerogatives and not ready for the Union to become the main political arena.

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## 13. Member states: The fundamental dilemma of the masters of treaties – Erosion or rescue of the nation state?

*Aline Bartenstein and Wolfgang Wessels*

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The role of Member states is key to understanding the governance and policies of the European Union (EU) (see Costa's chapter). The Member states are characterized to be the 'masters of the treaties' (German Constitutional Court 2009: §150), which is also acknowledged in the Treaty on the European Union: 'The high contracting parties establish among themselves a European Union (...) on which the Member States confer competences to attain objectives they have in common' (Art. 1 TEU). In this perspective, the Lisbon Treaty itself provides two sources of legitimacy, both based on representative democracy, namely that of the citizens and of the Member states (Art. 10 TEU). Additionally, states are the most important actors internationally, and 'their governments have a political and moral authority and media profile that the EU cannot easily challenge' (Hodson et al. 2022: 20). Nevertheless, we might not underestimate the transformative power of the EU in shaping 'nation states' into 'Member states' (Bickerton 2020: 29).

For a better understanding of the relationship between the Member states and the EU, we focus in this chapter on the role of the European Council, which is composed of the heads of states and government, the President of the European Council and the President of the Commission: it is the institutional gateway through which the heads of state and government engage their Member states in shaping and making the EU, with a considerable transformative impact for their states themselves. Given its different legal powers and even more real-world functions, the European Council is the key institution for studying the complex relations between Member states and the Union (Puetter 2014; de Schoutheete 2017; Werts 2021; Middelaar and Puetter 2021).

This institution of national leaders is at the top of the hierarchy of the national involvement. In addition, Member states are represented in ten configurations of the Council of Ministers and dispose of a dense network of administrative committees (Wessels et al. 2015). Since 1974, the European Council has been the main driving force behind the transformation of the EU and its members, as this institution of the heads of state or government widened the geographic area of its membership and broadened the scope of policy fields to a 'state-like agenda' (German Constitutional Court 2009: §264). Core state policies (Genschel and Jachtenfuchs 2018), such as economic governance, justice and home affairs as well as external action, feature regularly on the agenda of this key institution which has led to sovereignty concerns. Nevertheless, the European Council continuously works as a 'constitutional architect' (Wessels 2016) and has notably excelled as a crisis manager (Anghel et al. 2016; Werts 2021).

For deepening our understanding, we inquire into different perspectives on the role of Member states in the EU and the respective conclusions for the role of the European Council. We present central theoretical approaches that describe the patterns of integration of the

Member states and the processes within the European Council. The chapter then analyses the main challenges, that Member states face within the institutional architecture and among their peers. Central to the analysis are the different cleavages between Member states as well as the transformation of Member states within the EU. After an assessment of the main crises and crisis management, we close the chapter with a synopsis of the debate on the fusion of national and European sovereignty.

## EROSION OR RESCUE OF THE NATION STATE? POLITICAL NARRATIVES AND THEORETICAL APPROACHES

On the role of Member states, we find a broad and different set of political narratives and theoretical approaches that address the dilemma of trying to jointly solve the problems of their national agendas while preserving their national ‘sovereignty’. Since the founding of the first European Communities in the 1950s to Brexit and the controversy over the rule of law, one major topic in the debate has been the relations between Member states and the construction of this *sui generis* political system that we now call the EU. From de Gaulle in the 1950s and 1960s to British politician Nigel Farage in favour of Brexit in the 2010s, the integration process, which is characterized by the transfer and allocation of core competences from Member states to the Union level, was criticized as undermining national sovereignty as the fundamental principle of the nation state and its democratic nature.

In contrast to this ‘threat’ narrative, an alternative narrative emphasizes the role of integration as a ‘rescue of the nation state’ (Milward 2000; see Warlouzet’s chapter in this volume). Member states ‘pool their sovereignty’ by agreeing to act together (Bulmer and Lequesne 2005: 6; Brack and al. 2021 for a nuanced analysis of the notion of sovereignty). The EU system thus serves to stabilize and modernize the old-fashioned nation state in order to strengthen their economies and, moreover, their global power. This narrative now employs terms like ‘European sovereignty’ (Macron 2017; German coalition treaty 2021) and ‘strategic autonomy’ (Michel 2020). The Court of Justice of the EU (CJEU) and national constitutional courts – especially the German constitutional court – have directly and indirectly dealt with this issue (German Constitutional Court 2009 § 251; Corte costituzionale 1984; Court of Justice 1964; see Avril’s chapter in this volume).

A third narrative shares the analysis of the ‘threat’ narrative but has an alternative assessment: a fundamental federalist narrative aims to replace the obsolete nation state as source of conflict and suboptimal area in favour of optimal problem solving through a European federation (Spinelli 1972; see Foret’s chapter in this volume). Accordingly, clinging to national sovereignties would result in political irrelevance (Spinelli Group 2010).

As for a respective role of the European Council, the traditional narrative of national sovereignty characterizes this institution of the heads of state or government as ‘intergovernmental *par excellence*’ (Quermonne 2002: 3) and as ‘l’Europe des patries’ (de Gaulle 1962, in de Gaulle 1970: 406). This narrative stipulates that national leaders serve collectively as guardians of the respective sovereign nation states (Ludlow 2005: 3). In this account, the European Council serves as an institutional symbol, as an ‘*idée directrice*’ (Hauriou 1965: 36), which is in line with (neo-)intergovernmental theoretical claims (see Saurugger’s chapter). Based on these assumptions, the European Council remains in control of the process as principal. Consequently, the founding of the European Council can be interpreted as a deliberate move of

the Member states to secure control of supranational institutions, which act as executive agents (Moravcsik and Schimmelfennig 2009: 67).

Alternatively, the European Council may also be referred to as the ‘supreme Council’ being a Community body in the narrower legal sense (Spinelli 1972: 176). Neofunctional assumptions about ‘spillover’ would expect a trend towards further ‘communitarisation’ (Niemann and Schmitter 2009: 57–61). Based on the national legitimacy and power, the European Council then might even serve as a hidden federator reducing increasingly the competences of the nation states: national leaders would, through limited but real acts, turn the Member states into units of a united federal state.

Following the federalist narrative, voices from the European Parliament (EP) blame the European Council for overturning the democratic will of the European people by a ‘series of dictates from Brussels’ (Schulz 2012). In this view, an institution of national leaders is a blockage for a democratic and effective polity.

From our perspective, the development of the EU over the last 50 years illustrates that Member states have conferred core areas of national sovereignty to the EU level (see Art. 5 TEU and Arts 2–6 TFEU), while at the same time, the European Council has been strengthened to maintain national influence (Wessels 2021). By analysing the actions and activities of the European Council, we identify on the one side a dynamic process by which national leaders in their club transfer more and more national key competences to the EU level. Following their ‘problem-solving instinct’, national leaders who are confronted with global, European and transnational challenges, perceive the EU level as an increasingly valuable arena to cope effectively and efficiently with national problems. Especially in cases of crisis management, leaders pool national competences and instruments and merge them in a ‘vertical fusion’ process with EU competences and instruments. ‘Vertical fusion’ describes the merging and pooling of national and European agendas. Unintentionally, the European Council induces a sharing of competences that leads to a jointly exercised sovereignty (Rompuy 2014), which also strengthens supranational elements like the ‘ordinary legislative procedure’ described in Article 294 TFEU (see Costa’s chapter). As a result, the European Council increasingly takes binding decisions in a ‘horizontal fusion’ process in cooperation with other institutions (Wessels 2021). The ‘problem-solving instinct’ confirms the narrative that the Union serves the Member states to stabilize and modernize their economies especially when facing serious crises (Wessels et al. 2022).

On the other side, we observe a ‘sovereignty reflex’ to keep the conferral of competences and allocation of powers to EU institutions limited, which is expressed by the adoption of provisions of a strictly intergovernmental nature – especially for the Common foreign and security policy (CFSP) (see Krotz et al.’s chapter). Accordingly, the European Council clearly operates along intergovernmental lines in its functioning, but at the same time due to functionalist pressures it looks for solutions by and in the EU. Consequently, the ‘Masters of the treaties’ are challenged by the question how to strengthen the legitimacy of the EU as a democratic system. If we adopt a “consensus-model of democracy” (Lijphart 1999: 42), the European Council sustains the legitimacy of the EU by building and maintaining consensus among the main actors in the multilevel Union and thereby generating sufficient ‘output’ legitimacy (Scharpf 1999). Based on this perspective, the sharing of sovereignty (Habermas 2012: 37) consolidates different national and European sources of legitimacy that have stabilized the EU system (Wessels 2016: 20; Wessels et al. 2022).

Overall, this key institution thus acts as a driver for vertical and horizontal fusion, which is transforming the EU and, not least, its Member states. As one indicator for this dilemma between problem-solving instinct and sovereignty reflex, national leaders must endure ‘the tensions between the coercion of the table’ and ‘the voice of the voters back home’ (Van Middelaar 2013: 308).

## THE EUROPEAN COUNCIL AS DECISION-MAKING ARENA OF THE MEMBER STATES

In response to several crises of the late 1960s and early 1970s, the national leaders of the then nine Member states pushed and were pulled to found a body in which they would be directly involved. Since its foundation at the Paris summit in December 1974, the European Council’s significance grew steadily so that it became to be known as the core of the EU’s executive (Ludlow 1992). Over the last decades, several generations of political leaders have contributed to the constant evolvement of the European Council (Waechter 2011). In exercising their national powers, the heads of state or government have used the European Council to work as the ‘supreme political authority’ within the EU (Hayes-Renshaw and Wallace 2006: 173; Puetter 2014: 70). This strong involvement of the institution in the EU’s institutional architecture was finally legally acknowledged in the Treaty of Lisbon in 2009.

As laid out in 1974, the treaty assigns to the European Council the task of providing ‘the Union with the necessary impetus for its development’ and setting ‘the general political directions and priorities thereof’ (Art. 15(1) TEU). This agenda-setting power facilitates the European Council’s influence in drawing up pre-constitutional and pre-legislative guidelines thus prescribing the direction of EU polity- and policy-making ‘from above’ (Princen and Rhinard 2006: 1120). The institution’s pre-legislative powers are defined concerning economic policy (Art. 121(2) TFEU), justice and home affairs (Art. 68 TFEU) as well as common foreign and security policy (Art. 26(1) TEU) and appear accordingly in the conclusions of the European Council. Although the European Council ‘shall not exercise legislative functions’ (Art. 15(1) TEU), the institution ‘acts *de facto* as an ultimate decision-maker’ (Wessels 2016: 73). The political leaders are primarily concerned with sensitive issues, such as ‘changing the treaty, letting new members into the club, setting the budget, dealing with crises’ (Rompuy 2014: 114).

In relation to other EU institutions, the intergovernmental logic would expect that national governments use the European Council to balance EU’s institutional architecture in favour of Member states which would lead to a downgrading of the supranational institutions. The Commission would merely have the function of a General Secretariat and the EP would not dispose of any participatory rights. These dynamics would also alter within the European Council. Decisions would be made according to a confrontational negotiation style, coined by the larger Member states’ struggling to assert their own interests (Moravcsik 1998: 485).

However, these theoretical expectations have not been confirmed in the real world and ongoing practices. The national leaders have used the treaty changes to introduce and extend procedures that strengthen the rights and powers of supranational bodies and extended them to core policy areas of national sovereignties. In the Council of Ministers, they also reduced the possibility of using veto rights by increasingly introducing qualified majority voting. Besides the heads of states and governments, we observe an extensive involvement of the Member

states in the Council, which meets in ten configurations covering all major areas of national public policies, and in a highly differentiated network of administrative bodies. The Council is known as the ‘consensus-generating machine’, the venue where national ministers and ambassadors meet and socialize (Bickerton 2020: 32). National civil servants adapt to the European political environment and the respective negotiation style, which is enabled by a strong ‘esprit de corps’ and ‘feeling of togetherness’ (Lewis 2010; Lempp and Altenschmidt 2008: 519). Additionally, the Committee of Permanent Representatives (COREPER) prepares the Council meetings well in advance in order to sort out potential quarrels, with the goal of ‘bringing everyone on board’ and reaching consensus (Lewis 2017). Informal meetings are the order of the day to discuss particularly sensitive issues, that also increase ‘thick trust’ and ‘diffuse reciprocity’ (Lewis 2005). Eventually, the administrative staff in Brussels is only the tip of the iceberg of a European administrative space, indicating a ‘horizontal’ Europeanization process (Exadaktylos et al. 2020: 60; Lahusen 2016; Heidbreder 2019; Wessels et al. 2015). However, although socialization influences the working styles, the civil servants ensure the alignment of the legislation with the various legal and regulatory frameworks of their respective Member state.

## PATTERNS OF EUROPEANIZATION: VARIATIONS OF NATIONAL ADAPTATION

As the Member states are major actors in the EU, we can also identify different ways of how Member states prepare and implement decisions on binding acts. Based on the Europeanization literature, a ‘top-down approach’ enlightens our perspective how ‘Europe hits home’, by transforming national political structures, public policy as well as norms, values and identities (Exadaktylos et al. 2020: 51). Differently put, Europeanization can be affecting policies, polity and politics (Radaelli and Pasquier 2007; Stegmann McCallion 2020: 222) even beyond EU Member states (Schimmelfennig 2010). Domestic policies are directly concerned through binding acts, which Member states need to implement or transpose. Member states differ widely in their approaches to compliance with and resistance to policies, leading to a high degree of variation in policy implementation (Falkner and Treib 2008; Crespy and Saurugger 2014). The polity of states changes when they become a member of the EU as they are subsequently interwoven with the EU as an additional political and administrative level (Stegmann McCallion 2020: 224). Therefore, national macro structures, such as the public administration, are affected by the Europeanization process. However, the assumption that Member states’ institutions and administrations ultimately converge or harmonize over time is clearly misleading. Instead, we observe specific forms of merging of existing national and European administrations. Each Member state has considerably adapted its administrative and political procedures to deal with the challenges of the EU political system (Wessels et al. 2015).

Research is not limited to institutional changes, but also looks into political identities and national public spheres (Risse 2010; de la Porte and Van Dalen 2016). In this account, discourse and ideas are of particular relevance to understand rhetoric interaction between policy-makers as well as communication to the public (Radaelli and Pasquier 2007). Simultaneously, public opinion can influence the positions of national governments in the EU; however, just because citizens are generally in favour of the EU does not mean that they definitively support further European integration (Hobolt and de Vries 2016). To the contrary, some see the former per-

missive consensus turning into a constraining dissensus (Hooghe and Marks 2009) as identity was politicized, which can lead to either facilitate or discourage the further integration of core state powers (Börzel and Risse 2020).

Placing the Member states at the centre of our analysis, Europeanization can also be a bottom-up process that correspondingly concentrates on the way Member states impose their political interests at the EU level. Although the EU affects each Member state, the governmental machineries cope differently due to their different political cultures, institutional settings and constitutional traditions (Bulmer and Lequesne 2020; Exadaktylos et al. 2020: 52; Kassim and Buth 2020). Domestic policy preferences are vital in this regard (Radaelli 2020) as Member states shape European institutions and policies accordingly. We therefore argue that Member states have transformed the EU and their own role in European politics simultaneously. Consequently, the various legal and political systems of the Member states also influence the EU as a system and the entire policy cycle.

## THE DYNAMICS AND CONSTRAINTS INSIDE THE EUROPEAN COUNCIL: CLEAVAGES AND COALITIONS

Since the European Council plays a key role for the Member states, a closer look into the internal dynamics of this club of national leaders is necessary. The heads of states or government who represent their states in the European Council pursue different interests in relation to their great diversity in politics and economics (Bulmer and Lequesne 2013: 14). Additionally, they follow controversial narratives about the *finalité* of the Union. Although Member states agreed in the treaty to pursue an ‘ever closer Union’, this seems no longer valid for every Member state as illustrated by the different ‘opt-outs’. Consequently, differentiated integration has a great impact on the cohesion of the European Union (Fabbrini and Schmidt 2019; Faure and Lebrou 2020). The desire to preserve national competencies could lead to cherry-picking, jeopardizing solidarity among Member states as mutual responsibility and reciprocity diminishes (Bartenstein 2021). Moreover, differentiation inherently carries the risk of fragmentation between Member states (Chopin and Lequesne 2016).

Given the political importance and ‘club’ nature of the European Council, an analysis of the unscripted constellations of power and influence is also in order. Fundamental and recurring cleavages within the institution are hence significant factors (Wallace 2005: 25ff.). Particularly relevant to consensus-building is the question of the influence of individual states, groups of states or also actors in the conference room.

The differences in size and economic strength between Member states are translated in their respective ‘aggregate structural power’ (Tallberg 2008: 688). Based on this assumption, smaller states would be marginalized over time. In this context, the French-German tandem has been credited with a special ability to persuade other partners to reach an acceptable compromise (de Schoutheete 2017), though Germany’s role was described as ‘reluctant hegemon’ during the sovereign debt crisis (Bulmer and Paterson 2013). This double-leadership has been repeatedly questioned, but the Covid-19 pandemic has further underscored the importance of this power hub. Nevertheless, the role of smaller Member states should not be underestimated as they are ‘veto players’ (Wessels 2016: 148) and exert influence through creative strategies (Panke and Gurol 2019).

For the relations between Member states, the cleavage between the group of net contributors and the group of net recipients is a major decisive factor, which is most visible in the European Council's fundamental decisions on the revenues and expenditures of the EU budget. At each negotiation of the seven year budget, we see a confrontation between those groups as illustrated by the last taboo-breaking package on the multiannual financial framework (MFF) for 2021–27 and on the Recovery and Resilience Facility (RRF) in July 2020 (Wessels et al. 2022).

The Visegrád Group is another important collective player within the EU comprising Poland, the Czech Republic, Hungary and Slovakia. Their claim to national sovereignty has not only led to disputes within the European Council, as in the case of the refugee crisis in 2015, but also underpins the conviction that national independence should be valued more highly than effective joint action (Copsey and Pomorska 2020: 224).

Another major cleavage has emerged in view of applying the rule of law. The ‘masters of the treaties’ have created a community of values (Art. 2, TEU), however, in the recent years, the compliance of Member states with those principles cannot be longer taken for granted. The breach of those values leads consequently to deficits in mutual trust between Member states and threatens ‘the very existence of the EU as a rule-of-law-based regime’ (Scheppele et al. 2020). But the rift between Member states seems to go further, as the CJEU encounters increasing resistance from some Member states (Kelemen 2016; Hofmann 2018). Nevertheless, on 16 February 2022, the CJEU confirmed the applicability of the rule of law conditionality mechanism, which symbolizes a further step toward the development of a community of values (CJEU 2022).

Although some deep and pertinent cleavages exist, there are no persistent coalitions between Member states which would cover all points on the agenda of the European Council. Also, coalitions may potentially be formed according to party affiliation, attitudes towards integration and issue specificity. Eventually, the European Council, despite all its differences and persistent pursuit of national preferences and interests, has consistently seen itself as an institution of collective governance, making decisions by package deals that go beyond the expected zero-sum game between Member states. Based on the concept of political culture, it is argued that political leaders have developed an ‘attitude of compromise’ (Rompuy 2014: 113–116).

## CRISIS MANAGEMENT AS A DRIVER OF TRANSFORMATION

Since the establishment of the European Council, the EU has gone through several phases of different crises. In the wake of the ‘polycrisis’ in recent years (Zeitlin et al. 2019; Werts 2021), the governments of Member states have used the European Council to act as a crisis manager following its instinct to solve problems for its members and to act – when necessary – as constitutional architect. In many instances, political leaders have resorted to unorthodox methods, breaking again and again written or unwritten taboos. Simultaneously, the crises highlight the manifold conflicts over sovereignty.

The EU has a long tradition in resolving internal crises. In the face of the German reunification, the political leaders sought to embed this process within European integration dynamics. Consequently, the German reunification was coupled with deeper integration through the Maastricht Treaty adopted in 1992. Most significantly, Member state governments agreed

to a substantial transfer of monetary sovereignty to EU institutions, while fiscal solidarity remained in national hands but was increasingly transferred to the EU level over time. The Franco-German coalition dominated the crisis management during the Euro crisis which led to deeper European integration and sovereignty transfers (Degner 2016). The unknown risks of disintegration pushed Member states to find joint albeit unpopular solutions. Although an exit from the Eurozone would have been an option, the political costs were estimated too high (Genschel and Jachtenfuchs 2018).

The forum of the European Council was used continuously and spontaneously to cope with crises of international character over time. One main issue affecting Member states was the multifaceted refugee crisis 2015/2016 which was not solved in solidarity by the European Council. On the contrary, the different positions between Member states at the external borders and Eastern Member states were irreconcilable resulting in closed internal borders based on national sovereignty claims. With no further internal EU solution in sight, Italy, France, Malta and Germany agreed to advance ahead by creating the ‘coalition of the willing’ to deal with further migratory pressures (Fabbrini 2021). Although sovereignty concerns blocked major integration steps, Member states agreed, among other compromises, to strengthen Frontex (Niemann and Speyer 2018).

But internal crises, such as Brexit and its consequences, have also been managed by the European Council (see Martill’s chapter). Observers had originally feared that Brexit would lead to fragmentation between Member states, however, the situation turned out to be unexpectedly different (Chopin and Lequesne 2020). Leaders – in particular the Franco-German duo – have shown a high degree of unity and determination to take a common position in the face of Brexit negotiations (Krotz and Schramm 2021). This approach was upheld even though the negotiations became increasingly difficult and the diverging interests of the individual Member states were problematized (Bujard and Wessels 2021).

One of the most important developments in recent years has reaffirmed the narrative that the EU is meant to support Member states in times of crisis. During the Covid-19 pandemic, the European Council acted as a driver of vertical and horizontal fusion. Although the cleavage between the Northern and Southern Member states became evident in heated arguments on how to manage the crisis, the ‘Franco-German engine’ (Leuffen et al. 2012) prepared a compromise which paved the way towards an agreement between the political leaders. Confronted with Europe’s deepest economic crisis since the end of WWII, national leaders used again the European Council as the key institution to create an innovative, ground-breaking financial instrument, the Recovery and Resilience Facility (RRF) as the core of ‘Next Generation EU’. The pooling and merging of national and European procedures can be read as a pattern of vertical fusion perhaps even as an ‘Hamiltonian moment’ for the EU (Scholz 2020), a further step into the direction of a federally organized political system. However, many observers doubt that this moment illustrates a ‘*saut qualitatif*’ towards the development of a European federal state (Guttenberg and Ngyuen 2020). Ultimately, the members of the European Council will have to agree on further steps toward some kind of a fiscal Union and to convince their parliaments and publics to ratify the respective legal changes (see Piroška’s chapter).

Also in response to the war in Ukraine in 2022, the largest conflict in Europe since the end of WWII, the EU has demonstrated its unity and power in unprecedented record time, as the members of the European Council have used the EU architecture to face together this unexpected crisis. As in previous crises, they made together and individually, based on a shared analysis, taboo-breaking foreign policy decisions. We observe that the German chancellor

has taken up a master narrative about the defence of Europe, constructed together with the European and Atlantic partners, declaring a ‘*Zeitenwende*’ – a watershed moment – for German foreign and security policies, not least for Europe (Scholz 2022).

In this context, reform proposals on the *finalité* of the EU are vital to analyse, as they fundamentally affect the role of Member states. The 2021 German traffic-light coalition (Social-Democrats, Greens and Liberals) agreed in its coalition agreement to aim at a federal state and to pursue quality majority voting (QMV) in the common foreign and security policy (CFSP).<sup>1</sup> Member states push for majority voting with the intention to increase the EU’s capacity to act and to strengthen the credibility of the EU as a global actor (see Krotz et al.’s chapter). There is, however, a significant dilemma between the wish for more joint European action in the pursuit of ‘strategic sovereignty’ and the quest to safeguard national sovereignty. This dilemma is equally exemplified by the calls for a ‘federal European state’. However, the concept of a federal state is not a shared positively connotated vision of the *finalité*, as it indicates centralization and the transfer of the state’s monopoly on the use of force to Brussels, which would consequently further constrain national sovereignty (see Foret’s chapter).

## CONCLUSION: THE FUSION OF NATIONAL SOVEREIGNTIES

Confronted with many crises and the rise of Eurosceptic voices, many observers doubted the survival of the EU. This chapter shows that the European Council, which represents the collective will of Member states, has driven European integration forward despite the severe crises of recent decades. The national political leaders are therefore directly responsible for the performance and eventual shortcomings of the EU. The treaty changes and the European Council’s role as a crisis manager illustrate that the European Council is a key institution within the EU’s constitutional architecture, but at the same time, some significant integrative steps have been limited by national sovereignty claims. As outlined above, the European Council has acted according to this two-fold dynamic of intergovernmental governance and communitarization. The hard-won compromises in the package deals, whose complexity is evident in the conclusions, demonstrate the political effectiveness of the European Council. With regard to the role of the European Council in the EU’s institutional design, there is consequently no clear tendency either toward the intergovernmental model or toward a federal model.

This chapter has described how the Member states have – via their leaders in the European Council – made and used the EU by simultaneously transforming themselves. Member states have pooled and merged national and European instruments in a vertical fusion process. In this regard, Member states deem the EU as useful in order to pursue their interests and, as the current topical debate shows, to maintain their sovereignty in the global order. Therefore, Member states continue to follow their problem-solving instinct as has been shown during the Covid-19 crisis, when Member states pooled their sovereignty to be capable to act in this crisis situation. Although sovereignty might not be a zero-sum game, looking at the ‘polycrisis’ illustrates however, how Member states struggle with finding a way out of the dilemma of

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<sup>1</sup> This demand, which is hardly new, received in the recent years again additional attention. The Franco-German tandem requested QMV in the joint Meseberg declaration in 2018 (Meseberg Declaration 2018), and also Commission President von der Leyen reinitiated the reflection process (European Commission 2020).

reconciling the pursuit of national sovereignty and sovereignty transfers to the EU level. Brexit – the loss of one Member state from the EU – suggests that these are seemingly conflicting goals. The tension between national and European sovereignty remains palpable and grows as the EU advances its integration in core state powers (Brack and al. 2019).

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## 14. Interest groups

*Marcel Hanegraaff and Joost Berkhout*

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The political scientist Robert Dahl once provokingly wondered: ‘In a system where every adult may vote but where knowledge, wealth, social position, access to officials and other resources are unequally distributed, who actually governs?’ (Dahl 1961, p. 1).<sup>1</sup> This question, 60 years later, seems especially timely for the European Union (EU). EU citizens may vote once every five years. In the meantime, the EU hosts around 30,000 staff working to represent interests in Brussels. As the EU institutions employ roughly 33,000 officials, this means that for every policymaker working in Brussels, there is at least one interest representative or lobbyist. This ratio is substantially higher than in any other political system in the world, including Washington DC which is usually considered the centre of the lobby universe. It may therefore be no surprise that there is substantial academic (e.g., Dür et al. 2019), journalistic (e.g., FT 2022) and campaign group (e.g., CEO 2022) interest in the role of lobbyists in Brussels. Who is represented by lobbyists? What type of activities do they initiate? What is their impact on EU policymaking? In this chapter, we provide an overview of some of the main findings in the scholarly literature.

To structure the chapter, we differentiate between three stages of interest group involvement in EU politics. The first stage is about the mobilization of individual organizations into EU politics and contours of the organizational population residing in Brussels. This stage deals with the distribution of active interest groups in Brussels: do some groups face more obstacles to politically mobilize in the EU than others? On which issues do we find relatively large numbers of stakeholders? In the second stage interest groups decide on a strategy to pursue their political goals. Which strategies do lobbyists choose most frequently? And why do groups sometimes ‘go public’ whereas in other times prefer to engage in ‘quiet politics’ as much as possible? The third and final stage concerns how interest groups gain effective policy access and affect public policy. The key question is which groups are eventually more influential than others in the EU. We follow the dominant practice in contemporary behavioural studies of interest groups and use the term ‘interest group’ and ‘lobbyist’ to denote all organised actors attempting to influence public policy without aspiring to hold office.

In the next three sections, these questions are answered based on the latest academic insights. Please note that a single book chapter can never exhaustively discuss the full breadth of studies of EU lobbying.

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<sup>1</sup> Please note that this chapter draws heavily on a book chapter by one of the authors, see: M. C. Hanegraaff, (2020). ‘Interest Groups in the European Union: Mobilization, Strategies, and Influence.’ In: P. Harris, A. Bitonti, C. Fleisher, and A. Binderkrantz (eds). *The Palgrave Encyclopedia of Interest Groups, Lobbying and Public Affairs*. Palgrave MacMillan.

## MAIN DEBATE AND DEVELOPMENT OF A SUBFIELD: IS THE EU UNIQUE?

The EU is not a ‘typical’ political system: there is no EU public sphere, the layered institutional structure includes more entry points and veto players than in many national political systems and the substantially focussed set of policy competences at the EU level attracts a particular set of interests. These particularities make the interactions in the policymaking process potentially different from other political systems. For lobbyists active in Brussels, it is vital to understand how the EU functions. For academic observers, we frequently do not know whether observations in the EU ‘travel’ to national contexts and vice versa, nor is there a full agreement whether to theoretically rely on *sui generis* theory or more general concepts. We therefore discuss three institutional characteristics of the EU that affect interest group politics and relate them to theory and typology formation.

A first characteristic is the lack of a *unitary public sphere* in the EU. This is important for at least two reasons. To start, it affects the way the EU is perceived by citizens. The EU policymaking process is quantitatively less extensively covered than national politics. Qualitatively, rather than a direct interpretation – for instance through shared media sources – of EU policymaking, the news is translated through 27 different media systems, all with their own unique perspective. Interest groups need to be aware of these mechanisms and cope with their consequences. Second, the fragmented nature of the news media along national outlets makes it much harder for interest groups to mobilize constituents in the EU than in political systems with a joined public sphere, where, for instance, an attention-seeking campaign may first resonate among citizens on Twitter, and subsequently be picked up by national press. While issues discussed in the EU do not tend to dominate national public discussions, it is even rarer that attention is shared across a wide range of member states. This peculiar media context makes the EU ‘lobby game’ different compared to the lobbying in the national political systems in the member states. As further noted below, the ‘public sphere’ deficit of the EU compared to national systems, narrows the strategic repertoire of citizen groups, both in terms of mobilization and public campaigning.

Another key difference between the EU and ‘domestic’ political systems is the *multi-layered* nature of decision-making. With 27 members, interest groups may focus on lobbying national authorities in charge of preparing or implementation of relevant EU-related policies, delegate lobby activities to EU umbrella associations, or lobby any of the EU institutions themselves; all of which have different competences and responsibilities. These diffuse decision-making procedures create access points for lobbyists, but complexity may also raise access barriers. At the EU level, this pattern is reflected in the relatively volatility of lobby presence. The EU lobby community experiences high levels of organizational turn-over with a sizeable proportion of ‘lobby tourists’ and a smaller part of Brussels-based, long-term committed lobbyists with a networked, layered lobby strategy, like chess players playing on multiple boards at the same time. Berkhout and Lowery (2011; also Berkhout, 2015), for instance, find that around 30 per cent of the lobbyists accredited to the European Parliament (EP) between 2003 and 2009, maintain their registration continuously, whereas the rest of the registrants comes and goes, still keeping the register constant at around 1,500 entries (contemporary comparisons with the Transparency Register are difficult due to somewhat different administrative procedures, see e.g., Greenwood and Dreger, 2013). Seen from the member states, national interest groups vary a great deal in the extent to which they are Europeanized and have integrated EU policy

work in their regular campaigns. Such integration is organizationally difficult because the formal roles of the EU institutions deviate substantially from their national counterparts. The distinct tasks of these institutions create particular needs and demands on the part of policy-makers related to the input they require from interest representatives. Bouwen (2004; 2009), for instance, notes the need for 'technical' input on the part of EC, and more 'political' needs arising from the MEP's.

Last and related, the nature of *policy competences* and instruments of the EU, such as competition policy and market regulation, differs substantially and is less susceptible to change than the policy focus and impact of national governments. This focus on 'economic' policies tends to trigger the interests of market players more strongly than those of citizens.

These differences have, firstly, motivated scholars to theoretically situate their studies in relation to theories of European integration. For instance, Kohler-Koch (1994) identifies interest group politics as co-evolving with European institutions in a mutually supportive manner and, in part, substantiating a neo-functional dynamic of an 'ever growing union' (also see Cowles, 1995). Secondly, the unique character of the EU has led several researchers to identify interest group engagement as a distinct systemic type, most notably elite pluralism (Coen, 1997; Eising, 2007), and to a lesser extent sectoral corporatism (Treib and Falkner, 2009). The 'elite pluralist' view stipulates that the EU institutions are 'pluralistically' open to the input of all sorts of interest groups but that relatively wealthy and professionalized 'elite' groups are still better able to have an impact on what happens in the EU. For instance, a Bulgarian labour union will likely find a way to be heard in Europe if it wanted to bring something to the table, but their voice will not be as effective as *BusinessEurope*, the main business association of Europe. Such a 'elite pluralist' characterization facilitates the evaluation of EU-specific research questions such as on consultation practises of the European Commission. Richardson and Coen present a flexible system-wide typology when they conclude that 'EU pluralism might be best characterized as a kind of *chameleon pluralism*, capable of changing its appearance over time during the policy cycle for a given policy problem or within a sub-sector over a longer period of time' (Richardson and Coen, 2009: 348). In line with the example, *BusinessEurope* may now be the most active (and likely influential) interest groups in Europe, but this can easily change over time and vary substantially across policy areas.

In more general terms, the conceptual ambiguity and the lack of specification of all these definitions however reduces the theoretical usefulness of the typologies, whereas a narrow and more specific typological embedding makes it more difficult to design studies that travel beyond the EU context. Therefore, the majority of contemporary studies on EU lobbying now conceive the EU as a system of interest representation comparable to any other system, which is different in 'degree' rather than in 'type' from other cases of lobbying. Scholars increasingly rely on theories of lobbying rather than that they develop theories specific to the EU (Woll, 2006; Lowery et al., 2009; Berkhout et al., 2018). For this reason, this chapter is structured in terms of relevant (sub)theories of interest representation in the EU, rather than holistically merging these theories into a single-system type such as pluralism, corporatism or some specific variant (see Eising 2008).

## CONTEMPORARY CHALLENGES AND SOLUTIONS IN THE STUDY OF EU INTEREST GROUPS

### **Mobilization: Business Bias or a Pluralist Heaven?**

Interest mobilization refers to collective organization of individuals or firms to further a particular political goal. In crude terms, the outcome of political mobilization is observed in the relative distribution of interest groups active in Brussels, its ‘population of interest groups’. Key normative questions relate to the extent to which this distribution is representative of grievances in society or whether some interests are better represented than others in the EU. Interest group scholarship routinely relies upon Olson’s 1965 classic *The Logic of Collective Action* as the most important theoretical reference point. In a nutshell, it posits that small groups with high political stakes or ‘concentrated interests’ find it easier to collectively organize than large groups with diffusely distributed interests. This logic implies that business actors should face fewer collective action problems than citizen groups to mobilize in the EU and therefore are likely to be better represented. In practical terms the free rider problem makes it relatively difficult for NGOs to find supporters and donors as everyone will still profit from their lobby efforts even if they do not financially support the NGO. This problem is less severe for firms, where members of associations are the direct recipients of the lobby efforts of a business association. As a consequence, we should expect more business groups active in the EU than NGOs.

Most empirical studies seem to confirm this expectation: there are more business interest groups active in Brussels than any other type of interest groups. Between the different studies estimating the distribution of interest group activity in the EU, the percentage of citizen groups varies around 15–25 per cent, depending on the institutional venues and sources used to map the groups. The business community (i.e., business associations and firms) is much larger and is estimated to constitute between 60 and 75 per cent of the EU interest group population. The reminder of the organizations are mostly labour unions and research organizations (see Berkhout et al., 2018).

The question is how to interpret these findings. Can we argue, based on these numbers that mobilization in the EU is ‘biased’ towards business organizations, i.e., that these groups have a disproportional and institutionalized advantage over other types of groups to become and stay active. To assess this type of bias, one needs consensus on how an unbiased distribution looks like and compare it to the actual population of interest groups active in Brussels (Lowery et al., 2015). In other words, it may be true that more business groups are mobilized in Brussels compared to any other types of interest groups but this may not be ‘disproportional’ related to salient interests on the policy problems the EU addresses. As noted, many of the competences of the EU institutions are of an economic nature and this plausibly triggers the interests of business groups more explicitly than those of non-business groups. In this view, the relatively numerous business mobilizations seem to be the result of the economic nature of EU policy-making rather than other features of its institutional designs such as the relative strength of the European Parliament, pro-business provision of access to lobbyists by elite decision-makers or the persistence of particular historically instituted patterns of behaviour. Think about the decisions made by the EU, which are mostly economic or related to environmental policies. Many issues of concern to NGOs, such as human rights, social policies, or health issues, are not decided in Brussels. This could explain why the business community is so much more

active in Brussels compared to NGOs who can presumably voice their interests at other, national-level political venues.

To this end, Berkhout et al. (2017) evaluate the relative attractiveness of the EU public policy process to business lobbyists and empirically assess whether the proportion of business groups active in specific policy fields in the EU differs from the proportion of business groups active in the same policy fields in a national context. At an aggregate level (i.e., across all policy fields), they indeed find more business groups active at the EU level than at the national level. Yet, once specific policy fields are compared, there is no difference in business mobilization between the EU and the national level. For instance, the distribution of business groups active in the EU environmental field is similar to the proportion of business groups active on environmental issues in France, Germany, and the Netherlands. Observing more business groups active in the EU is likely caused by the type of issues discussed at the EU level, rather than the inability of NGOs to mobilize at this level (i.e., biased mobilization).

De Bruycker et al. (2019) present a conceptual and empirical nuanced view on business interest mobilization bias in the EU. The authors argue that mobilization in the EU is not a classical Olsonian process in which new organizations are formed out of nothing or a pluralist process of interest disturbance that triggers latent groups into action. The formation of political organizations tends to favour business groups. Yet, within the EU and its member states, citizen and business groups already exist and policy mobilization in the EU is a matter of internal issue ‘prioritisation’, rather than related to establishing new ‘organizations’, and therefore the theories mentioned, most notably *The Logic of Collective Action*, does not apply. This may favour non-business interest groups. That is, the ideological roots of citizen cause groups gives relevant guidance on internal prioritization, whereas business associations frequently require a relatively lengthy process of internal consensus-formation in response to policy challenges. In other words, it is much easier for Greenpeace to become politically active as they do not actively consult members what should be done compared to *BusinessEurope*. The latter organization will consult its members at length and needs to find a compromise. Often this leads to much delay and potentially an unfavourable starting position compared to NGOs.

Another relative strength of non-business cause groups relates to the funding schemes of the EU (Greenwood, 2007; Sanchez-Salgado, 2014). The EU has relatively elaborate funding schemes for interest groups. Well-known funds falling in this category are the Connecting Europe Facility, which receives €2.5 billion for transport, energy and digital services, and Life+, which receives €3.4 billion for environmental policy. These grants are critical for interest organizations in Europe as they support the organizations’ long-term survival and advocacy efforts. While this system benefits certain groups over others, recent research highlights that the funding system does distribute resources among business groups and citizen groups in a proportional manner (Crepaz and Hanegraaff, 2020). At the same time, this likely allows citizen groups to stay active in Brussels, even without a strong membership base. As a result, the overall distribution of interest groups active in the EU does surprisingly not seem to be (as) biased to business groups as is often thought.

As the EU engages in very regular contacts with interest groups and distributes large amounts of money to interest groups, the EC has often been criticized by citizens and (populist) political parties. To counter this critic the EU has created a transparency register (e.g., Balme and Chabanet, 2008, 232; Bunea, 2018; Greenwood and Dreger, 2013). Until 2014 the register was voluntary leading especially business groups to not register. Since 2014 we have

seen a gradual increase of mandatory elements added the register. First registration was needed to apply for funding and when interest groups engaged in contacts with senior members of the EC and the EP. Recently the Commission further increased the mandatory aspects of the lobby register, including more funding to manage the register. With these new additions the EU has one of the most transparent and elaborate lobby registers in the world, but several other regulations, especially related to lobbying the European Council, are less strict than in other parts of the world (Crepaz et al., 2018)

To summarize, interest groups become active in Brussels in a way largely similar to their mobilization in national settings. There are many more business groups active in Brussels than other types of interest groups, but it seems to reflect the nature of the EU policymaking and such mobilization patterns are also routinely found in the national capitals of member states.

### **Strategies: Coping with Varying Political Opportunities**

Interest groups tailor their approach to fit the institutional and policy context in the EU. This is in line with the ‘contextual’ conceptual approach to lobbying (Klüver et al., 2015), which emphasizes the ‘demands’ on the part of policymakers for interest group information, support and engagement. At the same time, important strategic differences arise from the types of interests mobilized and the plausibly related organizational preferences for inside or outside lobbying (Dür and Matteo, 2016), thus emphasizing the ‘supply’ of influence activities on the part of interest groups. Interest group activities are routinely conceived of as the result of an exchange relationship between groups and policy makers (e.g., Bouwen, 2004; Berkhout, 2013; Klüver, 2013). The EU lobby community has already existed for a couple of decades and it is relatively open for new groups to enter. One may therefore assume that competitive pressures work effectively and that supply and demand are, on aggregate, in equilibrium. Strategic behaviour is therefore needed to avoid areas of over-supply of lobby activity and to jump into action when issue-specific demands arise in the policy process.

To start on the side of the ‘supplying’ groups, a common distinction is made between inside and outside lobbying. Inside lobbying refers to the direct contacts of interest groups with policymakers; outside lobbying techniques are indirect ways to influence the political process such as through the media or protest activities. Inside lobbying, for instance, refers to a situation where Facebook CEO Mark Zuckerberg attends the public session of the EP but also ‘inside’ talks to MEPs privately. An example of outside lobbying is the large media campaign initiated by Oxfam to oppose the TTIP agreement between the US and the EU. Studies recurrently find that citizen groups rely more on outside lobbying tactics, while business groups rely more on inside tactics (Dür and Mateo, 2016). The reasons are that business groups organizational repertoire more closely aligns with bureaucracies. The appeals of citizen groups are also more easily connected to public opinion and that citizen groups are in need of visibility due to a more competitive struggle broad-based, open citizen membership than the closed and focussed membership of business groups. Still, it must be noted that the distinction between the use of outside and inside lobbying by business and citizen groups is often not as strong as one may theoretically expect. Many citizen groups in the EU are highly professionalized and their staff highly capable of forging direct ties with key policymakers. Likewise, many business groups make use of the media to influence EU policymaking. It is therefore better to think about the use of inside and outside lobbying as a scale, where business groups slightly favour inside lobbying more than NGOs do.

Secondly, when they are lobbying inside the political system, interest groups tailor their activities on the basis of demands on the part of their lobby targets. Groups decide about their venue shopping strategies, i.e., what political venues to target (e.g., Princen and Kerremans, 2008). Venue shopping in the EU requires groups to find answers to questions such as: will we or our allies target the EP or the European Commission (EC)? Who goes to national governments, and which one among the 27 should be targeted? Or are all these venues targeted together? This also pertains to characteristics of the policy process in terms of policy stage and policy area: some concerns will find a more favourable hearing early on in the policy process whereas others are better addressed at the implementation stage. Similarly, policy-specific sub-communities also substantially vary in the nature of the demand for interest representation (e.g., Broscheid and Coen, 2007). For instance, an environmental NGO concerned about air traffic could present its views in relevant fora on environmental policy but may also, or alternatively, bring in its arguments in policy consultations on state support for airport infrastructure. These are all critical questions as they provide an answer to the question whether political venues are dominated by the same type of organizations, or whether there is strong variation in interest group activity across political venues. For instance, one of such answers is that business is most active at the EC, while NGOs are more active at the EP or in the media. Overall, the literature has not found much evidence for a systematic tendency of certain types of groups to target and access particular institutional venues only; rather similar type of organizations (business and more resourceful groups) are the most active groups across all types of venues, including the EC, the EP and the media (Hanegraaff and Berkhout, 2018). Moreover, interest groups which are domestic ‘winners’, that is, having better access to the national level, are also more likely to gain access at the EU level (Beyers, 2002). As such, lobbying multiple venues is common for interest groups in the EU, but at each political venue, most seats at the table are likely to be already taken by other groups with a well-tailored supply that matches particular institutional demands.

To summarize, EU lobbying takes place in a competitive context. This means that groups need to forge alliances and focus on multiple venues at once. Even with a very elaborate strategic plan, no battle will be easy as foes will likely have a similarly elaborate strategic focus. This makes it tough to have an impact on policymaking in the EU. Yet, some do a better job than others.

### **Influence: Business as Usual?**

Business interest representatives were instrumental to the development of EU. It has been widely documented that large corporations supported political leaders in the 1970s and 1980s in the design of the single market and its legal framework (Eising 2008; Green-Cowles, 1995). For some time, this view on business influence in the EU remained the dominant perspective on the role of interest groups in the EU. Yet, despite this early work on the importance of the business lobby in the formation of the EU, there is not much empirical effort to explicitly map the policy influence of business groups between the 1990s and early 2000s. Organizational mobilization, strategies and access were commonly used as meaningful proxy for interest group influence (e.g., Coen, 1998; Mazey and Richardson, 1993; 1998). More recent studies also note business actors are likely to be relatively influential because they tend to gain more access to policymakers in the EU. For instance, Rasmussen and Carroll (2014) and Coen et al. (2021) find that, at more competitive access points, business groups are the most active and

outnumber citizen groups at a higher rate than at other access points. For instance, on issues such as the European Green Deal or TTIP, the business dominance is the most apparent. Moreover, Berkhout et al. (2018) find that business groups are better represented at the EU institutions once decision-making procedures enters the final stage before a decision is being made.

The number of organizations active at political venues, however, does not necessarily mean they are also more influential. Over the past decade, a more conceptually focussed approach to the study of policy influence has therefore become dominant (Lowery, 2013). The ‘actual’ influence of interest groups in EU policymaking processes, in such decision-making-oriented approaches, is empirically and conceptually based on the extent to which policy preferences of interest groups are reflected in the policy outcomes on particular issues (Klüver, 2013; Dür et al., 2015). Within this burgeoning literature, two main findings stand out. Firstly, in contrast to most access studies, these works find that business groups are not more influential than citizen groups in the EU (Klüver, 2013; Dür et al., 2015; De Bruycker and Beyers, 2019). Klüver (2013) highlights how influence through EU consultations is not decisively affected by the number of business groups or their input in these processes, but rather by the overall strength of the lobby community mobilized for a specific position, irrespective of the groups involved. This is a major insight as it counters the idea that business groups secretly steer the course of action in the EU in conjunction with EU policymakers. Secondly, this finding is confirmed by the INTEREURO project which is by far the largest study on interest group influence in the EU (Beyers et al., 2014). This collaborative project of scholars working in several European universities tracked the influence of interest groups across 70 random EU legislative proposals. The findings, surprisingly, highlight that citizen groups see their preferences more often attained (Dür et al., 2015) and are perceived by policy experts (De Bruycker and Beyers, 2019) as more influential than business groups. One of the reasons for this is that the EU has been for most of its history a distinct economic project with the aim to create a competitive environment for EU business organizations. This has led to a situation where for a long time business actors benefitted the most in the policies developed in the EU. Since then, we have seen that policies of the EC are mostly geared towards making the EU economy more inclusive, fair, and sustainable. Such issues are closer to the preferences of NGOs and labour unions (seemingly) leading them to have a stronger impact on EU policies than ever before.

Furthermore, as De Bruycker (2019) indicates, groups which have the support of public opinion are more likely to see their preferences attained in politics. This pattern especially applies when civil society organizations advocate through the media. In this case, policies tend to be more responsive to fluctuations in public support and citizens are more likely to change their opinion. The findings correspond to studies at the national level, which show that citizen group mobilization strengthens the responsiveness of policies to the public. The way citizen groups are crucial in ensuring ‘thermostatic responsiveness in EU public policy’ (De Bruycker, 2019; Rasmussen et al., 2014).

In short, despite gaining more access than NGOs, the literature on influence highlights that business groups are not more influential in EU lobbying. Rather, depending on the issue at hand, business sometimes wins, while on other issues NGOs see their preferences more frequently attained. Most importantly, we see that NGOs win on issues which receive much media and public attention, while business organizations win more often if issues are very complex and lack media and public attention. This for instance, explains, why NGOs have been so successful on issues related to the environment (e.g., Green Deal) but have been rather

unsuccessful on issues which hardly receive media attention, such as related to pesticides or other chemicals (e.g., REACH directive). Such influence mechanisms are similar to findings elsewhere. Lowery (2013, p. 3) notes that ‘a generation of research effort followed in which it was found that influence was ... quite specific to the issue at hand, highly contingent on the context in which a decision was made, and only loosely related to the bases of power that were the focus of [early] scholars’.

## CONCLUSION

The Brussels-based interest group community co-evolved with the EU’s political and economic development (e.g., Kohler-Koch, 1994). In the early years, business actors clearly profited more from their involvement, which is reflected in legislation broadly beneficial to their needs and desires. Over the past 15 years, this has changed and the lobby community seems more in balance. This is reflected in mobilization, where many different types of interest groups are able to find their way to the various political institutions. It can also be observed in strategies, where different types of groups have professionalized and rely on similar types of strategies. We also see some balance in the final stage, where citizen groups are now found to be equally, or even more, influential than business groups in the EU policy process. Overall, this provides a – perhaps necessary – correction to a past which was likely dominated by the business community.

Looking ahead, some key questions remain open before we posit even stronger claims about the power of interest groups in the EU. First of all, most current studies on interest group influence focus on legislative politics, not on the agenda-setting stage. It could very well be that business actors are more influential in containing the agenda of the EC to their interests. In this view, the wins of citizen groups over the business community are still meaningful, but perhaps not the most vital issues for business too lose. Another issue relates to the times horizon taken. As Dür et al. (2019) argue, one of the main reasons we find little bias in actual lobbying at this point in time, may be that there is not much to win for business groups anymore. As articulated before, the EU business groups were very important for political and economic integration in the early days of the European community. This means that the issues currently discussed in the EU might mostly be corrections of a single market which has perhaps been a bit too responsive to business interests in the past. How such new insights will change our perspective on business lobbying in the EU remains to be seen.

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## 15. Political parties

*Laurie Beaudonnet*

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Political parties are essential actors in representative democracy. They aggregate the preferences of citizens and different groups in society, and defend these different agendas throughout electoral competition, thus enabling citizens to participate and be represented in policymaking at various levels. Elections, and thus parties, provide the link between citizens' preferences and the public policies produced by the system. The building of a European supranational political system, and its specificities, raise the question of how political parties adapt to this new political order and what effect this has on their traditional roles and strategies.

By creating a new level of government and reorganizing interests, European integration has disrupted party systems and the political game, dividing national parties and leading to the creation of European parties that are still maturing. Integration has transformed the political environment in which parties operate, bringing new opportunities but also new public policy challenges that do not fit easily into existing cleavage structures. These changes have produced partisan realignments, internal divisions, new parties. Moreover, structural changes such as the increase in the powers of the European Parliament over the last decades and the recent increase in competition for executive power since 2014 have had a strong impact on the organization and role of parties in the European political system.

In order to review the main developments and debates on these issues, this chapter is structured as follows. First, it offers a theoretical overview of the main debates regarding the organization and roles of political parties within the European political system. Second, it provides a historical overview of the Europeanization of parties, focusing on key moments and factors in the process. Third, it addresses the two most important developments over the recent years: why do European parties fail to fulfil their full function (representation and government), and how the electoral success of Eurosceptic parties has impacted the political game. Fourth, it evaluates the effects of the recent increase in political competition (with the *Spitzenkandidaten* process, see Costa's chapter) and the impacts of Eurosceptic parties on the political system. The chapter then ends with concluding remarks.

### OVERVIEW OF THE MAIN THEORETICAL DEBATES: EUROPEANIZATION OF PARTIES AND POLITICAL COMPETITION

Studies of European political parties have traditionally focused on three vast research questions: the role of parties in the EU, the impact on integration on existing party systems, and the actual function of European parties.

## Parties and Democracy at the European Level

Political parties play a central role in structuring the legislative and executive process to ensure political stability, representation of citizens in institutions and accountability of political staff to voters. They form the basic structure of political competition at local, sub-national and national levels. It was therefore expected that they played a predominant role in the political competition in the European Parliament (Lord, 2002). As early as the 1960s, integration theorists were keen to show the importance of political parties in the emerging European political system. The neo-functional movement, in particular Haas (1958) and Lindberg and Scheingold (1970), identified political parties as one of the (future) engines of integration. For this school of thought, which recognizes the pluralistic nature of the political game (decision-making is the result of a competition between different actors such as institutions and groups representing different interests and values), the key actors in this mechanism are not the states, but non-state actors defending specific interests, such as economic interest groups or political parties. European integration, by creating a supranational level of political decision-making, opens new windows of opportunity for political parties to defend the interests and promote the values of their electorates at the European level. Since 1979 (with the introduction of elections to the European Parliament by direct universal suffrage), political parties have been directly involved in electoral competition on a pan-European basis and are thus called upon to become Europeanized.

From the 1990s onwards, because of the constitutional recognition of parties by the Maastricht Treaty (article 138 A) and the new co-legislative functions of the European Parliament, the focus of the literature shifted to the emergence of Europarties and the behaviour of elected representatives and political groups in the European legislative arena (Hix and Lord, 1997; Raunio, 1997; Costa, 2002). The Lisbon Treaty emphasizes further their importance as vehicle of the citizens' will (article 8 A). This debate has also developed over the recent years with the electoral rise of Eurosceptic parties.

## The Impact of European Integration on Party Systems

After the recognition of the parties' importance in European integration, scholarship have looked at the relationship from the reverse angle, asking to what extent integration has triggered the formation of European parties and impacted national partisan systems. Has integration Europeanized political parties and systems? Europeanization, as defined by Radaelli (2002), is the process by which the economic, social and political dynamics of the EU are incorporated into domestic logics of discourse, identities, political structures and public policies. Applied to political parties, it is a question of how the EU, as an environment that offers possibilities for rapprochement between parties from different member states, influences the organization of political parties, their structures of opportunity, their interaction, constrains their ideological positioning and impacts electoral competition (Ladrech, 2002; Poguntke *et al.*, 2007). The overall picture emerging from these studies is a still maturing transnational system. Since 1979, MEPs, elected on national lists, have sat in political groups, according to their partisan preferences and not their geographical affiliation. Studies have been focusing on how much these political group are cohesive (in terms of ideological positions on the left-right axis, and on the pro-anti EU dimension), how parties do campaign during European elections and on the emergence of genuine European parties. Attention has been on how the evolutions

of the EU (enlargements, institutional changes, and Treaty modifications) have impacted political parties positioning and competition.

### **The Functions of Political Parties in the EU**

In the 2000s, the growing debate on the democratic deficit of the European political system have led scholars of political parties and European Parliament to investigate the functions exercised by political parties at the European level. Applying the criteria of representative democracy in European states to the EU political system, political parties are indeed expected to perform two functions: the function of government and the function of representation. The first implies that the parties exercise full control over the European executive, through the European Parliament; the second implies that they represent the European citizens in the legislative assembly itself. In short, it is about allowing citizens to elect their representatives and holding them accountable for their legislative action and executive, with elections also serving to ensure consistency between the preferences of citizens and elites (Lord, 2002; Mair and Thomassen, 2010). But the European Commission, which has the executive power, is not directly elected by citizens and does not only reflect the partisan equilibrium of the European Parliament. So, both functions (government and representation) are disconnected. The task division between the Commission, the EU Council and the Parliament means that parties, represented in the Parliament but also in the Council, cannot control the political agenda, since this is only possible if one political group dominates all three institutions (Lindberg *et al.*, 2008). In the European Parliament, parties thus mainly perform a representative function, in contrast to the national level where they hold both functions.

The function of representation is in fact twofold: it is a matter of parties making their voters' voices heard (representing them in the legislative arena) but it is also necessary that the policy choices, i.e., voted legislation, reflect voters' preferences. There is therefore a large scholarship that looks at the ideological and programmatic coherence of parliamentary groups in the European Parliament, focusing on voting behaviour within the European parliament, and the matching of policy choices and voters' preferences (Hix *et al.*, 2007; Carrubba *et al.*, 2006; Rozenberg, 2009).

## **MAIN HISTORICAL DEVELOPMENTS: A WEAKLY STRUCTURED PARTY SYSTEM AND A DISRUPTING EFFECT ON NATIONAL COMPETITION**

Over time, the effects of European integration on political parties (in another way: their Europeanization) have been threefold: a weak structuring effect on political systems at the European level; a limited effect on national party systems; and a disrupting effect on national political competition.

### **Weak Europarties but steady and relatively cohesive political groups**

From the beginning of the European project national political parties organized their European cooperation based on common socio-political roots and ideological proximity rather than nationality. This compatibility was made possible by a similar cleavage structure that gave

Western political systems their present form (Lipset and Rokkan, 1967). In its first five decades, the European party system was an effective device for integrating new members into a minimalist partisan structure, i.e., political groups. Over the following decades, enlargements, and electoral success of additional political families such as communists and ecological parties, increased the diversity within the European Parliament. The creation of pan-European parties took longer. Following the constitutional recognition of European political parties in the Maastricht Treaty, transnational federations became actual European parties (Europarties) throughout the 1990s. The institutionalization of the Europarties reached a new stage after the Commission authorized their funding by the EU in 2003, and efforts for pan-European campaigns started. However, due to geographical diversity and the organization of electoral competition at the national level, European parties are characterized by weak structuring and high internal party heterogeneity. Scholars have focused more on political groups, where internal political cohesion (measured by voting discipline for instance) is usually stronger than nationality cohesion and has been increasing over time, although national interest and national elections can temporally reduce it. Ideological coherence also varies depending on the group, with the Greens being the most coherent group, both on left-right and pro-anti integration dimensions, and radical groups being much more diverse (Raunio, 1997; Hix *et al.*, 2007; Koop *et al.*, 2017; Kritzinger *et al.*, 2020).

### **A Limited Effect on National Party Systems**

From the 2000s onwards, studies have focused on explaining how national parties adapted to the EU in the national arena (Mair, 2000; Poguntke *et al.*, 2007; Hanley, 2008). While European elections provide opportunities for new parties, very few manage to survive in the national arena, i.e., beyond the next national election. Two exceptions are the United Kingdom Independence Party (UKIP), founded in 1991 and advocating the UK's exit from the EU, and the German party *Alternative für Deutschland* (AfD), founded in 2013, advocating Germany's exit from the Euro zone and quickly transitioning to strongly Eurosceptic and anti-immigration positions, and reaching 10 per cent of the votes in national and European elections. UKIP reached 27.5 per cent of the votes in the 2014 European elections and was a key player in the 2016 Brexit referendum.

In contrast, the influence of the EU is more evident in Central and Eastern Europe. Throughout the 1990s, EU accession (democratization and market economy) has strongly structured the political life and party systems of post-communist democracies. Europarties and European political groups have provided elements of standardization and identification to the then-emerging post-communist CEE partis (Pridham, 2001; Lewis and Mansfeldová, 2006).

### **How the European Issue Disrupts Political Competition**

The work of Lipset and Rokkan (1967) has given rise to a flourishing tradition of work on the broad divisions (cleavages) that organize interests and values in societies and around which political parties have been created and party systems crystallized in Europe (Hooghe and Marks, 2018). The impact of European integration on parties can therefore be measured in terms of party re-alignment on the pro/anti-integration dimension and alteration of electoral competition. According to Hix and Lord (1997), integration has produced a new territorial cleavage, pitting the centre against the periphery, the preservation of national identity and

resources against their erasure in favour of other member states or a supranational system. The positioning of parties on the European issue is therefore independent of their positioning on the left-right axis. When the political space is organized by combining the left-right axis with a pro-anti-EU axis, the political parties are distributed in an inverted U-shape: parties on the far left and far right are Eurosceptic, while those in the middle of the axis (social democrats, Christian democrats, liberals and conservatives) support, to varying degrees, European integration (Hooghe *et al.*, 2002).

The fact that the European issue does not easily fit into the left-right dimension, the basic structuring of party systems, is a source of difficulty for political parties. Parties structure political competition by highlighting issues that are favourable to them and ignoring others. They thus make strategic use of the European issue, either minimizing it when it is a factor of internal conflict or investing in it when it allows them to position themselves effectively against other parties, to achieve an elective goal or to maintain party cohesion. Studies show that, while references to Europe in political programmes increase over time, there is a pro-integration convergence and a consensual discourse of government parties on it. On the contrary, challenger parties use it as electoral advantage, especially when public opinion is highly polarized on the issue, in turn forcing government parties to position themselves on the issue, even if it is not to their advantage (Williams and Spoon, 2015; Belot, Cautrès and Strudel, 2013; Petithomme, 2015; de Vries and Hobolt, 2020).

## MAIN CONTEMPORARY CHALLENGES: REPRESENTATION, POLITICAL COMPETITION AND EUROSCEPTIC PARTIES

Over recent years, the difficulty of parties to adapt to the new European issue has produced two main challenges: imperfect representation and the rise of Eurosceptic parties and the challenges.

### **Representation, Political Competition and European Democracy**

First, parties tend to compete for European elections on a left-right divide and organize themselves in the European Parliament according to the same dimension. As voters themselves vote mainly along a left-right axis, one can argue that the organization of MEPs into parliamentary groups allows them to properly represent their constituents (Mair and Thomassen, 2010). However, the same cannot be said of their representation on issues related to European integration. Indeed, the positions of MEPs on integration are much more distant from those of their electorates. On average, the parties have a more favourable position on the EU than their base and the Western government parties do not manage to propose a sufficiently diversified offer on European policy issues and to respond to the rise of Euroscepticism in public opinion. In contrast, Eastern parties, due to the greater salience of the European issue in the new member states, have more varied and changing positions in line with public opinion, providing a better representation of their electorates (Mattila and Raunio, 2012; Rohrschneider and Whitefield, 2010).

The Great Recession from 2010 onwards has considerably aggravated the problem, particularly in countries most affected, like Greece, Spain, Italy. While the European issue has been increasingly politicized and has produced political conflict among public opinions throughout

Europe, it has become more and more difficult for parties to offer differentiated proposals on European integration to their electorates and to address the citizens' growing discontent (Börzel and Risse, 2018; Hutter and Kriesi, 2019).

While public debate has become more polarized over time on the EU, the same cannot be said from political game in the European Parliament. Due to the functioning of this institution, it is indeed difficult to see a political game that allows for partisan changeover and clear relations between elected officials and the political outcomes of the legislature (Rozenberg, 2009). First, institutional operating mode favours inter-group negotiation and consensus to guarantee a unitary position vis-à-vis other institutional actors, in particular the EU Council (Ringe, 2009). The issues debated are mostly considered secondary by voters, which encourages elected representatives to favour an institutional rather than a partisan logic. When visibility is limited, the motivation of MEPs to respect their commitments and to vote in accordance with their electoral programme decreases significantly. This contributes to isolating them from their constituents (Arnold and Sapir, 2013; Klüver and Spoon, 2015). The practices of consensus, super-majorities (the two main political groups have shared the rotating presidency of the institution since 1979) and shifting coalitions, contribute to low accountability. As European elections are not conducted based on these coalitions, this practice greatly reduces the ability of voters to hold their elected representatives accountable.

Second, in the absence of competition for an executive mandate, European elections are considered 'second-order elections' for the parties themselves, so manifestos and issues put forward during the campaigns remain very much determined by national electoral situations and timetables, thus contributing to a vote on national and non-European issues. Characterized by low turnout and the use of protest voting, European elections are generally more favourable to small and opposition parties than to governing parties. This reinforces national logics, encouraging government parties not to campaign on European issues, which are often divisive for them, and opposition parties to nationalise the election to maximise the national impact of their score (Reif and Schmitt, 1980; Marsh, 2020).

Therefore, the insularity of MEPs and the centrality of national parties allow the Parliament to function effectively as a legislator, but at the cost of limited citizen representation.

### **The Rise of Eurosceptic Parties**

This difficulty for mainstream parties to embrace the European issue and to position themselves on the different aspects of EU policies not only increases their weakness in terms of representation of the electorate, but also in terms of structuring the public debate and party competition. These difficulties therefore primarily favour strongly Eurosceptic parties for whom the European issue becomes an element of distinction and a lever of opposition (Statham and Koopmans, 2009; Helbling *et al.*, 2010). Already in 2007, Mair had noted that the EU as a weakly politicized political system did not provide any room for an internally organized opposition and that the opposition could therefore only be structured as a principled opposition, a hard Euroscepticism. This lack of opposition, combined with the constraints on national politics, considerably weakens parties and democracy. The consequences for national party systems are obvious: elections have produced major and lasting changes, permanently diminishing centre-left and centre-right parties in government, while enshrining new radical and Eurosceptic forces such as Podemos in Spain, the Five Star Movement in Italy, *Reconquête!* In France, or existing ones such as *Syriza* in Greece, Vox in Spain, or the

*Rassemblement National* (ex-Front National) in France. Over the past decade, Eurosceptic parties have largely strengthened their positions, with several such as the Danish People's Party, UKIP (pre-Brexit) and the *Rassemblement National* in France coming out on top, with similar successes at national or regional level (over 25 per cent of votes cast). The 2014–19 legislature had the highest share of parties critical or hostile to the EU since the first European elections in 1979: 23 per cent of MEPs belonged to parties labelled as Eurosceptic (soft or hard). The 2019 elections strengthened the extreme right Eurosceptic parties, allowing ID ('Identity and Democracy' group) to increase its presence from 33 to 73 seats, although the Europe of Freedom and Direct Democracy (EEFDD) was not able to form again.

This is the result of several dynamics. First, as mentioned above, parties play a central role in formulating national visions of integration, its benefits and disadvantages, through political programmes and speeches. Challenger parties have thus been particularly active at using the European issue as a distinctive feature, while pushing mainstream parties to position themselves on it and adopt more anti-EU stances (Green-Pedersen, 2012; Meijers, 2017; de Vries and Hobolt, 2020). Second, the economic crisis and the refugee crisis have both increased the salience of the European issue and the immigration one, allowing Eurosceptic parties to strengthen their advantage with voters. Growing Euroscepticism and anti-immigration attitudes in public opinions have been linked to increased radical voting (Werts *et al.*, 2013; Beaudonnet and Gomez, 2017).

## RECENT EVOLUTIONS: WHAT DOES INCREASED POLITICAL COMPETITION PRODUCE?

As a response to the lack of political competition on European issue and the rise of Eurosceptic parties, institutions have adapted by initiating competition for European political leadership and informal practices to isolate Eurosceptic parties.

### **A Modest Increase in Political Competition**

While it has been highlighted that electoral competition for the executive was lacking at the EU level, the 2014 European election marks a tipping point by introducing a Europe-wide competition for political leadership with European parties being invited to have lead-candidate to the Presidency of the European Commission (*Spitzenkandidaten*). This measure aimed at strengthening the legitimacy of the Commission by tying it more closely to the outcome of the parliamentary election and to transform European elections in first-order competition. For the first time, five out of seven Europarties had a common candidate in all 28 states. The process concluded with the candidate of the winning EPP, Jean-Claude Juncker, becoming President of the European Commission, despite the opposition of the European Council to the process.

While it strengthened the position of the European Parliament as an institution and increased the legitimacy of the Commission, the effects in terms of the Europeanization of campaigns, but also in terms of citizens' participation, were quite mixed. The procedure did not generate an increase in interest, participation or an improvement in the perception of the EU for citizens (Schmitt *et al.*, 2015; Dinan, 2015). The model was reproduced for the 2019 elections with even less success. European parties nominated their lead candidates, but the EPP's candidate, Manfred Weber, could not secure a large enough majority in the Parliament and was soon short

of support in the European Council as well (Kritzinger *et al.*, 2020; Costa, 2020; Wolfs *et al.*, 2020). The process ended with the European Parliament electing the alternative EPP candidate of the Council, Ursula von der Leyen, who was EPP but not the lead candidate.

While the competition for executive office did not produce the expected outcome in institutional terms, political competition was, without a doubt, higher than usual, and raised awareness on these elections. Additionally, the shadow of Brexit and the predictions for high radical right vote shares explain the increase in salience and turnout. Indeed, the 2019 elections stand out with an increased turnout, 50.5 per cent (the highest participation rate in 20 years). Maier *et al.* (2021) shows that parties do cover European issues as much as national and regional ones, and that government parties do not silence these issues anymore. This increased coverage has in turn increased citizens' interest and knowledge about the campaign and the European issue in several countries (Kritzinger *et al.*, 2020). The second-order election model appears to be fading (Marsh, 2020).

### **Eurosceptic Parties in the European Parliament and Political Re-alignment**

The 2014 and 2019 European elections stand out for the large electoral success of Eurosceptic parties, particularly extreme right ones. This recent evolution raises two questions: the functioning of the European Parliament, and the potential re-alignment of political parties along the pro-anti EU dimension. As of the first, there has been a clear strengthening of extreme right parties in the European political space and a mainstreaming of Euroscepticism in European institutions (Treib, 2021). While Eurosceptic parties are not a homogeneous groups and Eurosceptic MEPs have different strategies and objectives (Brack 2018), extreme right parties are the ones with the most principled anti-EU stances. As such, scholars have been investigating the impact of having consolidated political groups like the EEFDD and ID in the Parliament. While these parties are very vocal in plenary sessions and on social media, and use these arenas to galvanize supporters, their impact on the actual policymaking is much more limited. Other parties and political groups have used formal rules and informal practices to isolate extreme right MEPs, establishing a *cordon sanitaire* in committees among other things (McDonnell and Werner, 2019; Kantola and Miller, 2021). In addition, the Eurosceptic Identity and Democracy group, with 73 seats (10 per cent of the votes), does not represent a blocking minority in itself, and Eurosceptic parties, from the left or the right, are too heterogeneous to produce a cohesive majority.

Beyond the increased presence of Eurosceptic parties in the Parliament, the 2019 elections have shifted ideological equilibrium, with the decline of traditional parties, the rise of liberal democrats and green parties. For the first time in EP history, the two centre-right and centre-left political groups lost the absolute majority. Although the left-right dimension remains the main dimension for party groups to organize, politicization of the European issue and increased political competition appears to have strengthen the pro-anti Europe dimension among parties. The rise of RENEW (ex-ALDE) with a gain of 33 seats and a strengthening of its pro-integration stance, but also the success of the Greens (25 additional seats) reinforces the likelihood of a pro-integration coalition (Kritzinger *et al.*, 2020).

## CONCLUSION

European integration has transformed the political environment in which parties operate, creating new opportunities but also new policy issues that do not fit easily into existing cleavages. First, ideological similarities between the major party families have allowed most of them to organize as Europarties and to form coherent political groups in the European Parliament. The system remains however characterized by the weight of national parties and a lack of political competition. Europarties are still maturing and are characterized by greater ideological diversity than their national counterparts. As for their roles, the institutional division of powers (between the Commission, the Council of the EU and the Parliament) within the European political system prevent parties from exercising governing functions. Furthermore, parties only partially exercise their representative function due to the consensual functioning of the Parliament and to the predominance of national parties, caught up in national partisan logics.

The literature on party Europeanization has long identified the missing element in this relationship. Competition for an executive mandate at the European level is necessary to motivate political parties to organize themselves in truly supranational parties. In the absence of such control over the executive function, parties do not have a goal for campaigning in European elections on other issues than national ones. While the race for the head of European commission, was designed to fill this gap, neither the 2014 edition nor the 2019 one fulfilled the objective. On the one hand, the *Spitzenkandidaten* process have led to an increase in awareness among citizens, and more coordination among parties, but with very limited effect. On the other, internal institutional logics simply got the better of the process in 2019 and excluded parties, resulting in the election of an external candidate as head of the Commission.

Finally, integration is a major challenge for parties at the national level. The left/right dimension has structured political competition for decades. Mainstream parties rarely have an interest in positioning themselves on new issues. Accordingly, Christian Democrats, Social Democrats and Liberals have chosen to depoliticize the European issue in both national and European competition to minimize internal conflicts and preserve the European project. On the other hand, challenger parties, especially radical ones, have made the European issue a central one, defending a principled opposition in the name of national sovereignty for the far-right parties, motivated by economic considerations for the far-left parties. Until the 2010s, this positioning earned them growing but limited success in the national and European arenas. The economic crisis, the migrant crisis and Brexit have reshuffled the deck by dramatically politicizing the EU. Echoing and stirring a growing discontent among some layers of public opinions, these parties have secured unprecedented electoral gains and more structured representation in the European Parliament. Beyond that, challenger parties and dissatisfied citizens have forced mainstream parties to address more openly the European issue to limit electoral losses. The 2019 elections, with higher coverage of European issues and increased turnout, confirmed this trend.

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## 16. Citizens

*Virginie Van Ingelgom*

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While for a long time European citizens' support for and opposition to European integration and in particular their potential Euroscepticism were thought of as a marginal phenomenon that could be overlooked, citizens' reactions towards European integration have attracted a good deal of attention from social scientists over the last decades (Duchesne et al., 2013; Hobolt and de Vries, 2016). Work conducted by researchers in the academic field of European studies has partly been inspired by the search for ways to solve Europe's so-called 'democratic deficit' (see Liebert and Nicolaïdis' chapter). Indeed, the many 'crises' the EU has faced over the past decades – political, economic, 'migratory', and now sanitary – have put its legitimacy into question and brought citizens' relationships to the process of European integration into the spotlights. Thus, public opinions and Euroscepticism are increasingly at the heart of both public and scholarly debates on European integration.

This chapter will focus on presenting the literature dealing with Europeans' support for European integration and more recently with their Euroscepticism. It will first detail the evolution of the research on public support for and opposition to European integration by stressing how this strand of the literature has been driven by political events, theoretical trends in EU studies as well as data availability (Ray, 2006; Van Ingelgom, 2014). On the heels of the increasing politicization of the EU and the growing interest in understanding citizens' attitudes that goes with, a well-established literature focuses on the conceptualization and causes of support for and opposition to European integration (de Vries and Hobolt, 2016). In a second section, this chapter thus addresses main approaches dealing with the explanation of public support and Euroscepticism: utilitarian, identity-based and cues approaches. In a third section, this chapter aims to introduce readers to the main contemporary challenges and development in public opinions studies. The chapter illuminates that although a growing literature has sought to explain individual support for European integration, more work is needed to understand the ways in which citizens' attitudes are shaped by their national and social context. Moreover, this section suggests that citizens' reactions to European integration cannot be reduced exclusively to either a rise in Euroscepticism or a declining support for European integration, but that indifference and ambivalence need also to be brought into the picture. This chapter offers also a comprehensive review on the existing quantitative and qualitative literature in the field and opens up new perspectives on attitudes towards European integration. In particular, the conclusion reflects on how increasing public contestation of the EU poses a challenge to, and an opportunity for, the future of European integration.

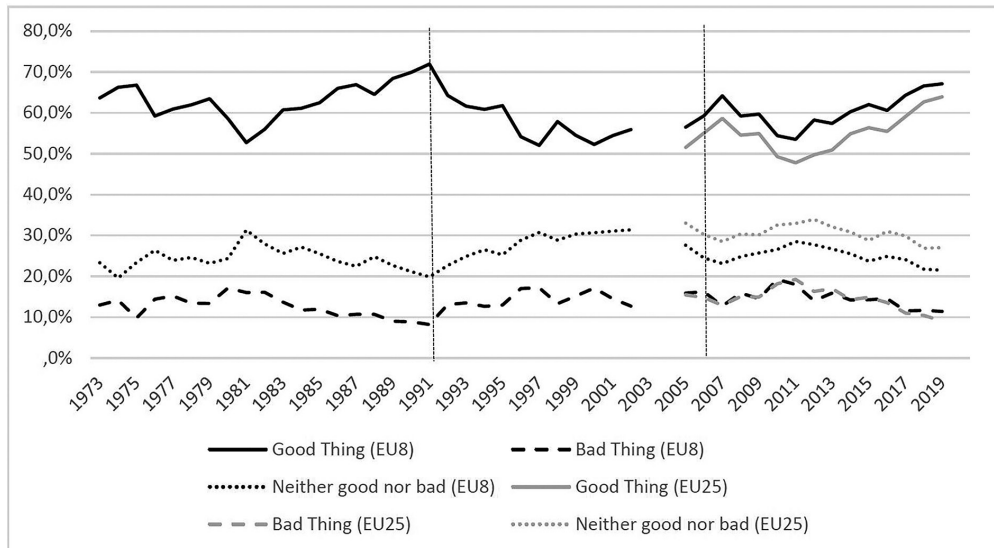
### MAIN DEVELOPMENTS IN THE STUDY OF CITIZENS' ATTITUDES TOWARDS EUROPEAN INTEGRATION

When reviewing research on citizens' attitudes towards European integration, three main periods are distinguished classically: from the 1970s to the ratification of the Maastricht

Treaty; from 1992 to the failure of the European Constitution in 2005; and from then on. This distinction by itself underlines how this strand of the literature has been driven by political events, but also as this section will highlight by theoretical trends in EU studies as well as data availability.

### **The Permissive Consensus: The European Citizen as a ‘Shadow Citizen’**

Although the question of public support for European integration appears to be fundamental to any current investigation of the legitimacy of the integration process and its future, this has not always been the case. A classic illustration is the functionalist approach, most clearly identified with Ernst Haas who wrote: ‘It is impracticable and unnecessary to have recourse to general public opinion and attitude surveys ... it suffices to single out and define political elites in the participating countries, to study their reactions to integration and to assess changes in attitude on their part’ (Haas, 1958: 17). In a context in which most early theories of integration assigned a minor role to citizens (Van Ingelgom, 2014; see Foret’s chapter in this volume), the first direct elections to the European Parliament provided justification that public opinion was a topic worth public and scientific interest (Ray, 2006). The co-occurring development of the Eurobarometer surveys, funded by the European Commission since 1973 for monitoring the evolution of public opinion in the member states, marks the beginning of a first period in the analysis of public opinions. Analyses of attitudes to integration from the 1970s up to the turn of the century share common characteristics. First, as Eurobarometer surveys came to constitute an invaluable source of data for European public opinion researchers, all the more for being freely available to academics, survey research became quickly dominant in the field from then on. Second, the analyses of citizens’ attitudes were mainly based on an analytical framework inspired by Easton (1965, 1975). Easton developed the concept of ‘support’ as a key element that permits the political system to perform its function of satisfying demands and thus to persist. In EU studies, support for European integration generally refers to the general approval of EU membership and European unification (Hooghe and Marks, 2004, 2005; Hobolt and de Vries, 2016; and see Figure 16.1 below). Basically, Easton distinguishes two categories of support. Specific support is generated by satisfaction with outputs, that is by the capacity of the political system to provide citizens with what they want. Diffuse support refers to the more general evaluation of what the political system represents for citizens. Lindberg and Scheingold (1970) imported Easton’s framework in European studies and adapted it in order to account for the distribution of attitudes towards the new European communities – they distinguished utilitarian from affective support, a terminology that is still commonly used. Empirically, Lindberg and Scheingold observed that in the Eurobarometer series the level of negative attitudes towards integration was quite low, that positive attitudes dominated, but that there was a large remaining number of indefinite answers. They successfully labelled this distribution ‘permissive consensus’, and predicted that support could grow and become more consistent because of a spill over effect from specific (or utilitarian), to diffuse (or affective) support. The model was thus inspired by and contributed to the ongoing theoretical debates and their theoretical framework dominated European studies for a long time.



Notes: The item used in this figure is referred to as EU regime support and asks respondents if their country's membership of the EU is a 'good thing', a 'bad thing' or 'neither good nor bad'. EU8 = Belgium, France, Germany, Great-Britain, Ireland, Italy, the Netherlands, and Spain. EU25 = see Figure 16.2.

Figure 16.1 Support for EU membership, 1973–2019

### The Decline in Support: The European Citizen Joins the Dance

By the beginning of the 1990s, support for integration seemed to be in decline, as far as Eurobarometer data suggests (see Figure 16.1). The contested results of the referenda organized for the ratification of the Maastricht Treaty was interpreted as a confirmation that no spill over had occurred and that the 'permissive consensus' was falling apart. Empirically, the research at that time focuses on the actual relationship between evaluations of outputs – policies, laws, administration, by the EU institutions – and support for integration. This strand of the literature, largely influenced by Gabel (Gabel and Palmer, 1995; Gabel, 1998) considers that individual attitudes to European integration do depend on rational calculation, where citizens evaluate costs and the benefits they can expect. While he and others reacted to the failure of the spill over thesis by intensifying research on economic and utilitarian evaluations of the EU, others by contrast went on to investigate more closely the affective dimension, and to look for any sign of a European identity in the making.

The Maastricht Treaty introduced European citizenship, so was considered to intensify the direct relationship between citizens and the EU. To begin with, attitudes in favour of the EU were expected to conflict with former national allegiances. A series of works supporting the thesis of a growing antagonism between support for European integration and national identities were published in the second half of the 1990s. However, contradicting this strand of the literature, most analysts have come to support the thesis of a partially cumulative relationship between national and European identities at the level of the individual. This strand of the literature suggests diverse explanatory models in order to account for this partial overlap. Some focus on the way different levels of identification interact, as in 'nested identity theory'

(Díez Medrano and Gutierrez, 2001), the ‘marble cake’ metaphor (Risse, 2003), or the notion of ‘plural identity’ (Citrin and Sides, 2004). Others presuppose the multidimensionality of the notion of territorial identity itself distinguishing between evaluative and affective identities (Schild, 2001) or opposing civic versus cultural dimensions of territorial identity (Bruter, 2004, 2005), or distinguishing earlier on between a sociological and a political dimension of both national and European identification (Duchesne and Frogner, 1995, 2008). Because identity is a subtle notion and because of the complexity of the relationship between national and European senses of belonging, more and more questions were posed in Eurobarometer surveys, and an increasing number of researchers turned also to alternative methods, in particular qualitative methods (e.g., Díez Medrano, 2003; Meinhof, 2004). Thus, by the end of the twentieth century, European studies had broken out of the framework of spill over; research was focusing on Europeans’ support for integration in two dimensions: utilitarianism and outputs on one hand, affect and identity on the other; and the field has begun to open timidly to new methodologies.

### **Eurosceptic Citizens: An Interrogation in Terms of Lack of Support**

The unexpected failure of the referenda on the Constitutional Treaty in France and the Netherlands then opened the way to new research questions. The thesis of the growth of Euroscepticism, although mentioned from the mid-1990s as a corollary to the end of the permissive consensus, received more attention from the beginning of the twenty-first century. Following Taggart and Szczeciński (2003), who distinguish between hard and soft Euroscepticism – rejection of integration as a whole versus opposition to certain aspects of it, especially policy related ones – the notion of Euroscepticism covers a wide range of critical positions of European publics (Franklin, Marsch and McLaren, 1994; De Vries and Van Kersbergen, 2007; Wessels, 2007; Fuchs, Magni-Berton and Roger, 2009).

Whereas the analysis of public attitudes towards integration was, over the previous decades, mainly dedicated to the explanation of support, subsequently it focused on the logics of rejection. Substantially, though, the two are closely related, as Euroscepticism is often defined as lack of support. Empirically, support and Euroscepticism are considered as the two ends of one continuum. Moreover, the Eastonian model remains influential (Wessels, 2007). Thus, the change of focus from support for integration to Euroscepticism is more a reflection of the transformation of the political context than a paradigmatic change in European public opinion studies. Explanations of the growth of Euroscepticism emphasize citizens’ lack of knowledge of the EU and the integration process (Karp, Banducci and Bowler, 2003). Following Anderson who suggested earlier that it is important to consider satisfaction with democracy and policy performance at the national level when analysing support for integration (Anderson, 1998), scholars now emphasize the consequences of dissatisfaction with national democracy, and fears related to the future of national identity and symbols (Carey, 2002; McLaren, 2007). The way negative evaluations of personal benefits influence Eurosceptic attitudes is also documented in great detail (McLaren, 2007).

Theoretically, Hooghe and Marks close the circle, suggesting, within the framework of post functionalism, that the EU has entered an era of ‘constraining dissensus’ (Hooghe and Marks, 2009; see Saurugger’s chapter in this volume). According to them, the EU’s growing visibility, in particular through the successive debates on the Treaties (Maastricht, Amsterdam, Nice, Luxembourg) has polarized public opinion regarding the integration process. More

importantly, resistance to European integration has been institutionalized by political parties and ‘the decisive change is that the elite has had to make room for a more Eurosceptical public’ (Hooghe and Marks, 2009: 9). The debate was reflected empirically in the more and more widespread thesis of the polarization of European publics. The polarization of opinions, mobilized by the parties, now constrains governing elites who have lost the consensual support that accompanied the first decades of European integration. This constraint might impact on the speed, the depth, the range and the borders of integration as well as its mere existence, as recently illustrated by the Brexit.

## MAIN PERSPECTIVES: UTILITARIAN CONCERNS, IDENTITY-BASED, AND CUE-TAKING AND BENCHMARKING

Over the last decades, European studies have accumulated a solid knowledge of factors that influence support and rejection at the individual level. Due to data availability, support has been mainly measured thanks to series of questions (called trend questions) asked regularly in all Eurobarometer surveys, allowing for systematic and comparative diachronic analysis. Most of the literature on public support and Euroscepticism has focused on EU regime support as a dependent variable (Figure 16.1) and less frequently on other dimensions of support such as support for the euro (Hobolt and Wratil, 2015; Versailles and Van Ingelgom, 2018; Negri, Nicoli, and Kuhn, 2021), the European economic governance (Kuhn and Stoeckel, 2014) or European social policies and European solidarity (Baute, Abst and Meuleman, 2019; Beaudonnet, 2013; Verhaegen, 2018) or affective support through the study of European identity (Kuhn, 2015; Quintelier, Verhaegen and Hooghe, 2014). Different strands of the literature – utilitarian concerns, identity-based, and cue-taking and benchmarking – have been crucially important to account for public support for the EU and Euroscepticism (Hobolt and De Vries, 2016). Recent accounts of individual-level Euroscepticism in relation to the 2016 Brexit referendum reflect this distinction (Hobolt, 2016; Curtice, 2017; De Vries, 2018; Carreras, Carreras, and Bowler, 2019; see Martill’s chapter).

### The Utilitarian Explanations

First, the literature on utilitarian explanations based on a cost-benefit analysis as a driver of support or Euroscepticism argues that citizens’ support for the EU is conditional on whether they think their country’s membership serves their economic interest. At the macro-level, the utilitarian model suggests that Euroscepticism thrives in countries that do not benefit economically from European integration (Hobolt and De Vries, 2016). At the individual level, the basic proposition of the utilitarian approach is that since European trade liberalization favours citizens with higher levels of human capital (education and occupational skills) and income, such individuals will be more supportive of European integration (Gabel 1998; Gabel and Palmer 1995). Thus, the most influential utilitarian approach has been to infer the likely consequences of European integration in terms of support or rejection from the social characteristics of citizens (Ray, 2006). A major point of consensus in the literature is indeed the strong influence of social class and education on citizens’ opinions regarding the EU (Fligstein, 2008). These factors are obviously related to each other, but their effects also reinforce each other. Moreover, political interest and sophistication also seem to play a role: with similar levels of

educational qualification, citizens interested in politics are more likely to support integration than are their uninterested counterparts. In recent year, this approach has been incorporated by the thesis of the winners and losers of European integration and more broadly of globalization. The ‘winners’ – the young, well-educated professionals in urban centres – favour more open borders, immigration and international co-operation, whereas the ‘left behind’ – the working class, less educated and the older – oppose such openness (Hobolt, 2016).

### **The Identity-based Approaches**

Another fundamental approach has studied the impact of identity on public support and Euroscepticism. Analyses have shown that identity-based explanations are as pertinent as utilitarian factors (Carey, 2002; Hooghe and Marks, 2005). Citizens’ attachment to their nations and their perceptions of other cultures influence their support or rejection of European integration. In particular, the relationship between national and European identities has been the focus on a consequent part of the existing literature. Carey and McLaren (Carey, 2002, McLaren, 2007) have argued that these identities are conflictual, that is, a strong identification with one’s own national community prevents support for European integration. The assumption of a – growing – antagonism between support for European integration and national identities justifies the use of national identity as predictor of Euroscepticism. In their influential work, Hooghe and Marks pointed to the role of exclusive national identity in generating opposition to the EU membership – citizens conceiving their national identity as exclusive of other identities being more likely to be Eurosceptic than those with multiple identities (Hooghe and Marks, 2005). The potential role played by citizens’ identities in explaining the Brexit vote was also recently emphasized. Curtice demonstrates how concerns about the cultural consequence of EU membership were widespread and underpin citizens’ Euroscepticism (2016: 209), while other studies demonstrate that the relationship between citizens’ feelings of exclusive identity and the Leave vote shares was rather weak (De Vries, 2018; Vasiloupoulou, 2016).

Because identity is a subtle notion and because of the complexity of the relationship between national and European senses of belonging, an increasing number of researchers turned to alternative methods and approaches – in particular qualitative methods but also survey experiment (Bruter, 2005; Díez Medrano, 2003; Meinhof, 2004; see Joltreau and Smith’s chapter, and Bonnamy and Canihac’s chapter). In this regard, the first influential book on attitudes towards integration based on a qualitative research project is *Framing Europe* (Díez Medrano, 2003). Combining analysis of press publication, public speeches, and books, with a large number of interviews with citizens and local elites in Spain, Germany and the UK, and with secondary analysis of Eurobarometer data, Díez Medrano offers the first in-depth investigation into the black box that holds the long-term strong influence of nationality on citizens’ attitudes towards integration. Díez Medrano shows vividly how integration has been framed very differently in the three countries he investigates, in such a way that when people from different European countries perceive the EU, they picture quite different objects when understanding European integration.

### **The Cue-taking and Benchmarking Approaches**

A third main explanatory approach to support and Euroscepticism has been developed based on cue-taking and benchmarking. Only a few people have direct personal experiences with the

EU and knowledge related to the EU is generally low. Studies have therefore focused on the role of parties and other intermediaries such as the media, in shaping support for or opposition to the EU (Hobolt and de Vries, 2016). In particular, the literature has demonstrated that citizens who lack knowledge about the EU rely on domestic political institutions as a proxy to evaluate the EU – such as national government performance (Anderson, 1998). National political elites too shape public opposition to the EU as citizens who support pro-European parties are more likely to support European integration (Hooghe and Marks 2005; see Beaudonnet's chapter in this volume). Thus, political orientation and ideology, measured by party preference, also influenced European support (Wessels, 1995). More recently, in a context of growing Euroscepticism, social media have been identified as key factors in amplifying the contestation of the EU (Barisione and Michailidou, 2017).

Building on a similar yet distinct mechanism as the cue-taking approach, De Vries' (2018) recent theory of benchmarking suggests that Euroscepticism is a relational concept. Citizens assess EU membership according to a substantive and procedural cost/benefit analysis that compares national autonomy and EU membership. From that perspective, Euroscepticism demonstrates that citizens hold a positive benchmark of national autonomy that makes the status quo of EU membership look like a bad deal (De Vries, 2018: 22). Crucially, both the cues and benchmarking explanation emphasize the potential role of national context in accounting for citizens' support and Euroscepticism and invites us to (re-)consider how the context in which citizens are socialized, shapes their evaluation of their country's EU membership and more broadly their reactions towards European integration.

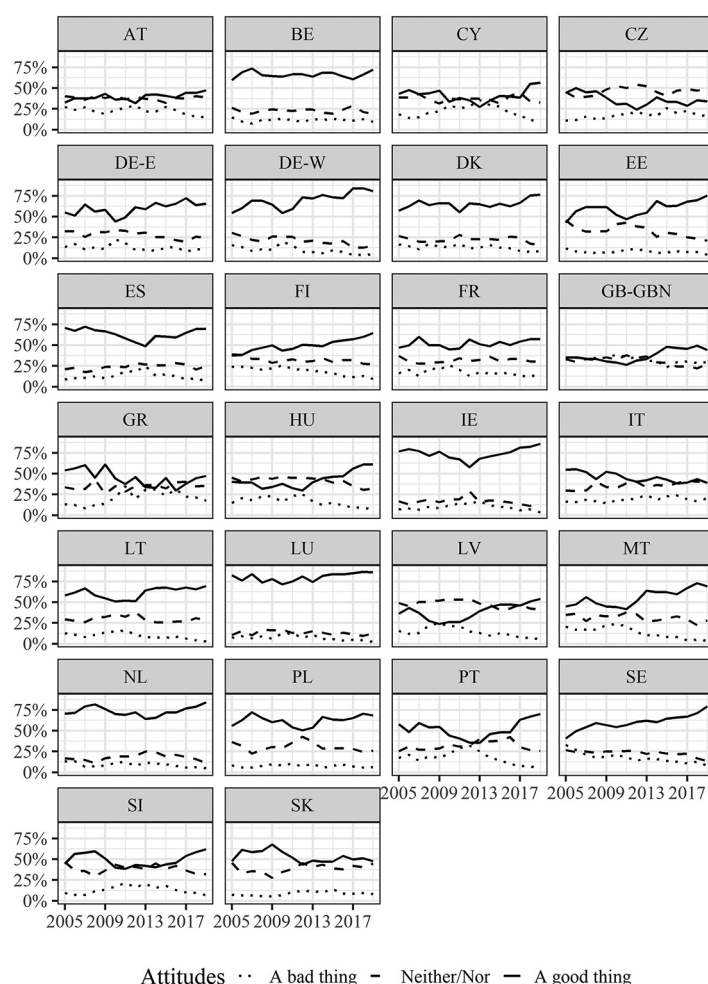
## MAIN CONTEMPORARY CHALLENGES TO THE STUDY OF CITIZENS' REACTIONS TOWARDS EUROPEAN INTEGRATION

Based on the review of this rich literature, this section highlights three contemporary challenges to the study of public opinion on European integration that deserve specific attention.

### **When National Contexts Matter**

First, an essential challenge is to strengthen our understanding of the importance of the national contexts in shaping citizens' perceptions of the EU (Figure 16.2 below). Many explanatory factors have been documented – at both the system and the individual levels – that account for variation in support between countries. These include, for instance, individual and collective levels of expectation regarding benefits from integration (Anderson and Reichert, 1995; Gabel and Palmer, 1995); structure and efficiency of national economies (Anderson and Kalthenhaler, 1996); assessment of national economies and political systems (Anderson, 1998; Brigenar and Jolly, 2005); perceptions of cultural threat, immigration and possible loss of welfare rights (McLaren, 2002; Vasiloupoulou, 2016); as well as geographical distance from EU centre (Berezin and Díez Medrano, 2008).

The recent efforts to promote a benchmarking theory of public support and scepticism put forward by de Vries is certainly promising in that regard (2018). De Vries' theory challenges core assumptions that have characterized most of the public support and Euroscepticism literature over the past decades – namely that citizens' opinions towards the EU can be conceptualized largely in isolation from their attitudes about their nation states. Crucially, the



Source: EU-25 (2005–2019), Eurobarometer

Figure 16.2 Support for and opposition to EU membership by country, 2005–2019

benchmarking explanation, just like that on ‘cues’ emphasize the potential role of national context in accounting for public support and Euroscepticism and invites us to (re-)consider how the context in which citizens are socialized, shapes their evaluation of their country’s EU membership (Duchesne, et al., 2013).

In his seminal study *Framing Europe*, Díez Medrano (2003) already emphasized that attitudes towards European integration reflect, above all, the culturally grounded cognitive perceptions that frame ordinary citizens’ thoughts about the EU. Beyond their similarities, German, Spanish and British citizens have developed distinct interpretative frameworks concerning European integration that stem from the specific perspectives of their national cultures. In particular, he shows the continuity of repertoires of national representation transmitted in national cultures. Most interestingly, in their recent analysis of Brexit mobilizing

focus groups, Andreouli and Nicholson (2018) as well found nationalist ideological themes, alongside neoliberal ones, to be key to understand the referendum outcome. The notions of frame and ideology underline the collective dimension of support and Euroscepticism. Much empirical research has indeed treated Euroscepticism as a feature of individual attitudes and/or voting behaviour. Contrary to this individual perspective, further work is needed that emphasizes the potential contribution of an analysis of how citizens use collective ‘cultural frames’ (e.g., Díez Medrano, 2003) or everyday ideologies (e.g., Andreouli and Nicholson, 2018). Here, we make the case for a complementary approach of support and Euroscepticism as collective and shaped by the national context. But this first challenge leads unavoidably to two related contemporary challenges: the issue of the methods used to study citizens’ collectively constructed reactions towards European integration and the question of the meaning of support and Euroscepticism, and thus on the theoretical framework. These considerations invite us to mobilize other methods but also other theoretical approaches.

### **Integrating the Qualitative Turn of European Studies**

The second challenge is thus methodological. In 2006, when assessing the state of the field of European studies on public opinion, Ray stressed that there was not a great deal of methodological diversity and that the majority of works were secondary analyses of mass survey data. He stated that ‘like the apocryphal drunk looking for lost keys under a streetlight, researchers have been drawn to the wealth of publicly available data sets, and particularly the time series of Eurobarometer studies run on behalf of the European Commission’ (Ray, 2006: 264). Whereas the dominance of Eurobarometer data over decades has led researchers to advance our understanding of individual public support for and opposition to European integration, it has also strongly constrained the field. Yet, while a majority of works is still mobilizing these existing data sets, new methodological avenues have been taken recently by researchers to look for their lost keys outside of the streetlight, such as comparative surveys run with specific research objectives (de Vries, 2018); survey experiments (Kuhn and Kamm, 2019; de Vries, 2017); interviews (Belot, 2000; Favell, 2008, 2010; Gaxie, et al., 2011); focus groups (Beaudonnet, et al., 2022; Duchesne, et al., 2013; Baglioni and Hurrelmann, 2016; Delmotte, Mercenier and Van Ingelgom, 2017; Van Ingelgom, 2020; White, 2011); ethnographic methods (Meinhof, 2004); mixed-method research design (Bruter, 2005; Van Ingelgom, 2014).

These recent efforts should be built on by future research (Hobolt and de Vries, 2016). This diversification of methods has brought important new insights and has the potential to further enrich our understanding of public support and Euroscepticism. However, it has also put in the front line sometimes conflicting results. Here, the related challenge is certainly to reconcile the results of mainstream quantitative studies and qualitative studies. While relying on distinct research interests and research design, the conclusions of a number of qualitative research projects did not match the thesis of a general and increasing polarization of European publics. Contrary to the established understanding of the breakdown in the permissive consensus and the growing polarisation of opinion (often reduced to rising Euroscepticism), qualitative studies converge in demonstrating the lack of salience of the EU in people’s lives (Duchesne, et al. 2013; Gaxie, Hubé and Rowell, 2011; Meinhof, 2004; Van Ingelgom, 2014, White 2011). Interviewees did not acknowledge their fellow Europeans as ‘people like them’, that is, as people who experience the same problems as they do (White, 2011). Furthermore, their

attributions of agency do not include the European level as a potentially influential actor at all (White, 2011; Baglioni and Hurrelmann, 2016).

This echoes partly work done on the problem of attributions of responsibility (Hobolt and Tilley, 2014). In the literature, when the hiatus is acknowledged, authors follow one of two different routes. Some choose to revisit Eurobarometer, to test whether mainstream analysis tended to overinterpret the polarization of European publics (Down and Wilson, 2008; Van Ingelgom, 2014). Others rather try to assess the indifference and ambivalence of Europeans. Following classical work dedicated to ambivalence in political opinions, Steenbergen and de Vries (2013) examine ambivalence regarding European issues. They define this in terms of opinion variability. Following their work, Stoeckel works out a new measure of ambivalence based on variation between answers on different survey items gauging EU support (2013). Van Ingelgom shows that European citizens have not only become more ambivalent but also more indifferent in the last couple of decades (2014). In particular, she shows the limitations of over-reliance on a one-dimensional understanding of citizens' attitudes to integration from support to rejection. These attitudes are actually far more complex, and it is necessary to take indifference and ambivalence into account (Van Ingelgom, 2014). Building on these attempts to build bridges, a third promising road is to reconsider the conceptualization of citizens' relationships to the EU.

### **Rethinking Citizens' Relationships towards European Integration**

Thus, the third contemporary challenge that need to be addressed systematically by future research is the conceptualization of citizens' relationships towards European integration. Here one can identify two related challenges: the multidimensionality of public support and scepticism and the conceptualisation and theoretical framework used to study citizens' relationships to the EU. In this regard, no qualitative studies had broken with mainstream quantitative approaches. For instance, Díez Medrano's analysis of the diversity of national European frames explained the influence of nationality on attitudes towards integration. It was not interpreted, as it could have been, as a refutation of the mainstream practice of dealing with attitudes of Europeans as a whole. On the contrary, recent studies have challenged the one-dimensional approach and analysed citizens' multifaceted and more policy-specific opinions (Hobolt and de Vries, 2016).

Moreover, on the theoretical level, previous analyses invite us to question the acceptance of change in the political order by investigating not only the degree of support citizens have for the European political system and the type of support they express, but also the intensity of this support. If the decline in citizens' support for European integration and the constraining role of public opinion cannot be dismissed, citizens' reactions to European integration cannot only be analysed as a rise in Euroscepticism. Indifference and ambivalence need also to be brought into the picture (Van Ingelgom, 2014). These seemingly contradictory observations boil down to what is considered to be political and whether or not the conception of the political allows for grasping politicisation and depoliticization alike (Dupuy and Van Ingelgom, 2019). Here European studies need to promote a research agenda that develops a finer-grained conception of the political that is able to capture visible forms of politicisation – support for and rejection of European integration as well as less open forms of depoliticization – indifference and ambivalence – of ordinary citizens. It also leads researchers to extend the conceptualization

of citizens' relationships to the EU beyond the concept of attitudes to consider this variety of reactions (Duchesne et al., 2013).

## CONCLUSION

As this chapter has shown, the study of citizens' attitudes towards the European integration process has undergone three main stages; each marked by a different vision of legitimacy for the European political system and each a product of its time. It is above all the role of the citizen within this legitimation process that has varied over time. Citizens were initially in the shadows, taking on an active role in the aspiringly democratic legitimation process only after Maastricht and in response to accusations of a democratic deficit levelled at the European construction process. Support from elites was clearly no longer sufficient and citizens' participation became essential for the legitimacy of the process. It was not only desired but actively sought after by European actors. More recently, the figure of participative citizens was replaced by that of citizens who are politicized (but not too much) on European questions. The idea here is that the limited (but desirable) political participation of citizens should be accomplished through politicization, which certain actors see in the beginnings of new forms of resistance to integration.

Today, more than ever, citizens are at the centre of the debates between elites – political or academic – on how the future of the EU is to be envisaged and defined – as the recent *Conference on the Future of Europe* illustrates well. This increasingly important reference to the citizen, both by European actors and theorists, is evidently not neutral and Brexit certainly fed the current renewed interest for public support and scepticism in European studies. We have come far from Monnet and his successors' desire to avoid the possibility of a heated public debate emerging around the European question (Lindberg and Scheingold 1970: 70). And, we have also come far from the time when public opinions towards European integration were viewed as largely irrelevant. Brexit has demonstrated to those that needed to be convinced that public opinion may be increasingly acting as a constraint on national and European elites (see Martill's chapter).

The study of public support of, and opposition to, the European integration process provides important insights into our understanding of today's national and European politics. The aim should not be to predict citizens' behaviours. This is certainly not the role to be played by social scientists. However, improving our understanding of how and why citizens perceive the EU as they do is certainly an important task that political and sociological approaches in European studies should keep pursuing (see Bonnamy and Canihac's chapter). More research and, crucially, more diverse research is therefore needed, in terms of methods, theoretical frameworks as well as disciplinary approaches.

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## 17. Brexit

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On 23 January 2013, the Prime Minister of the United Kingdom (UK), David Cameron, surprised many in Britain and European Union (EU) when he made his (fateful) commitment to an in/out referendum on Britain's membership of the EU, should his Conservative party obtain a majority in the next general election. Dissent towards the EU had been fomenting within elements of the Conservative party for years, especially since the coming into force of the Maastricht Treaty, which greatly expanded the EU's range of competences (Fontana and Parsons 2015). Conservative Euroscepticism has also been bolstered by the Tories' return to power after 13 long years in opposition (albeit in a coalition government with the Liberal Democrats), by the aftermath of the global financial crisis and the search for scapegoats which followed, and by the rise of the United Kingdom Independence Party (UKIP), with its charismatic leader Nigel Farage and its potent combination of populism and Euroscepticism (Tournier-Sol 2015). Cameron hoped that by renegotiating the UK's relationship with the EU, and by putting the outcome to a national referendum, he would be able to simultaneously arrest the rise of UKIP, quell dissent on EU within the Conservative party, and obtain reforms at the European level which the UK wanted to see, including a commitment to greater competitiveness, greater control over welfare payments to non-nationals, and protections for the City of London from the policies of the Eurozone members (Thompson 2017).

Cameron's timing was unfortunate. When, in May 2015, the Conservatives were returned to power with a narrow majority – triggering the renegotiation/referendum pledge – European leaders were preoccupied with restructuring the Eurozone and dealing with the fallout from the first Ukraine crisis in 2014, and gave Cameron's demands short shrift. With little appetite to re-open the Treaties, Cameron's demands were fated to be more limited than otherwise, and the UK's usual means of obtaining concessions from EU partners cut-off (Schimmelfennig 2018). Nor did European leaders believe the UK was actually prepared to sacrifice membership over questions of procedural issues, given how damaging 'Brexit' (British exit from the EU) was forecast by most observers to be. What the Prime Minister obtained was far from revolutionary, but it was more than anyone expected the EU to concede, and it satisfied key aspects of the UK's demands (Kroll and Leuffen 2016). Yet Cameron was accused in the UK of having asked for too little and having delivered even less. Domestic critics on the right, including within his own party, rounded on the Prime Minister's deal, with major figures declaring their support for leaving the EU. In the ensuing referendum campaign, which played out over the summer of 2016, Cameron's deal was eclipsed by talk of migration, the EU's 'democratic deficit', budgetary payments to Brussels, and the need to 'take back control'. When the public voted on 23 June 2016, the result was a victory for the Leave campaign, with 51.9 per cent of the population voting to leave the EU and 48.1 per cent opting to remain, on a 72 per cent turnout.

The referendum outcome sent shockwaves across Europe (and the world) and led to an immediate political meltdown in the UK. The years after Brexit would witness unprecedented scenes in British and European politics as the UK struggled to articulate proposals

for Brexit and negotiated with a united and more powerful EU over the terms of exit and the arrangements for the future relationship. While the UK had reached a stage of acute political paralysis by early 2019, trust between the UK and the EU plummeted and has, as of the time of writing, yet to be rebuilt. This brief chapter offers an overview of Brexit has unfolded over the five-or-so years since the 2016 referendum, focusing in turn on dilemmas, developments, and debates surrounding British withdrawal. It begins by setting out the key dilemmas and questions raised by the British vote to leave and the different perspectives and interests involved, both within the EU and the UK. It then offers a brief overview of the major developments in the Brexit process from the referendum to the recent squabbles over the implementation of the Trade and Cooperation Agreement (TCA). The chapter then sets out some key scholarly debates which have emerged from Brexit, focusing on the origins of the decision to leave, the conduct of the negotiations, the impact on UK and EU politics, and the effects on global politics more broadly.

## DILEMMAS: NEW QUESTIONS

The unprecedented and unexpected vote for Brexit presented a number of immediate dilemmas for policymakers in London, Brussels, and national EU capitals. In the UK it was unclear what the result meant, or how it could (or should) be acted upon. The referendum was intended by its architects to produce a Remain result, and all political parties save for UKIP had formally endorsed this outcome. The Leave vote thus drained mainstream political actors of their capital, leading to Cameron's immediate resignation, and to squabbling among all parties and factions over their new position on Brexit. In the initial weeks and months, the political mainstream quickly came around to the idea that the referendum result was binding, and that withdrawal must be delivered in one form or another, except for the Scottish National Party (SNP), which pointed out that Scotland had not voted for Brexit (62 per cent of Scottish citizens opted for Remain) and would therefore oppose it. Paradoxically, this became less and less the case over time. As the consequences of Brexit would become clearer, and as the aims of Brexit shifted further to the right, more and more actors in the UK came to challenge the merit (and the legitimacy) or pursuing Brexit at all costs.

What Brexit meant, in practice, was extraordinarily difficult to define, partly because there were few ready analogies of exit from such a dense organisation, but partly also because the Leave campaign had either refused to spell out what Brexit would mean in practice, or had downplayed some of the more obvious challenges, most notably the incompatibility of UK policy autonomy with the frictionless trade provided by the common regulatory framework of the EU Single Market (Grey 2021, 35–37). Among the options on the table, conceptually at least, were membership of the European Economic Area (EEA) through EFTA, the model adopted by Norway after its failed accession referendum in 1994, a series of bilateral agreements similar to the Swiss model, an 'Association Agreement' along the lines of that between Ukraine and the EU, a separate customs union similar to that which exists between the EU and Turkey, a Free Trade Agreement (FTA) like that negotiated with South Korea or Canada, or 'no deal' whatsoever. The latter of which was predicted to be highly damaging, especially to the UK. Which of these outcomes the UK had voted for was unclear, since they had not informed the campaign or been represented in the referendum question. Indeed, given that the available options for non-membership spanned such a range of proximate and less-proximate

relationships, the referendum question gave almost no bearing on the direction of travel for the UK.

Dealing with the political fallout in the UK was always going to be extremely challenging. For one thing, there was a high degree of territorial differentiation, with England and Wales having voted to Leave (by 53.4 per cent and 52.5 per cent, respectively), and Scotland and Northern Ireland voting to Remain (by 62 per cent and 55.8 per cent). Treating the UK as a single constituency crudely brushed over questions of territorial differentiation, and essentially meant Scotland and Northern Ireland being dragged out of the EU against their will, with predictable implications for relations between Westminster and Holyrood, the seat of the Scottish Government (Keating 2022). In the case of Northern Ireland, the spectre of British exit from the Single Market and the Customs Union raised the prospect of a hard border on the island of Ireland, with the corresponding risk of a return to sectarian violence on the continent as a result (Wright 2018). Brexit divisions were not only regional and the referendum result mapped on to a host of pre-existing social and political divided which would serve to exacerbate the brewing conflict between Leavers and Remainers. Especially prominent in this regard were socio-cultural attitudes (Sobolewska and Ford 2020), income and education levels, age, and political affiliation (Clarke et al. 2017; Curtice 2017; Hobolt 2016). The closeness of the result also made it difficult to claim that there was a decisive mandate in favour of Brexit and meant that a sizable proportion of the UK population would feel disenfranchised by the outcome.

Brexit was a shock to Brussels, too, which has not expected the vote, but had at least prepared contingency plans for its eventuality. The response to the UK's exit was one of surprise and disappointment across national capitals, with only fringe Eurosceptic movements rejoicing at the UK's decision (Laffan 2019). Brexit was also viewed as a potential crisis for European integration, since it was not clear what the effect the departure of so significant a member state would have on the EU's credibility and its attractiveness as a model, nor was it beyond the realm of possibility that other reluctant members, such as Sweden or the Netherlands, could either follow the UK out the door or sue for more beneficial terms of membership by threatening to do so. The priorities of the EU27, as the remaining member states came to be known, reflected these fears, emphasising the importance of unity and the need to protect the integrity of the single market and avoid compromising on fundamental principles of integration (Grey 2021; Laffan 2019). Beyond the conduct of the negotiations, Brexit re-opened big questions about the nature of the EU and the state of the integration project, with various proposals for institutional reform emerging during the 2016–17 period (e.g., Pisani-Ferry et al. 2016). The need to show that integration was 'back on track', coupled with the departure of a major security actor, also ignited discussion – followed by substantial movement – on a host of security and defence initiatives (Bérard-Sudreau and Pannier 2021).

Brexit also raised the thorny question of how withdrawal would be accomplished. The Lisbon Treaty had spelled out, through Article 50, a process for leaving the Union, which set out a two-year process during which a departing member state would negotiate an agreement on the terms of withdrawal, after having decided to leave in accordance with its own constitutional requirements. But the Article 50 process had not been used before and had arguably been devised in such a manner as to make departure a less attractive option (Eeckhout 2018). The EU would act quickly to devise processes for implementing withdrawal, specifying several key principles early on, including the preclusion of negotiations before the formal invocation of Article 50, the adoption of a two-phase sequencing with the negotiation of a Withdrawal

Agreement prior to the onset of talks on the future relationship, and the handing of day-to-day control of the talks to the Commission's Task Force 50, which would negotiate on the basis of a mandate decided by the European Council (Schuette 2021). While it was initially intended that the Irish border would be included in the talks on the future relationship, Dublin lobbied successfully for the issue to be covered in the Withdrawal Agreement, alongside the UK's contribution to the budget and the question of citizens' rights.

## DEVELOPMENTS: HOW BREXIT UNFOLDED

Many of the initial decisions about what Brexit would look like were shaped during the tenure of Theresa May, who succeeded Cameron as Conservative leader and Prime Minister on 13 July 2016. May was a unity candidate for Conservatives; Eurosceptic but ostensibly pro-Remain, the new Prime Minister had lain low during the referendum campaign, such that she could appeal to both sides of the party. May's interpretation of the Brexit mandate was revealed in the party conference speech of October 2016 and in far more detail in the subsequent Lancaster House speech of January 2017. The Prime Minister set out a number of 'red lines' which the UK would not countenance, including the continuation of free movement, the jurisdiction of the Court of Justice of the EU, and sizable payments into the EU budget. For the EU, as for some Brexiteers, these 'red lines' indicated a more distant relationship was being sought, while the May administration seemed rather to see the 'red lines' as the opening salvo in a tough negotiating stance to obtain a much-desired 'bespoke' Brexit deal which minimised the UK's political commitments but provided for continuity in other aspects of the relationship with the EU. In any eventuality, this was something which Brussels – and the member states – were not willing to countenance, but the assumption that they *would* eventually concede a generous deal de-linking the political and 'economic' aspects of European integration has a lengthy history within the British Conservative Party.

This was also the period during which provisions for managing Brexit domestically were spelled out, including:

- (1) the government's presumption to trigger Article 50 using the Royal Prerogative, successfully challenged through the *Miller* court case (Supreme Court 2017);
- (2) the decision to incorporate existing EU law into domestic law through the so-called Great Repeal Bill (subsequently the EU (Withdrawal) Bill (UK Parliament 2019) which would allow ministers considerable freedom to pick through existing laws as they saw fit; and
- (3) the establishment of two new government departments, the Department for Exiting the EU (DExEU) and the Department for International Trade (DIT), both of which were to be headed by the prominent Brexit supporters, David Davis and Liam Fox, respectively;
- (4) the preoccupation with keeping together the fractious Conservative party over and above other considerations, which would manifest in repeated failures to consult with or engage other stakeholders, including the opposition Labour party, the regional governments of Scotland and Wales, and representatives the UK's various economic sectors; and
- (5) the prospects for parliamentary scrutiny of the negotiated Withdrawal Agreement, which would be placed before the British Parliament, albeit without any commitment as to the

timing or nature of the vote, which could even take place *after* British withdrawal had occurred (Martill 2021, 1611).

But the UK government's ability to maintain a tight control of the Brexit process, and its aim of eking out a deal which preserved the advantages of membership while jettisoning the political commitments of integration, would fall by the wayside over the course of 2017–18. Buoyed by optimistic (and inaccurate) polls, May called a general election for 8 June 2017, which produced a hung Parliament, forcing the Conservatives into a confidence-and-supply arrangement with the pro-Brexit and socially conservative Democratic Unionist Party (DUP) of Northern Ireland. The election was notable for the absence of Brexit as an issue, the wholesale collapse of the UKIP vote, and the proportion of the vote going to the two major parties (Goodwin and Heath 2016). The negotiations begin in July 2017 and proceeded through a series of monthly 'rounds', giving each team the opportunity to report back and build consensus at home between these dates. While progress was initially slow, agreement on an interim Withdrawal Agreement was reached by December 2017, with arrangements for citizens' rights and the so-called 'divorce bill' having been agreed, along with proposals for the 'backstop' arrangements in Northern Ireland, which would come into force should any agreement on the future relationship not provide for the absence of a hard border on the island of Ireland (Grey 2021, 116). On each issue of the Withdrawal Agreement, May was forced to concede much to the initial EU position, feeding criticism among Brexiteers that the Prime Minister had been insincere when she claimed that 'no deal is better than a bad deal'.

The Chequers Proposal (HM Government 2018), May's vision for the future trading relationship, seen by many Brexiteers as a softer position than previously articulated, proved a decisive moment, precipitating the resignations of David Davis and Boris Johnson, and increasing opposition to May's deal on the right. Pro-Brexit opposition to May's deal increased alongside the parallel campaign among Remain supporters for a 'second referendum' and the efforts of parliamentary activists to ensure a 'meaningful' vote on the Withdrawal Agreement. By 15 January, when the first vote was scheduled to take place, not only had opposition on all sides to May's deal increased, but the government had lost the ability – through a series of parliamentary defeats – to offer the agreement on a 'take it or leave it' basis against the backdrop of a no deal scenario (Martill 2021). The result was an unprecedented and humiliating defeat by 202 to 432 of the agreement, following which the government pursued unsuccessful talks with the opposition Labour party, after which the Prime Minister engaged in further talks with her party and with Brussels, seeking to find a way through the impasse. With the EU offering only further 'reassurances', May's deal returned to the floor of the Commons, where it was defeated again on 12 March by 242 to 391 – prompting May to seek an extension to Article 50 from the EU – and again on 29 March by 286 to 344. Following the Conservatives' disastrous performance in the May 2019 European Parliament elections – which were not meant to take place at all – and with May's political capital exhausted, the Prime Minister announced in May that she would resign in June, acting in a caretaker capacity until 23 July when Boris Johnson was announced as the new leader of the Conservative Party (BBC News 2019).

Since his resignation in 2018, Johnson had been highly critical of May's deal, espousing a hard-line Euroscepticism which saw him campaign for the party leadership on his willingness to embrace a 'no deal' Brexit. As Prime Minister, Johnson's first task was to renegotiate elements of the Withdrawal Agreement, resulting in the creation of the Northern Ireland Protocol and the removal from the agreement of the UK's commitment to a 'level playing

field', which was moved into the non-binding Political Declaration. Johnson's renegotiation angered the DUP but satisfied many proponents of Brexit, whose support allowed Johnson to pass an agreement in October 2019 (Grey 2021, 193), but not the subsequent timeframe for its implementation, rendering the passage moot. Seeking to bolster his majority, the Prime Minister called an election for 12 December 2019 which resulted in a significant Conservative victory with an 80-seat majority, a combination of Johnson's 'Get Brexit Done' campaign and the relative disunity of Remain-supporters (Cutts et al. 2020; Sobolewska and Ford 2020, 295). With his majority secure, Johnson's Withdrawal Agreement obtained the approval of Parliament in January 2020, with Labour voting to support the agreement, claiming a 'thin deal was better than no deal'. The terms of withdrawal now finally agreed, attention turned to negotiating an agreement on the terms of the future trading relationship, which would become the Trade and Cooperation Agreement (TCA).

On the table were the arrangements for continued trade in goods and services, information sharing, fishing rights, and governance arrangements going forwards, with considerable divergence between both sides. On governance, Brussels was keen to ensure a significant role for the Court of Justice of the EU in overseeing the agreement and to tie the UK into a comprehensive governance arrangement, both of which London opposed. Brussels also sought to prevent the UK from reducing worker protections and other safeguards in a manner that would draw business away from the EU, and from unfairly subsidising British industry, insisting upon commitments to a 'level playing field'. And yet, in spite of the issues at stake, it was fisheries – the clearest area of distributive bargaining – where the fiercest disagreement seemed to take place. Under Johnson, the UK sought a more distant deal which would allow it to diverge in a host of areas, and key areas of the Political Declaration (like security and defence) were taken off the table. While this presaged a 'harder' Brexit, it also made the negotiations easier, since the UK was clearer in what it was asking for, and was seeking to plug into fewer arenas of EU policymaking (Usherwood 2021). The EU, for its part, was happy to negotiate a 'Canada-style' deal, albeit with increased 'level playing field' safeguards given the size and proximity of the UK to the single market. The onset of the Covid-19 pandemic in Europe, which forced a sequence of national lockdowns, closed borders across the continent, and almost overnight shifted citizens' priorities and attention could have been a game changer for the Brexit negotiations, though in the end it did not prove to be the case. While the negotiations were forced online and the participants themselves contracted the illness, the pandemic did not shift Johnson's position, based as it was on the refusal to agree an extension to the transition period and continued threats to walk away from the table (Grey 2021, 229). In September 2020 Johnson introduced in the UK the Internal Market Bill (HM Government 2021), elements of which would undermine the provisions of the Northern Ireland protocol, but these were eventually removed after a backlash from Brussels and the Biden administration (Grey 2021, 236; Usherwood 2021).

In the end, and at the last moment, a 'thin' deal was agreed with the EU on 24 December 2020, just days before the end of the transition period. The resulting TCA saw the abolition of tariffs and quotas on goods as well as provisions for information sharing, an agreement on fishing rights, and a series of joint-ministerial councils to oversee the implementation of the agreement. The deal was heralded by both sides as a major breakthrough, but was notably quiet on key issues, including financial (and other) services and security and defence (Usherwood 2021). Critics described the 2,530-page deal as 'thin' (in substance) and noted that it was an agreement for divergence rather than a means of keeping both sides closely tied together

(Kotsonis 2021). The TCA was rushed through the British Parliament on 30 December 2020 with support from the Conservatives and Labour, coming into force provisionally on 1 January 2021, pending the consent of the European Parliament, which was given on 28 April 2021. Since this date, relations between the UK and the EU have been soured by the UK's refusal to implement the provisions of the Northern Ireland Protocol and to undertake the required border checks in the Irish Sea, leading to pending legal action by the EU and a diminution of trust in the relationship.

## DEBATES: UNDERSTANDING BREXIT

As post-referendum developments have mounted, and as it has become clearer what Brexit means, in practice, for the UK and the EU, attention has turned to the task of understanding the vote and its consequences. Scholarly debate in particular has focused on four areas, broadly conceived: (1) the origins of the Brexit vote, (2) the course and conduct of the negotiations, (3) the political changes wrought by Brexit, and (4) the implications of Brexit for the wider world.

### The Origins of the Brexit Vote

There is a considerable debate on the origins of the Brexit vote. These are difficult to discern given the marginality of the result – any individual factor could have *swung it* – as well as the sheer number of structural and more idiosyncratic factors linked to the Brexit vote. For some scholars the origins of Brexit are deeply rooted in the UK's ambivalent attitude towards European integration. Identification with the EU is consistently low among British citizens and the UK is one of the only countries where genuinely Eurosceptic movements exist at the elite-level and among major political groupings (Carl et al. 2019). Indeed, it is often claimed that the UK has defined its identity as that of being an extra-European and 'global' actor, strongly influenced by its imperial history (e.g., Dorling and Tomlinson 2019). Related variants of this thesis point out that Brexit is an *English* phenomenon, not necessarily a British one, with clear evidence of slippage between the two concepts (Henderson and Jones 2021). Moreover, the UK's perennial concern to eke out a distinct position for itself within the EU has led scholars to highlight structural issues at the EU level, including the externalities created by the combination of common rules and distinct economies and labour markets (Bickerton 2019) as well as the difficulty of remaining an influential EU member outside the Eurozone, especially in the aftermath of the financial crisis (Thompson 2017).

Others have emphasised more proximate factors in accounting for Brexit, including growing opposition to migration within the UK, the rise of distrust in mainstream politics, stagnating incomes among the middle-classes, opposition to Brussels within the mainstream media, and changes in politics, especially the rise of Conservative Euroscepticism and the parallel emergence of UKIP (e.g., Bale 2018; Clarke et al. 2017; Curtice 2017; Hobolt 2016). There is a clear link in these arguments to key events in the past several decades, including the emergence of virulent Euroscepticism within the Conservative party in the mid-1990s, the 'Big Bang' accession of Central and East European countries to the EU and the then Blair government's decision to forego temporary controls on the number of migrants from these new members, and the aftermath of the 2007–08 global financial crisis on British politics and society. Still other factors highlighted are more proximate to the referendum itself, including

the defection of major Conservative personalities, like Boris Johnson and Michael Gove, to the Leave campaign, the election of the formerly Eurosceptic Jeremy Corbyn as Labour leader in 2015 and his lukewarm support for the EU during the referendum, the lacklustre nature of the Remain campaign and the degree of infighting between its constituent parties and the corresponding success of the Leave campaign's simple exhortation to 'take back control' (Grey 2021). It certainly did not help matters that, as the referendum approached, the EU was dealing with its own multifarious crises, including the 2015 migration crisis, the continued fallout from the Eurozone crisis, and a broader so-called 'legitimacy crisis', all of which featured in the materials of the Leave campaign.

### **The Conduct of the Negotiations**

Important questions have also been asked about how the negotiations proceeded the way they did, and how they influenced the outcome. In terms of economic and other forms of power and influence, the EU was the stronger actor in aggregate, and when acting in concert. Moreover, while both sides would lose in the event of a 'no deal' scenario, the effects were highly differentiated, with the UK predicted to absorb the greatest share of the overall hit to GDP (Hix 2018). In spite of the imbalance in bargaining power, the UK engaged from the get-go in a hard-bargaining strategy, characterised by high demands, inflammatory rhetoric, a zero-sum portrayal of the talks, and frequent threats to walk away from the table (Larsén and Khorana 2020; Martill and Staiger 2021). Various explanations for British hard bargaining have been suggested, ranging from May's status as an insecure Remainer and the need to appease hard Brexit constituencies of opinion in the Conservative party (Schnapper 2021), to the UK's prior experience of deploying hard bargaining in EU treaty negotiations (Martill and Staiger 2021), and inaccurate assumptions about the interests of the EU27 and their propensity for unity (Figueira and Martill 2021). Ironically, the often-fractious EU27 remained highly united during the negotiations, while the UK was highly divided along regional, political, and socio-economic lines throughout the process, with no consensus on what it wanted out of the negotiations (Grey 2021, 50).

The EU's approach was based on the imperative of maintaining unity among the remaining 27 member states, preventing UK efforts to 'cherry pick' selective access to EU policies and programmes, and precluding the establishment of any new models of integration which would either compromise fundamental principles of the integration project or encourage further clamours for exit (Laffan 2019). The decision was taken early on to vest day-to-day conduct of the negotiations with the Commission, acting on behalf of a mandate established by the European Council. This setup allowed the Union to capitalise on the expertise of the Commission whilst ensuring that unity prevailed at the highest political levels, and was reinforced by Chief Negotiator Michel Barnier's efforts shuttling back-and-forth between national capitals and community institutions (Schuette 2021). The EU's rhetoric was more conciliatory than that emanating from London, but it would be inaccurate to describe Brussels' bargaining as altogether 'softer' than that of the UK. Essentially, and in keeping with the view of Brexit as 'accession in reverse', the EU relied on its market size and the Article 50 clock to bring the UK around to its own position on a host of issues, such that the final deal was very close indeed to that initially indicated in early 2017.

## Brexit and Political Change

Politically, under May and Johnson the governing Conservative party shifted towards a more pro-Brexit position (Hayton 2018; Kettell and Kerr 2020; Lynch and Whitaker 2018), a result of the intra-party nature of contestation on Brexit (Heinkelmann-Wild et al. 2019) as well as the expectations set by May's hard bargaining stance in the negotiations (Martill and Staiger 2021). The Labour Party was also deeply divided between the MPs, who were by a large margin pro-Remain, and many Labour voters who opted to support Leave (Heath and Goodwin 2017). Labour's 'strategic ambiguity' seemed to assist the party in 2017, but demonstrably failed to pay off by the 2019 general election (Cutts et al. 2020). Brexit also revealed the shortcomings of the UK's 'efficient' constitution, and the absence of constraints on executive decision-making. Key decisions on the direction of Brexit were made without parliamentary scrutiny, long-standing rights of citizens were washed away by legislative fiat, ministers were afforded far-ranging powers to pick through existing legislation, and Parliament was offered the prospect of ratifying the final deal with little time and against the backdrop of a 'no deal' Brexit (Martill 2021, 1610). The result was a precipitous decline in relations between the executive and the legislature, aided by May's failure to secure a majority in the 2017 general election and by the activism of rebel Tory MPs, the House of Lords, and the Speaker, John Bercow (Baldini et al., forthcoming). This set the stage for protracted battles over the role of elected institutions in the scrutiny of Brexit, with Leave-supporters accusing MPs of attempting to thwart 'the will of the people' (Mihai, forthcoming). The UK's model of asymmetric devolution also came under considerable pressure, with relations between Westminster and Holyrood undermined by the UK government's consistent failure to account for the distinct preferences of Scottish voters or engage with proposals for a differentiated relationship, the hardening of preferences in the Conservative party on Brexit and on constitutional issues, and the unveiling of the Internal Market Bill, all of which introduced significant challenges to the devolved status quo (Keating 2022; Martill, forthcoming; McEwen 2018).

Within the EU, Brexit has arguably contributed to political change, albeit not to the extent that it has in the UK, given the differential exposure to the consequences of withdrawal. While the EU is a heterogeneous and diverse beast, early evidence suggested that Brexit had occasioned an uptick in pro-EU sentiment, a product of the existential threat which Brexit created and the corresponding fear the EU would collapse (De Vries 2017). For many this shift was epitomised by the election of the pro-European Emmanuel Macron in the May 2017 French presidential election and the ensuing 'Sorbonne speech' which was replete with integrationist initiatives. The May 2019 European Parliament elections were heralded as being the first where genuinely European issues were debated, though at base much of this was a conversation about whether the EU was legitimate, and not what its priorities should be (Galpin and Trenz 2019). The fact that Brexit did not seem to be going well contributed to the increasing silence of populist parties – which had been exceedingly pro-Brexit when the vote took place – on the topic itself (Van Kessel et al. 2020), though whether these parties' positions on European integration itself also softened is a more complex question. It has also been argued that the Brexit debacle unfolding in the background convinced Swiss voters to support the continuation of free movement in September 2020 (BBC News 2020). On the question of EU reform, movement has been trickier to discern. Ambitious proposals for a multi-speed Europe, or a looser federation (Pisani-Ferry et al. 2016) came to little, partly because of the EU's 'joint decision trap' in which reform requires consensus. While the EU27 remained united

in the negotiations, this did not extend to questions of debt, migration, security, enlargement and foreign policy, on which serious divisions emerged. Movement on security and defence, however, and on the Union's response to Covid, however, likely would not have taken place with the UK still in the room.

### **Brexit and the Wider World**

Support for Brexit outside the UK was difficult to find, with most other countries viewing the British decision as a threat to their ability to trade with or influence the EU through the UK, or as a complicating factor which threatened to undermine intra-Western unity (Adler-Nissen et al. 2017; Oliver 2016). President Trump would later declare himself a fan, though American support did not translate into the simple and generous trade deal sought by UK politicians (Wilson 2017). While the referendum campaign had said much about the UK's role in the world, little was said on the concrete question of how the UK would relate to the EU on foreign and security policy post-Brexit (Hill 2018). The May government adopted the 'Global Britain' slogan to encapsulate UK foreign policy post-Brexit, though the moniker was much mocked in light of its vagueness and failure to specify anything the UK did not already do (Daddow 2019, Turner 2019). May also aimed to secure a deep and lasting agreement on security with the EU, although initial indications suggested UK proposals would not be accepted by Brussels, and the Johnson government subsequently removed security from the talks on the future relationship, leaving both sides without any agreement in this area (Martill and Sus, forthcoming). Nonetheless, the significance of NATO in the defence field prevents the emergence of a major security gap, as does the importance of shared European interests on major questions (e.g., Russia) and the existence of strong bilateral ties between the UK and France, though the recent AUKUS announcement has done much to undermine this particular connection (BBC News 2021).

Brexit also induced change in the EU's foreign, security and defence policies and institutions. Understandably, Brexit was seen by many in Brussels and national capitals as a significant dent in the Union's credibility as a global actor, given the UK's clout and status on the world stage (Whitman 2016). On the other hand, some saw an opportunity for pursuing further integration in EU security and defence in the removal of the staunchly Atlanticist UK, and Brexit would contribute to several new EU initiatives over the 2017–18 period aimed at increasing the Union's effectiveness as a security and defence actor. These included the launch of Permanent Structured Cooperation (PESCO), the European Defence Fund (EDF), and the creation of a permanent headquarters for CSDP missions (Sweeney and Winn 2020). Talk of the EU as a more credible security actor characterised the initial post-Brexit years, with increased emphasis on 'strategic autonomy', a 'Europe of defence', and a 'Geopolitical Commission' (Sweeney and Winn 2020). But questions remain about the nature and efficacy of these initiatives, including the extent to which they are designed to complement or detract from existing NATO capabilities, whether they will ever match the lofty ambitions or incautious rhetoric emanating from EU politicians, and whether they will succeed in spite of British withdrawal or will eventually require UK participation to make them credible (Martill and Sus 2019).

## CONCLUSION

The June 2016 Brexit vote produced shock and disbelief around the world, compounded to a certain extent by subsequent developments, as the UK undertook to deliver on a harder interpretation of the Brexit mandate than observers on either side had expected. The result was a tortuous process of bitter negotiations, rapid and unpredictable political change, and an outcome which – while delivering Brexit and avoiding a ‘no deal’ outcome – continues to be contested by both sides. Taking stock of Brexit is a difficult endeavour, not least given the seismic task involved, which has left few areas of the socio-political landscape in Europe untouched, and also owing to the ongoing politics of Brexit and its continued prominence in public debate more than five years after the referendum.

This brief chapter has examined the key dilemmas, developments and debates involved in Brexit. It began by setting out the key dilemmas raised by the referendum vote, including what Brexit meant in practice, how the mandate from the referendum should be interpreted, how socio-political divisions should be managed, and how the process would be managed. It then offered an overview of the principal developments, detailing the preparation of the negotiations on both sides, the difficulties associated with negotiating the Withdrawal Agreement, the political paralysis of 2019, and the subsequent negotiation of the TCA, largely under the shadow of the Covid-19 pandemic. Finally, it spelled out some of the key debates which have emerged around Brexit, highlighting divergent perspectives on the origins of the Brexit vote, the conduct of the negotiations, the impact on politics, and the implications for the wider world.

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## PART IV

# MARKET AND REGULATION

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## 18. The single market

*Alison J. Harcourt and Claudio M. Radaelli<sup>1</sup>*

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The single market, a governance architecture accompanied by the European Commission's executive power in competition policy, is the cornerstone of European integration. Since the early days of integration in the 1950s, the building blocks of what was then a Community of six Member States were identified in the elimination of barriers to market competition and monopolistic conditions, legal measures to prevent distortions to the free operation of markets (such as the harmonization of legislation), and a robust competition policy with executive power bestowed on the European Commission. With some exceptions, the governance architecture of the single market extends to Iceland, Liechtenstein, Norway (via the European Economic Area) and Switzerland (via bilateral agreements).<sup>2</sup>

The single market has always had a double political valence. One is in terms of the direction of integration and the role of the Commission in furthering integration. The agenda of deepening and completing the single market has allowed the Commission to expand its regulatory tasks in a number of policy domains. After the crisis of the sovereign debt in the euro area, some authors have cautioned about how much the single market regulatory creep or opportunism of the Commission can achieve today (Camisão and Guimareães 2017). However, the current agenda for the digital single market signals a re-formulation of the Commission's ambition, rather than stalemate or retreat.

The other is about the political contestation of single market, often fuelled either by fears of welfare national regimes being gradually eroded by the 'EU regulatory state' (Majone 1994), or sheer economic nationalism – or both, with odd coalitions of actors attacking market integration in this or that sector with different motivations. In this chapter, we review the evolution of the single market project (with some but limited references to competition policy), discuss its achievements, look at the innovations brought about by the digital single market, and provide a compass to read analytically this governance architecture of markets.

### A BIT OF HISTORY

The Treaty of Rome, signed in 1957, enshrined the ambitious goal of creating a robust common market. Four freedoms that define free movement in relation to goods, capital, people and the freedom to establish and provide services.

This goal has been pursued with a two-pronged approach. First, the elimination of custom duties and barriers to mutual trade and a common tariff on trade with countries *outside* the European Community. Second, the freedom of movement *inside* the single market.

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<sup>2</sup> On Brexit and the single market, see the special issue of *Oxford Review of Economic Policy* (vol.38:1) and the introduction by Christopher Adam (2022).

Thus, since its inception the single market had an internal dimension as well as an external dimension. The projection outside the European Union (EU) has over the decades become the basis for the formidable presence of today's EU of 27 Member States in international trade and global regulatory standard setting. Indeed, Anu Bradford's 'Brussels-effect' (2020) and Chad Damro's 'Market power Europe' (2012) point to the external reach of the single market. EU internal regulations and competition policy have shaped the international business and trade environment in areas as diverse as consumer health, environmental standards, anti-trust, and data privacy.<sup>3</sup>

However, how deep freedom of movement *inside* the single market should go has been an element of controversy. This is because, as the original European Community expanded to accommodate different models of capitalism, the heterogeneity of preferences about the exact equilibrium between public intervention and market forces has increased.

Politically, socially and culturally, freedom of movement has salience and effects that are not the same across the Member States. In relation to this, Egan (2020) describes the single market as 'incomplete contract'. Let us explain why, by taking a rapid historical excursus.

To begin with, the removal of tariff barriers has proved simpler than the removal of non-tariff barriers, covering a huge range of national product regulations, licenses, public purchasing rules (Egan 2001; Vogel 1995). Often presented as legitimate public concerns (as, for instance, alcohol monopoly presented as necessary to protect health), non-tariff barriers have unleashed their own political struggles, involving pressure groups, governments, courts and public opinion (Vogel 1995; Ugland 2003). Crucial sectors like the postal service and gas were given special protection because of the argument of 'universal service provision'. A classic example of this provision can be seen in the 2002 Universal Service Directive which mandates that emergency services can be accessed uniformly throughout the EU by dialling 112. It was only through the combined operation of competition policy, court decisions and pressure from the Commission that the utilities were gradually liberalized and harmonization took place.

Further, moving goods and migrant workers in a EU of six in need of, among other human resources, Italian miners migrating into Belgium, meant that the single market needed at least an embryonic social policy to allow labour markets to work across nations. Capital market liberalization (articles 63–66 of the Treaty on the Functioning of the European Union) was not to be achieved in one day – in fact, the First Capital Directive of 1960 had limited reach. It was only in 1988 that the free movement of capital made a genuine leap forward, but also creating worries that, without EU direct corporate tax coordination, there would have been harmful tax competition. In 2020, the Commission was still in the process of moving forward, this time with the Capital Markets Union – significantly the official website of the Commission talks about *building* a single market for capital, 60 years after the first legislative measures.<sup>4</sup>

The four freedoms left for a long time a gap in the area of direct taxation. Over the decades, as market integration proceeded, the lack of EU rules and/or EU common standards to define

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<sup>3</sup> However, looking at four preferential trade agreements (PTAs), Young (2015) shows that PTAs have achieved (limited) convergence around international standards, not around EU standards. Moreover, Young argues that at least in these four cases the EU has not even tried to export its rules, possibly worried that an aggressive position would have damaged agreements that benefit European firms.

<sup>4</sup> [https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union\\_en](https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union_en) accessed 18 November 2022

and tax cross-border savings and corporate profits has been detrimental to the single market. Before the 1990s, little was done in the domain of direct corporate taxation (Radaelli 1997; 1999). In December 2021, following an international agreement in the Organisation for Economic Cooperation and Development (OECD) – G20,<sup>5</sup> the Commission proposed a directive on minimum effective corporate tax rate for the global activities of corporations.

What about the free movement of people? The free movement of workers of the 1950s and 1960s, historically, did not have the same political salience witnessed after the Eastern enlargements of 2004 and 2007, the same ambition of mutual recognition of diplomas, and freedom to provide services – three dimensions where progress has taken time. No one could have envisaged that European integration would have led to single market considerations applying to sport policy (see Parrish 2003 on how this discussion emerged).

## POLITICIZATION

From the decade of the 2000s, there has been contestation as to whether the four freedoms (including the accompanying legal measures and the fundamental Court decisions to make them fully enjoyable) are inevitably synonymous of progress. In other words, the scope and depth of the single market has become an element of social and party-political contestation – for example in the domain of single market for services, foodstuff regulation, and the liberalization of audio-visual markets (see the special issue of *Journal of European Integration* (44:1) edited by Raudla and Spendzharova 2022 for an overview of contemporary challenges across a large number of sectors, from energy to higher education).

The politics of the single market is not only a question of inter-state bargaining, governmental preferences, or political opportunism of the Commission (Cram 1993), but also one of politicization, concerning social movements and political parties. The question ‘has the single market gone too far?’ has been raised in different terms, from the race to the bottom in social standards to the claim that unconstrained capital movement creates financial crises. If we observe the single market from the perspective of compliance and implementation, it is not surprising that its achievements are by no means the same across the four freedoms and across the 27 Member States, although the direction has been one of increasing the scope of the regulatory framework (Egan 2019: 2020).

Two major steps contributed to the widening of the scope and breadth of the single market. One was the Single European Act (SEA) in 1987 and the related 1992 programme, a package of 283 proposals to bring the single market project to completion. The SEA introduced qualified majority voting in areas previously subject to unanimity (significantly, not in direct taxation), making it easier to carry on with the discussion and approval of the set of legal measures. 1992 was identified as the deadline for the ‘completion of the single market’. Under the 1992 programme, measures of certification and technical standards were delegated to technical bodies, thus avoiding the political problems of introducing legislation via the complex EU law-making process. Introducing and adapting standards to a changing world of innovation and technology is easier if it is done via technical bodies and industry-level organizations for standardization – as opposed to the political institutions of the EU.

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<sup>5</sup> The OECD/G20 Inclusive Framework reached an agreement among 137 countries on minimum taxation of the profits of multinational corporations and the (partial) re-allocation of taxing rights.

The SEA big bang strategy was revitalized in the Monti Report on The Future of the Single Market (Monti, 2010). Former Commissioner Mario Monti re-defined in 2010 the single market as the foundation of the social market economy and warned against complacency and single market ‘fatigue’. As Michelle Egan notes (Egan 2020: 159), the report adopted the narrative of *safeguarding* the single market, a clear indication of the anxieties about the diffusion of economic nationalism that are still present today. This report was followed by the Single Market Act I (2011) and Single Market Act II (2012) – but with much less political determination than the original SEA, because during the 2010s the EU was coping with the financial crisis and speculative attacks on the sovereign debt of some countries of the euro area. The problem at that time was to save the euro.

The second step was the court-driven push towards mutual recognition – an approach on which the Commission has capitalized by extending its regulatory power. The creation of harmonized legislation and common European standards is a political task often riddled with stalemate and blockages to agreement, even with qualified majority voting in the Council of Ministers. This road can be blocked and is, in any case, an obstacle course given the number of actors with veto power from impact assessment to decisions in the Commission, from approval to transposition, from implementation to infringements.

But directives and regulations are not the only way to create a level-playing-field across the EU. In a series of landmark decisions based on its judicial activism, the Court of Justice of the EU introduced the principle of mutual recognition. The principle stated that restrictions imposed by a Member State on a product that circulates freely and lawfully in another EU Member State are prohibited and therefore have no legitimacy in the single market. Mutual recognition can therefore have the same effect that harmonizing rules via the EU law-making process. A ‘regulatory state’ (Majone 1994) can therefore emerge via mutual recognition, even if it is impossible to harmonize all rules via the EU law-making process.

The country-of-origin principle, which originated in the 1979 *Cassis de Dijon* case law,<sup>6</sup> determined where a company is regulated. Based on this principle, a service provided in one country, but received in another, must be regulated in the State where it originates. Importantly this principle was integrated into the Directive on electronic commerce (2000), banking and insurance Directives (Newman and Andenas 1998). This fits well with the European Commission’s agenda for a one-stop-shop for regulation, thereby enabling companies to operate across Europe within negotiating 28 (now 27) different regulatory restrictions.

Mutual recognition is therefore not an unconditional principle. The Court of Justice of the EU has always recognized that legitimate public interests (such as fair competition, public health, and consumer protection) are part of the equation when no EU rule exists in a given domain. Mutual recognition also requires a good measure of mutual trust for a Member State to accept the regulatory standards of the other 26 Member States without any additional regulatory test or scrutiny (Egan 2020: 161).

The political debate is whether the notion of equivalence of national regulations can go beyond goods and cover services too – and how robust is the public interest defence of restrictions to trade in front of the EU Court of Justice and the supra-national power of the competition policy operated by the European Commission. The case law in services has spawned

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<sup>6</sup> Case 120/78 *Rewe-Zentral AG v. Bundesmonopolverwaltung für Branntwein (Cassis de Dijon)* [1978] ECR 649.

a debate on whether the freedom of establishment of services should be prioritized over social rights and collective labour rights (Egan 2019).

The mutual recognition principle brings us to consider that the single market reach is not limited to legal requirements imposed by EU-law. It is also a market-led process of regulatory competition (Radaelli 2004). In an integrated market, capital and labour tend to move where the regulatory standards are more efficient – this phenomenon is possible exactly because there has been substantial integration and removal of barriers via the achievements of the single market.

## HOW DID IT HAPPEN?

To understand the broad politics of the single market, we need an analytical compass. Why is the single market at the same time desired and resisted by different actors at different times?

Why is its completion almost invariably on the agenda – does it mean that it has never been completed, that it is constantly expanding into new domains, previously unforeseen, or that increased differentiation hinders completion (Howarth and Sadeh, 2010)? Why do many single market proposals start as neutral and win-win technical solutions, only to become politically contested soon after (Harcourt and Radaelli 1999)? We cannot address these questions in detail, and few political scientists have drilled down on empirical analysis at the granular level of individual industries and territories – one formidable exception being Andy Smith and his team at the University of Bordeaux (Smith 2013). But we can provide at least a conceptual compass based on two concepts: negative versus positive integration and regulatory competition.

An important dimension of the politics of the single market is positive versus negative integration (Scharpf 1996; 1997; 2002). Negative integration is typically concerned with ‘market-making’ by striking down barriers to efficient markets. Negative integration is about the removal of national barriers in order to create a common EU policy. The four freedoms, indeed, imply that barriers are dismantled. Some important prohibitions (to barriers) are already in the Treaties, hence there is no need to create special legislation. The Commission can proceed with infringements (article 258 Treaty on Functioning of the European Union) against the breach of single market legislation. As mentioned, the Court of Justice of the EU has historically had a big say and disposed of limitations to free markets (Vogel 1995).

In negative integration domains, the Commission has first of all extensive powers. The EU competition policy specifies what is admissible in terms of mergers or joint ventures between companies, pricing and market-sharing agreements, and other market behaviours that affect the market structure in significant ways. The aim is to enable markets to function subject to oversight by the Commission and the network of competition authorities.

Positive integration is about market-correcting policies. Since the single market vision was grounded on the four freedoms, logically it must follow that to correct the market is an objective that ought to be subordinate to having the single market in place first. To achieve positive integration, the EU institutions must agree on a given standard, be it about hygiene in farms or emissions. Given the diversity of models of capitalism, preference heterogeneity on the size and reach of the welfare state, and variation in administrative capacity, positive integration is harder to achieve than negative integration (Scharpf, 2002). We said that positive integration is market-correction oriented. To correct a market, there has to be first an agreement on the social

model and level of welfare that the correction must achieve. How much social policy (and with what attributes) should go into that model is the problem.

The reach of negative integration is enhanced by regulatory competition, often triggered by EU and national Court decisions (Harcourt 2007). Consider this: when negative integration creates a new market, for example by disposing of barriers in a policy domain previously protected by national regulations or public monopoly, the newly created market is obviously a market amongst economic actors. But it is also a sort of ‘market’ amongst differing national regimes. Economic players can leverage the rules of the most efficient domestic regime – and the other Member States cannot object, given mutual recognition. If a mutually recognized, legitimate domestic regime for the new media is perceived as creating a better environment for the flourishing of this type of business, then other Member States will have to adjust their national rules to prevent companies from relocating elsewhere, where the rules are more efficient. This creates a convergence via regulatory arbitrage and competition without the necessity to introduce new EU-wide legislation.

The market-making character of negative integration creates a horizontal process of policy adjustment via the competition amongst the existing regulatory regimes. Regulatory competition operates in the shadow of EU negative integration, which prohibits certain policies such as discrimination against other EU nationals or companies, and mutual recognition. The question is whether regulatory competition creates a race-to-the-bottom and exacerbates the imbalance between negative and positive integration. Regulatory competition is in fact generally efficient, unless it triggers a race-to-the-bottom among countries, where governments end up without the necessary level of revenue to fund infrastructure and public goods, and tax labour in inefficient and unfair proportions (Radaelli, 2004 for a review).

The robustness of positive integration policy regimes has been questioned by the call for explicit de-regulatory ‘policy dismantling’ political initiatives (Gravey and Jordan 2016). The argument is that a number of Member States and a ‘political’ Commission (Mérand 2021; Smith and Joana 2002) have coalesced in setting the agenda for actively reducing the scope and breadth of environmental and social policy. The better regulation agenda – one of the core complementary initiatives of the single market (Egan, 2019) – has been blamed for being a de-regulatory attack on positive integration and social/environmental standards (Radaelli 2018).

But, how much dismantling has really happened? Gravey (2016) examined environmental policy for the period 1992–2014. She found that the EU dismantled some elements of a programme, but also expanded another element, added restrictions on some clauses of regulations whilst at the same time injecting exemptions. There is also dismantling by shifting responsibilities instead of budget (e.g., companies rather than regulators having to check the negative environmental effects of industrial activities, with firms possibly not in the best position to provide objective estimates) and dismantling by withdrawing proposals for social and environmental regulation.

All this makes a definitive judgement hard to make. Gravey concluded that pressure to dismantle and policy instruments tweaked towards de-regulation exists, but their effects are not necessarily in the direction of dismantling. The better regulation agenda has not produced wholesale dismantling of environmental policy. Radaelli (2018) reports on how the Commission has resisted the rhetoric of a ‘bonfire of regulations’ – after all, the Commission has carried on using instruments like consultation and regulatory impact assessment to support new proposals for environmental and social policies.

After the Covid pandemic, the EU does not look poised for policy dismantling and a race-to-the-bottom in regulatory competition. With the ecological transition, the regulation of artificial intelligence, and plans to steer innovation in a socially-responsible direction, the already world-wide comparatively high standards of environmental and social policy are set to go up. There is no pressure to dismantle public health and other dimensions of positive integration – quite the opposite. With Brexit, a vocal advocate of de-regulation has left the scene of EU policy formulation. The Commission draws on the tools of better regulation to justify its proposals for new regulations covering sustainability, energy transition, climate, food, artificial intelligence and social welfare – thus the better regulation agenda cannot be seen as de-regulatory and oriented towards dismantling of environmental and social policy (Radaelli, 2020).

### **The Digital Single Market**

At what stage is the single market in today?<sup>7</sup> A good angle to observe recent developments is the digital dimension. Today, the Digital Single Market (DSM) 2014–2019 is the largest component of the EU's Single Market programme.<sup>8</sup> It is comprised of a considerable number of directives, regulations and other instruments aimed at facilitating cross-border digital services. The DSM enabled access to EU markets in cross-border digital services such as online shopping, banking, gaming and content streaming to operate across EU borders. Operators are regulated in one jurisdiction under the country-of-origin principle set out under DSM legislation.

The country-of-origin principle was particularly lucrative for digital services which travel easily across borders. Two-thirds of EU internet users shop online (Eurostat 2021). The EU facilitates e-shopping via its 2000 e-commerce Directive, 2006 Services Directive, 2002 e-Privacy Directive, 2016 General Data Protection Regulation (GDPR), Online Dispute Regulation (ODR), and the 2011 and 2019 Consumer Rights Directives. Under the Directives, the internal market establishes that providers of online services are under jurisdiction of the Member State in which they are established, not the law of the Member States where the service is provided based upon the COO principle. The e-commerce framework is flanked with regulations on geo-blocking and ePrivacy (including rules on data localization), the Payment Services II Directive, which provided the legal foundation for the development of an integrated internal market for electronic payments within the EU, and modernization of rules on product liability. However, in many cases, this liberalisation of cross border services resulted in externalities (Harcourt, 2021a). In the area of the DSM, these compromised citizen's privacy, data protection and consumer rights and, in the case of online platforms, resulted the rise of online disinformation and online harm.

The rise in disinformation online in particular led to a push for higher level of regulation for online platforms and social media outlets for the safeguarding of minors, against content inciting hatred, the protection of public health, public security, and also consumer protection. The EU has also established the European Consumer Centres Network which facilitates cross-border dispute resolution. The EU recently updated introduced a package of meas-

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<sup>7</sup> For a recent assessment see Raudla and Spendzharova (2022). On the European Economic Area see Leuffen, Rittberger and Schimmelfennig (2022: 177–221).

<sup>8</sup> The DSM comprises one-fourth of the European Commission's (EC) single market programme as outlined in its 2015 'A Digital Single Market Strategy for Europe' strategy.

ures under its Digital Single Market programme, namely the 2016 General Data Protection Regulation (GDPR), a 2017 competition sector inquiry into e-commerce, 2018 cross-border parcel rules,<sup>9</sup> a 2019 Consumer Rights Directive,<sup>10</sup> 2021 VAT rules for online sales of goods and services,<sup>11</sup> legislative proposals for a 2021 Digital Services Act which reforms e-commerce rules and a 2021 Digital Markets Act which addresses gatekeepers.

These proposals are significant because they give the European Commission more authority and introduced hefty fines for transgression. The introduction of Regulations rather than Directives with the GDPR and DSA (updating the 1995 Data Protection Directive and 2000 eCommerce Directive respectively) make EU law directly applicable with little room for national deviation. This signifies a marked change in the EU's approach in that there are few national exemptions as there were under previous legislation. For example, under the 2000 e-Commerce Directive, the UK attained subsidiarity exemptions to the COO principle under 'derogations from Regulation 4', namely public policy; protection of public health; public security, including the safeguarding of national security and defence; and the protection of consumers (including investors). By contrast, the Digital Services Act specifies that 'harmonising the conditions for innovative cross-border digital services ...can only be served at Union level' (DSA 2021:6).

Under the DSA, third countries offering services within the EU must appoint legal representatives in the EU on the basis of 'the existence of a significant number of users in one or more Member States, or the targeting of activities towards one or more Member States'.<sup>12</sup> This will be based upon a number of factors including language, the use of a top-level domain or the currency used for transactions (European Commission, 2020). The Member State, where the legal representative is located, will retain jurisdiction for the service provider which will be regulated by a nominated NRA 'Digital Services Coordinator'. In the DSA specific rules exist for platforms reaching more than 10 per cent of 450 million EU consumers, which is clearly aimed at large platforms such as Google, YouTube, Facebook and Twitter. Under the Act, the proposals retain limited legal liability for intermediary services but impose obligations to act against infringements of hate speech, terrorist content and illegally copyrighted material. Failure to intervene risks intervention under article 51, which establishes whether platforms are considered to fall under the 'very large' category by the European Commission, can result in large fines.

The shift in responsibility for content regulation to online platforms can also be seen with the self-regulation of disinformation (Harcourt, 2021b). Self-regulatory measures under the EU's 2018 Code of Disinformation have been signed by a number of social media platforms, including Google, Facebook, Twitter, Microsoft, Mozilla and TikTok, the European Association of Communication Agencies, the Interactive Advertising Bureau and the World Federation of Advertisers. This self-regulatory approach stemmed from the 2018 Action.

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<sup>9</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R0644> accessed 18 November 2022.

<sup>10</sup> [https://ec.europa.eu/info/law/law-topic/consumers/consumer-contract-law/consumer-rights-directive\\_en](https://ec.europa.eu/info/law/law-topic/consumers/consumer-contract-law/consumer-rights-directive_en).

<sup>11</sup> [https://ec.europa.eu/taxation\\_customs/business/vat/modernising-vat-cross-border-e-commerce\\_en](https://ec.europa.eu/taxation_customs/business/vat/modernising-vat-cross-border-e-commerce_en) accessed 18 November 2022.

<sup>12</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608117147218&uri=COM%3A2020%3A825%3AFIN> accessed 18 November 2022.

In addition, the EU proposed in 2022, the Data Act, the main aim of which is to promote data sharing in public and private sectors. It builds on the 2019 Open Data Directive which facilitated data sharing in the public sector and publicly funded research. It aims to address legal certainty for the generation of data outlining under which conditions data can be used and shared. The 2019 Directive addressed fairness in contractual terms in an aim to empower SMEs when entering into agreements to access data held by large corporations. The Commission plans to develop model contract clauses ('smart contracts') for fair data-sharing. Cloud service providers need to permit customers (including companies) to switch from one service to another more easily. This is to close a legal gap in data portability rights as the GDPR only covers personal data. Currently, 'vendor lock-in' is dealt with on a self-regulatory basis only within the 2018 Free Flow of Non-Personal Data Regulation.

These initiatives, particularly the DSA and DMA, will greatly increase the power of the European Commission. Under article 51 of the DSA, the Commission will be granted the power to intervene in the case of persistent infringements. Subsidiarity has been removed in favour of the promotion of the easing cross services which 'can only be served at Union level' (European Commission, 2020:6). Substantial fines (10 per cent of global turnover for the DMA and 6 per cent for the DSA) can be levied directly by the European Commission. This entrenchment of single market logic can also be seen in a flanking proposal for the Network and Information Security directive (NIS2). As Kolkman points out, the updated 2022 Directive,<sup>13</sup> which covers domain name systems, would replace the phrase 'the entities providing domain name registration services' found in the 2016 NIS Directive with the words 'operators of root name servers with a significant footprint in the EU' and 'that are of importance for the internal market'.<sup>14</sup> The NIS documents display classic internal market policy logic which aims to promote industrial policy and protect European and national champions.

Increasingly, internal market logic and discourse over the internal market has been reframed as one of 'digital sovereignty'. Under the policy, launched by the von der Leyen Commission, digital markets have been identified as key political priorities which would 'would require the Union to update and adapt a number of its current legal, regulatory and financial instruments, and to promote more actively European values and principles'.<sup>15</sup> The European Commission policy is aimed at strengthening European companies and maintaining data on European soil.

## CONCLUSION

The single market is the core business of the EU (Pelkmans, 2016). It is also the terrain where supra-national opportunism of the Commission and the defence of Member States prerogatives are tested (Camisão and Guimareães 2017). It is indeed a fundamental edifice, arguably the 'cathedral' of European integration, although some have observed 'increased differentiation', 'modest revival' and 'the ever incomplete' single market, after the glorious years of the 1992 programme (Egan, 2019, 2020; Howarth and Sadeh, 2010).

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<sup>13</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_2985](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2985) accessed 18 November 2022.

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:823:FIN> accessed 18 November 2022.

<sup>15</sup> [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651992/EPRS\\_BRI\(2020\)651992\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651992/EPRS_BRI(2020)651992_EN.pdf) accessed 18 November 2022.

Like some cathedrals that started with shared beliefs, but then were shaped by different achievements, wavering commitments, and contrasting interpretations of where to go next with the building work, the single market is still relatively differentiated. It is definitively more developed for goods than labour and services. The digital single market constitutes a new moment of truth, because it has implications for all four freedoms. As well as appraising the single market in terms of compliance, implementation, judicial activism and the role of EU rules as experienced on the ground, we have to appraise it normatively, considering multiple factors that fuel legitimacy and contestation. For these reasons, the single market will remain a formidable lens to capture the achievements as well as the legitimacy of the integration project.

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## 19. Economic and monetary policies

*Dora Piroska*

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The Economic and Monetary Union (EMU) is a set of policy measures that aims to foster monetary and fiscal coordination among European Union (EU) member states in the absence of a federal state. Launched in 1991<sup>1</sup> the EMU's primary policy objective is to foster financial and economic integration among member states which are united by a common currency and a single central bank, the European Central Bank (ECB). The EU's economic and monetary policies may be broadly defined, including the governance mechanism of the totality of the Single Market as well as all the market correcting instruments that were introduced over time to balance. In this chapter, however, the focus is narrowly set on those economic and monetary policies that govern the EU financial market.

Financial market integration in the EU was relatively low compared to other sectors of the economy but has substantially accelerated in the 1990s with the inauguration of the Maastricht Treaty and the enhanced liberalization of member states' financial markets (Howarth and Quaglia, 2021; Howarth and Verdun, 2020). The decision to establish the ECB to conduct a single monetary policy for all those member states that introduced the common currency – the Euro – was accompanied by a set of harmonization measures in the different national financial markets (Howarth, 2009). However, the weakness of the EMU's architecture was painfully revealed during the 2008 financial crisis, followed by the sovereign debt crisis of Southern member states, that threatened the dissolution of the Eurozone in 2012 (Epstein and Rhodes, 2014). Consequently, the EU's financial policies have been importantly redesigned following the 2008 crisis (Donnelly, 2018; Howarth and Quaglia, 2016). Post-crisis, the financial sector dominated the EU's economic and monetary policies as the European public no longer trusted banks and capital markets to self-govern themselves in sustainable, stable, and efficient ways. Macroprudential policy entered the European financial regulators' cookbook (Baker, 2013; Moschella and Pinto, 2021; Piroska et al., 2020). Prudential bank behaviour was defined not only at the individual bank-level, but risk to stability was also defined at the macro-level of the banking sector. In the 2010s, four major economic policy areas changed (State aid, fiscal coordination, central banking, and bank supervision) that together redesigned the EU financial governance structure (Piroska and Podvršič, 2020).

While the new financial governance framework promises greater stability and efficiency of the EU financial market, it also seriously diminishes democratic politics in some member states. Therefore, political economists' reform suggestions are targeted at the EU institutions' capacity to increase democratic representation and oversight (Fontan, 2018; Högenauer and Howarth, 2016). Financial markets are also looked upon to increase investment in general, but also more specifically to direct investment into more climate-resilient production and regulatory design of new monetary instruments to achieve this goal. Finally, the stalled Banking

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<sup>1</sup> [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/economic-and-monetary-union/what-economic-and-monetary-union-emu\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/economic-and-monetary-union/what-economic-and-monetary-union-emu_en) accessed at 5.11.2021

Union and Capital Markets Union projects demand institutional reforms on both sides of the EU to bring greater prosperity for all (Ranger et al., 2021).

## EUROPEAN FINANCIAL INTEGRATION IN THE 1990S

In the 1990s, two major economic and monetary policy changes affected financial markets in Europe (Mérő and Piroška, 2018). The Maastricht Treaty in 1992 laid the basis for a single monetary policy, the introduction of a common currency, and the establishment of the European Central Bank. It did so by prescribing conservative macroeconomic targets for member states that must be achieved before member states can join the common currency area, the Eurozone. At the same time, a new set of policies were introduced targeting the financial sector, and European banking regulation developed towards tighter European integration, but with profound subsidiarity concerns. The new financial policies both at the European as well as at the national level were becoming increasingly diffused: not only public authorities defined the rules, but also private banks, rating agencies, law firms and independent government agencies as well as international organizations and powerful States. Throughout the 1990s, European financial and monetary policies were conceived within what Hall (2013) calls a monetarist paradigm that built on the idea that market liberalization creates efficiency, more like national markets, and requires no major intervention from public authorities.

The Maastricht Treaty narrowly focused on monetary integration. Therefore, financial stability concerns were largely missing from it (Montanaro, 2016). It was consistent with the narrow view of what central banks should be focusing on that prevailed in the 1990s globally (Johnson, 2016). This view held that the central banks' core tasks are to follow the principles of price stability so that they operate independently from governments, the German model. The price stability principle meant maintaining a stable and low inflation rate. The ECB was set up following this narrow understanding of central banking. Its mandate focused on price stability, although it was also assigned to a secondary mandate to promote the European economy if this secondary goal does not contradict its primary mandate of price stability provision (Fontan, 2018). The provision of financial sector stability remained the responsibility of member states. The ECB was set up together with the European System of Central Banks which comprises all the central banks in the EU, including the ones outside the Eurozone. There are two features of the ECB's mandate that are less often exposed in the literature on the ECB. First, the ECB's mandate of maintaining price stability is imprecise. The Treaty does not demand any specific level of inflation to be achieved; instead, it gives relative freedom to the ECB staff to interpret its mandate and it was the ECB staff that has set it up at a 2 per cent level. Second, the ECB is mandated – even if indirectly as a member of the ESCB – to contribute to the financial stability of the EU as a whole, not only to that of the Eurozone. In other words, according to its legal foundation, the ECB is the central bank of the EU and not only of the Eurozone. In line with this wording of the Treaties, all non-Eurozone member states, with the exception of Denmark, are commanded to join the Eurozone once they fulfil the Maastricht criteria. (Denmark secured opt-outs from several EU policies such as defence, security, police, etc., and the common currency in 1992). In practice, we see, obviously, political manoeuvring around these legal obligations both on the side of the ECB as well as on the side of the non-Eurozone member states (Epstein and Johnson, 2010).

Supplementing the monetary policy objectives, European financial integration unfolded on two interdependent levels in the 1990s: at the member state level and at the European level. At the member state level, regulations were targeted at two goals. The first goal was the liberalization of the banking sector from direct state intervention that characterized European banking, except for the UK, until the 1980s (Zysman, 1983). Within this regulatory agenda, governments dismantled direct intervention such as preferential credit allocation and explicit State control (Loriaux, 1996), and many barriers of entry and other instruments that protected domestic financial markets (Kurzer, 1993). European governments also gradually lifted the barriers between the various segments of financial markets. In doing so, they allowed both for the development of the market-based banking business model to become dominant in large European banks and the innovation in financial instruments and products that enhanced the securitization of banking and finance (Hardie et al., 2013). At the same time, private actors' influence over lawmakers, such as rating agencies, law firms, and accounting companies, also grew gradually (Sinclair, 1994). The banking sector's liberalization was much more pronounced in Central and Eastern Europe than in the 'old' EU member states (Piroska et al., 2020). In the 'old' member states, a second goal prevailed: the protection of national champions to the detriment of foreign banks (Epstein and Rhodes, 2014). For example, banking nationalism was practiced in Germany as guarantees that the EU Commission considered market-distorting state aid<sup>2</sup> or in France in the form of protecting large domestic banks from foreign takeovers.

## FROM A COMMON MONETARY POLICY TO THE FINANCIAL CRISIS: EUROPEAN POLICIES TARGETING THE FINANCIAL MARKETS

The introduction of the Euro in 1999 created an enhanced impetus for designing new EU-level financial and banking policy. In the early 2000s, however, at the core of European financial policy design remained the same principles that had guided policy formation since the 1980s, namely decentralization of regulation at the member state-level and segmentation across insurance, securities, and banking (Lastra, 2003). As a consequence of the regulatory fragmentation, responsibility for financial stability remained at the member state level, and no European authority was designed to oversee banking stability at the European level. A large variety of solutions existed in the various member states and in the Central and Eastern candidate states. Nevertheless, the way in which financial stability was provided for was slowly changing everywhere. One trend, in particular, was the establishment of consolidated supervisory authorities mandated to supervise various financial activities. In addition, many of these new authorities were established as independent regulatory agencies (IRA) outside the traditional ministerial structure of the European state (Majone, 1997). The consolidation trend across various sectors was also a public response to the rise of large and complex financial conglomerates. This trend at the member state level was accompanied by the emergence of many supervisory forums at the European level.

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<sup>2</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_01\\_119](https://ec.europa.eu/commission/presscorner/detail/en/IP_01_119) accessed at 7.6.2022.

International financial regulation agreements, signed in the 1990s, had also shaped the landscape of European financial policy. They reflected the increased international cooperation of states and the increased activity of international organizations globally (Germain, 1997). The most important agreements were the 1988 'Basel Capital Accord', the 1997 'Core Principles for Effective Banking Supervision', and the 1999 'New Capital Adequacy Framework' also called 'Basel II'. These agreements also demonstrated that the source of new regulatory ideas had shifted from Europe to the global level.

Moreover, these agreements led to an increasingly qualitative approach to financial supervision. In particular, in applying these international standards, bank supervision became multi-tiered with banks' internal risk management. The introduction of 'Basel II' marked a shift from rule-based to risk-based regulation and supervision, i.e., to regulation based on banks' best risk-management practices and supervisory audit. The role of governments' function in providing financial stability was thus curtailed by both the establishment of IRAs as well as the self-regulation of banks. Nevertheless, this solution embraced diversity and multiple actors within an increasingly homogenous European regulatory framework. The European implementation of these global agreements dominated the early 2000s, which was also the time when the EU prepared for the largest enlargement in its history: the accession of the Central and Eastern European countries. As the global norms absorption gained priority, little attention was paid to the financial regulatory consequences of Central and Eastern enlargements in the EU regulatory circles.

In 2001, the Lamfalussy process was launched. Alexander Lamfalussy, who was the chair of the advisory committee on the design of the new financial regulatory framework, was an active European politician and served in a number of European financial policy-relevant institutions, most importantly he was the president of the European Monetary Institute, the predecessor of the European Central Bank.

The Lamfalussy process's main goal was to create a more efficient integrated financial regulatory mechanism that boosts cooperation both horizontally among member states and vertically between member states and European authorities. Although it originally only focused on the securities market, its innovations were soon extended to banking and insurance as well (Lastra, 2003). This created a dual European structure of banking regulation. It is important to note that this framework did not centralize power at the EU level. There was no transfer of power from the national to the supranational level. This is because all the regulatory committees made their decision on a full consensus basis. Comitology in financial regulation coupled with the trend to delegate financial supervision to IRAs from ministries paved the way for the common thinking about the establishment of an EU-level financial supervisory agency.

Parallel to the Lamfalussy process, ran the Financial Services Action Plan (FSAP). Launched in 1999, FSAP's explicit goal was completing the Single Market for financial services by removing the remaining obstacles of cross-border financial transactions by a deadline in 2005. FSAP also consisted of many expert committees working on specific segments of financial markets. In addition to FSAP's Single Market focus, it also aimed at developing supervisory tools at the member state level. With its 42 actions planned and many pursued, it was an important step in harmonizing EU financial regulation.

In 2004, the EU's fifth enlargement took place, which included eight Central and Eastern European countries and Malta and Cyprus. This was the largest expansion of the EU until today. This enlargement fundamentally changed the character of the EU economy in general and that of its financial market in particular. The Central and Eastern European countries'

financial markets differ significantly from those of the rest of the EU. The financial market in all of these countries has been, except for Slovenia, dominated by foreign-owned banks (Lindstrom and Piroška, 2007). The Eastern European banks are relatively small, but banks dominate financial intermediation. In the new member states, capital markets are not important for firms and businesses to raise finance. Foreign-owned banks, initially interested in providing financial services for foreign owned multinational companies active in Eastern markets, gradually turned to household and mortgage finance as their most profitable market segments. While large corporations (mostly foreign owned) increasingly served their financing needs through inter-company loans, domestic small- and medium-size enterprises faced constraints in raising loans for their investments.

As we have seen from the overview of EU financial policy changes, they practically paid no attention to the Central and Eastern enlargements. No particular attention was paid to the dramatic increase of member states from 15 to 25 or to the even more dramatic increase in heterogeneity of member states in both economic development and the quality of regulatory institutions. Or, even worse, when changes were initiated, such as in the voting rights distribution in the Governing Council of the ECB, it typically favoured old member states (Howarth, 2007). This is true even if, after the accession, CEE member states' representatives played an important part in various regulatory committees. Their approach since accession changed from passive rule takers (implementation of the *acquis communautaire*) to active influencers of EU law.

Following EU accession, a few new member states also joined the Eurozone, Slovenia leading the way in 2007, followed by Slovakia in 2009 and the Baltic states in 2011 Estonia, 2014 Latvia, and 2015 Lithuania. Poland, Hungary, and Czechia expressed no interest in joining the Eurozone, Romania remains hesitant, while Bulgaria and Croatia set on the course of Euro adoption, with Croatia getting a green light in 2023.

To sum up, up until the global financial crisis in 2008, the logic of European financial policy formation did not change: it was driven by the desire to balance between subsidiarity concerns of member states to be in charge on national policy formation (banking nationalism) and an EU level focus with increased harmonization, common standards, and cross-border cooperation that underpinned the common monetary policy, and was relatively poorly fitted to the specific regulatory needs of Central and Eastern European new member states.

## MAIN CONTEMPORARY CHALLENGES: UPHOLDING DEMOCRACY IN MEMBER STATES AND THE EU

Beginning in early 2007, in the United States, an increasing number of financial corporations, commercial banks, investment banks, real estate funds, and insurance companies reported significant losses. One of the main triggers for the US financial crisis was a new money market innovation, Collateralized Debt Obligations (CDOs). A CDO is essentially a package of bonds (often mortgage bonds) with a variety of risks and maturity. CDOs were considered less risky investments due to their risk-diversifying feature. Credit rating agencies also assigned low risk rating to CDOs and thus market actors were under the impression that CDOs were fundamentally safe. However, appearances were deceptive. When prices began to plummet in the overvalued US real estate market at the end of 2006, the value of all mortgage bonds packaged in CDOs began to decline simultaneously, causing CDOs to lose most of their value suddenly.

And along with the CDOs, all the insurance businesses, money market transactions, and investments that were built on them became worthless overnight. In the summer of 2007, the US financial crisis began to have an impact in Europe as well. A worrying number of British, French, and German banks reported losses. The crisis spread to Europe through trade among international banks. As banks in Eastern Europe did not engage in CDO trading, decision-makers expected that the crisis would have no or only minimal impact in the new member states. However, the course of the global crisis took a dramatic turn when in September 2008, Lehmann Brothers also went bankrupt. As a result, the international inter-bank market came to a near standstill, and banks were unable to access liquid funds. In Europe, the liquidity crisis affected first Iceland, then Hungary, which due to its habit since the 1980s, turned to the IMF for help as well as to EU Commission. With the arrival of the IMF in Europe, its active management in the following EU sovereign bond crisis seemed natural to most.

The crisis in Europe did not stop at the banking sector but spilled over to the European states. The European sovereign bond crisis, which unfolded from 2009 to the late 2010s, was essentially the result of the above-described banking nationalism that prevailed in most of Western and Southern Europe. As Epstein and Rhodes (2014) explained, in line with their banking nationalist commitment to keeping domestic banks domestic, member states have taken on a large fiscal burden while helping out their failing banks. In turn, domestic banks were lending even more money to their increasingly fiscally weak states, establishing a doom loop effect, especially in Spain, Ireland, Portugal, Greece, and in a lesser extent in Italy and Slovenia. It was only through IMF-EU Commission-ECB joint crisis management effort that the EU overcame the sovereign bond crisis.

EU member states outside the Eurozone, such as Hungary, Poland, Czechia, Romania, Bulgaria, and Croatia, from 2013 weathered the crisis relatively better than Eurozone member states (Mérő and Piroska, 2017). Although a few of them faced short-term liquidity crises and severe problems in sovereign debt refinancing (Piroska, 2017), their banking sectors remained relatively stable, and due to high foreign ownership of banks no doom loop effect developed. Managing the financial crisis, in Eastern Europe was taken over by the European Bank for Restructuring and Development (EBRD), which as a minority owner in most foreign-owned commercial banks, brought to the table representatives of banks, governments and the IMF, the Vienna Initiative in 2009, to help commercial banks to effectively communicate their commitment to maintain their lending levels in Eastern member states (Epstein, 2014).

The global financial crisis has painfully revealed the weakness of the EU financial and monetary governance structure in maintaining stability (Piroska and Podvršič, 2020). The separation of the potential spill-over between the banks' solvency problems and sovereigns' mounting debt was at the centre of the EU crisis management (Epstein and Rhodes, 2014). What followed was a major transformation of the institutions and practices of financial policy formation in the EU and, consequently, at the member state-level, which touched upon several EU policy fields, not only finance. The largest change was the introduction of the Banking Union in 2014 and thus the delegation of the supervision of large banks to the ECB. (Epstein, 2017). The establishment of the BU cut across the untenable bank-state ties in the Eurozone (Epstein, 2018).

Moreover, significant changes occurred in the functioning of the ECB, and not only in its conduct of monetary policy but also in its involvement in policy fields that it has not operated before (Chang, 2018). In addition, certain aspects of the EU fiscal coordination mechanism changed together with state aid policy. These EU policy fields have a much stronger impact on

member states' financial policy formation than before the crisis. Taken together, these policies challenge the democratic financial policy formation in the Eurozone and affect some areas of financial policy formation in non-Eurozone member states. In this section, this main contemporary challenge will be reviewed and the way in which EU financial regulatory governance impact democracy in member states will be detailed (Piroska and Podvršič, 2020).

First, the European state aid policy was established as an instrument of the European Commission to define, monitor and control how member states' governments use national public funds to promote their national economies. Although according to the Single Market's principles state interventions are in general incompatible with liberal markets, nevertheless, in certain specific conditions, the Commission approves the provision of potentially market-distorting state aid. The financial crisis called for the use of a large amount of public funds to bail out troubled banks. To control this surge of potentially market-distorting spending, the EU Commission's Directorate General for Competition (DG-COMP) launched six key regulations to guide *state aid* provision specifically to banks: The Banking Communication (October 2008), the Recapitalization Communication (December 2008), the Impaired Assets Communication (February 2009), the Restructuring Communication (July 2009), the Prolongation Communication (December 2010) and the New Banking Communication (August 2013). Following these policy changes, member states' authorities that provided public funding to troubled banks were obliged to provide bank restructuring plans to the Commission, with details including changes in management and corporate governance structure of the rescued banks. Because of these new regulations, the administrative power of the European Commission increased vis-à-vis national authorities in the case of the troubled banks. As a result, national authorities' policy discretion diminished, regardless of their political and ideological inclinations or electoral programmes that formed the basis of their democratic legitimacy.

Second, member states' fiscal policy has also had to change after the crisis. Before the crisis, fiscal policy that defined the nature and scope of government spending and revenue, fell mostly under member states' jurisdiction and remained flexible with regard to their specific circumstances. It was only the Maastricht Treaty and the Stability and Growth Pact (SGP) that, to some extent, directed governments to achieve certain macroeconomic targets. The Maastricht Treaty set macroeconomic targets for Eurozone aspirant states to achieve (1992), while the SGP limits member states' debt and deficit levels and established the Excessive Deficit Procedure as an instrument of the Commission to request corrective actions from member states.

After the crisis, when some governments' budget started to deteriorate due to their spending on troubled seriously, the Commission introduced some measures that restricted national fiscal policy formation. With the adoption of the European Semester (May 2010), Six-Pack (December 2011), Two-Pack (May 2013), and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (March 2012), signed by all EU member states except the UK and the Czech Republic, the competencies to set fiscal policy targets of the Directorate General for Economic and Financial Affairs (DG-ECFIN) of the Commission have increased significantly. In addition, the Commission was accorded the right to examine, in collaboration with the Council of the EU, the draft budget of a member state to provide an ex-ante opinion and demand revision if deemed necessary. Thus, the Commission gained the power to control and monitor the implementation of financial reform measures. Just as in

the case of the new state aid rules, the new fiscal policy measures restricted the member state government's policy discretion in general and especially in finance.

Third, up to the crisis, the ECB's mandate had been narrowly defined to achieve only price stability, while the stability of the economy and the financial sector was to be achieved through the adherence to strict macroeconomic targets (Mishkin, 2013). This has changed profoundly following the crisis as the ECB gained competencies in several new domains through which it can today interfere into member states' policy formation. The largest change to the ECB's power was the establishment of the Banking Union, through which the ECB now bears the responsibility for the supervision of the financial sector (see more on this below). However, the ECB also developed competencies in a number of other domains allowing it to become actively engaged in a member state's macroeconomic policy-making with fiscal and redistributive consequences (Chang, 2018; Högenauer and Howarth, 2016). In addition, as a member of the Troika, the ECB regularly intervened politically in the crisis management of member states and provided advice to governments (Chang 2018). Therefore, the ECB became active not only in shaping a member states' monetary policy but also their fiscal policy, and financial policy (especially bank restructurings).

Finally, with the introduction of the Banking Union (BU), the ECB has assumed explicit rights to supervise, regulate and restructure banks in member states. The BU currently consists of the Capital Requirements Regulation and Directive (CRR/CRD), Single Supervisory Mechanism (SSM), and the Single Resolution Mechanism (SRM), while its third pillar, the European Deposit Insurance Scheme, is still under discussion. CRR/CRD has harmonized regulation among EU member states, strengthened specific regulatory agencies within member states, and accorded some discretionary powers to national authorities in using certain macroprudential tools (Piroska et al., 2020). The SSM accorded the ECB the right to bank regulation and supervision, including the liquidation of banks. The ECB was granted supremacy over national authorities in politically sensitive areas. This holds especially true in the field of bank authorization, where the ECB gained the right to make decisions over bank ownership. The SRM changed bank recapitalization policy and introduced a new bail-in regime, obligating shareholders, bondholders and some depositors to participate in the rescuing of banks (Epstein and Rhodes, 2014). Thus, the BU delegated powers to the ECB as well as to designated national authorities.

Taken together, these economic and monetary policies, although they might bring greater stability to EU financial sector, they, nevertheless challenge democracy in the Eurozone. They further narrow a member state's decision-making by transferring considerable parts of (the remaining) macroeconomic sovereignty over fiscal, banking and competition policy to supra-national institutions such as the European Commission, the Council and the ECB. However, as a countermeasure to these newly gained decision-making powers, these EU institutions have not been brought under increased democratic oversight for their policy conduct. Therefore, the post-crisis EU financial governance structure restricts member states' democratic policy formation without increasing such features of the European polity that could have compensated for the lost extent of democratic policy formation at the national level.

In non-Eurozone Eastern member states, the post-crisis politics of financial regulation depended upon the extent to which financial nationalist domestic politicians gained power in government (Johnson and Barnes, 2014). With greater political autonomy to regulate banks in Hungary, Poland, and to some extent Romania financial nationalists in power increased domestic bank ownership, decreased their dependence on IMF and EU's crisis management

through paying bank loans, and decreasing the budget deficit and debt to avoid interference through Excessive Deficit Procedures and declared commitment to retaining national currency both to retain monetary policy autonomy, but also to avoid ECB's interference into domestic bank regulation and supervision in the framework of the Banking Union. Czechia stayed firmly on its Eurosceptical path, and although no political party aimed at reversing liberal financial policy nor increasing domestic ownership, it remained the harshest Eastern critique of the one-size-fits-all EU regulations. At the same time, Bulgaria and Croatia, for different domestic reasons, applied for Eurozone membership; they both entered ERM II. They established close cooperation with the Banking Union, and Croatia got the green light to join Eurozone in 2023. The Baltic states, as mentioned above, joined the Eurozone while the sovereign debt crisis was still unfolding in other member states.

## APPROACHES TO NEW POLICY REFORMS

Not surprisingly, some of the latest reforms that target EU monetary and economic policies aimed at correcting the lost democratic oversight while also moving away from the 2008 financial crisis to respond to new challenges such as low growth, climate change, and the Covid pandemic induced recession and digitalization of finance. There are four areas of reforms that will be reviewed here: state aid reform, fiscal coordination, central banking, and reform proposals to the Banking Union and the Capital Markets Union.

In the area of state aid regulation, reforms have delegated decision-making from the Commission back to member states (Colombo, 2019). Reform processes in this policy area were motivated by an increasing burden on the resources and institutional capacities of the Commission that resulted from the increasing amount of state aid provision intentions of member states. Although mandated to monitor and control state aid provisions of member states, the Commission has increasingly delegated this power to member states. As such, the problem of decreasing democratic control in member states has been reversed. However, a new unintended problem arises from the dissemination of state aid provision control back to member states, namely that core member states, with more domestic resources, are capable of providing larger amounts of public funds to local financial and non-financial firms as compared to peripheral countries. Thus, although the reform increased democratically elected politicians' say in fiscal policy formation, it did so unevenly across the Single Market.

The EU's fiscal coordination mechanism has been under constant criticism since the crisis. Among the various critiques, two different approaches to reform emerged. The first set of reform proposals would maintain the EU Commission's heavy hand over member state governments' spending; however, they would incorporate a much larger leeway, most importantly would increase the public debt ceiling from 60 per cent of GDP to 100 per cent with an expenditure rule, while maintaining the 3 per cent public deficit ceiling.<sup>3</sup> This post-Covid pandemic reform considers both the macroeconomic reality of most member states' high public debt and low inflation as well as the exceptional circumstances that the Covid pandemic continues to have on the EU economy. It seeks to help governments with higher public debt such

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<sup>3</sup> <https://www.esm.europa.eu/sites/default/files/document/2021-10/DP17.pdf> accessed at 3.11.2021

as Greece, Italy, Portugal, France, to gradually converge their debt level to an EU average,<sup>4</sup> while maintaining the Commission's power to interfere into fiscal policies through the excessive deficit procedures and a more conditional disbursement of EU funds in the future. The second set of reform proposals comes from a diverse group of scholars and policymakers who are not satisfied with incremental changes and would like to see a more paradigmatic change to the EU's fiscal coordination mechanism. Young economists call for intergenerational justice to be built into the EU's fiscal policy, investing in the youth and thus a more sustainable fiscal policy.<sup>5</sup> Sustainability of the economy, climate resilience and green transition are also on the agenda that the EU's fiscal coordination mechanism should reflect upon.<sup>6</sup> Reformers demand that the EU create a fiscal framework for sustainable growth, sustainable investment, and sustainable debt. While reform proposals vary in depth and scope, the political economic dynamics between fiscal coordination at the EU level and democratic policy formation at the member state level are still missing from the EU's public discussions.

The ECB's monetary policy also demands further reforms and there are three distinct directions that the reform proposals point at. First, the ECB should pay a lot more attention to the distributive consequences of its monetary policy not only among member states but more importantly, among different classes of EU citizens (Dietsch et al., 2016). Relatedly reformers demand the ECB to pay more attention to its secondary mandate of promoting the EU economy.<sup>7</sup> Second, there is a growing demand to demand the ECB to develop such a regulatory environment that greens finance, i.e., supports financial investment into green industry and penalizes the continuation of financial flows to polluting sectors. There are a number of ways to achieve this, from changes in microprudential regulation to other tools of macrofinancial risk management (Ranger et al., 2021). Finally, there is a growing demand to increase democratic oversight over the ECB's policy formation.

The Banking Union has faced major criticism from Central and East European member states. The decision of Czechia, Poland, Romania, and Hungary to stay away from the Banking Union, for the time being, can be read as signalling the discontent of these countries with the BU's built-in power asymmetries for home and host supervisors of large multinational banks, the lack of adequate transparency and accountability that could ensure further adequate weighing in the interest of smaller member states. Moreover, the Banking Union has been scrutinized for its capacity to uphold EU interest as opposed to particularistic national interest when deciding about bankruptcy procedures for failing banks in sensitive regions of Italy, Spain, and Greece. Reform proposals are, however, scarce, and it might be linked to weaker civil scrutiny of BU's operation than that of other elements of the EU's economic and monetary governance framework.

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<sup>4</sup> [https://ec.europa.eu/eurostat/documents/2995521/14497745/2-22042022-BP-EN.pdf/90896015-2ac1-081a-2eef-ad8d5f2c0da1#:~:text=The%20highest%20ratios%20of%20government,%25\)%20and%20Bulgaria%20\(25.1%25\).](https://ec.europa.eu/eurostat/documents/2995521/14497745/2-22042022-BP-EN.pdf/90896015-2ac1-081a-2eef-ad8d5f2c0da1#:~:text=The%20highest%20ratios%20of%20government,%25)%20and%20Bulgaria%20(25.1%25).) accessed at 9.6.2022

<sup>5</sup> <https://www.euractiv.com/section/politics/opinion/invest-in-us-young-people-need-sustainable-fiscal-policy-reforms/> accessed at 3.11.2021.

<sup>6</sup> <https://www.politico.eu/sponsored-content/time-to-demand-sustainability-within-eu-public-finance/> accessed at 3.11.2021.

<https://www.finance-watch.org/press-release/sustainable-public-debt-hinges-on-a-sustainable-world/> accessed at 3.11.2021

<sup>7</sup> [http://www.positivemoney.eu/wp-content/uploads/2021/10/The-ECBs-neglected-secondary-mandate\\_v6.0.pdf](http://www.positivemoney.eu/wp-content/uploads/2021/10/The-ECBs-neglected-secondary-mandate_v6.0.pdf) accessed at 3.11.2021.

The recent launch of the Capital Markets Union (CMU) has had only limited scope in terms of harmonizing trading and issuing securities in the EU's various stock exchanges and thus had little effect so far on European finance. The CMU, although orchestrated as an excellent tool to increase investment across the EU and help to better manage the Euro money supply in the Eurozone, largely disregards the large unevenness of capital markets operation across the EU with deeper capital markets in core countries and very shallow and marginal capital markets as opposed to banking in the Eastern periphery. Second, CMU accelerates the process of changing the business model of core EU countries' banks as they move from bank-based to market-based business models. The new model of banking, in which banks offer loans intending to further securitize them for trading in the capital markets. The new business model offers excellent but risky opportunities for banks to generate profit. However, an important critique of the new model points out its unintended consequence of banks' less investment into the real economy than under the previous model. Thus, while CMU is advocated for its capacity to increase investment across the EU, it is not only incapable of it in the Central and Eastern periphery due to shallow capital markets, but even in the core its impact may be in the opposite direction (disinvestment) than its advocates hoped for.

## CONCLUSION

This chapter has reviewed the evolution of the EU's economic and monetary policy since the 1990s and pointed out the emergence of a democratic challenge to EU politics that they pose today. In particular, four policy areas were detailed that curtail democratic policy formation at the member states' level but are themselves not subjected to larger democratic scrutiny that would allow platforms for the contestation of one-size-fits-all policies. These areas are state aid, fiscal policy, central banking, and bank supervision. The Brexit and the emergence of populist politicians to power that demand greater autonomy from Brussels-made policies should be evaluated against these changes on economic policy formation at the EU level. Therefore, reforming these policies areas are critical not only to increase the stability of banking and finance and to avoid collapse of the EU economies but also to provide democratic ways in which stability, efficiency, and prosperity could be provided in the EU.

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## 20. The Common Agricultural Policy: Still the elephant in the room?

*Gerry Alons and Pieter Zwaan*

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When it was developed in the 1960s, the Common Agricultural Policy (CAP) was the European Union (EU)'s first genuinely 'common' policy. Over the past six decades, the CAP has been at times hotly debated, and a collection of gradual incremental (and sometimes more comprehensive) policy reforms throughout its existence has resulted in a CAP that is today radically different from the policy of the 1960s. Two constants remain, however: CAP spending still constitutes the major slice of the EU budget – with its nearly 56 billion euro's good for 33 per cent of the total EU budget for 2021 – and the policy's distributive dimension incentivizes member states 'to bring home the bacon'.

In order to legitimate continuation of extensive CAP spending, the original objectives of the CAP that were dominated by concerns for food security and farm income have been complemented by new objectives, including rural development and sustainable management of natural resources. Different priorities with regard to these objectives reflect different ideational perspectives on agriculture, and result in different preferences with respect to appropriate policy instruments. Although the policy discourse has shifted over the past decades towards more inclusive policy-making and a greater interest in sustainability, changes in policies tend to lag behind. Many actors, including the European Commission, contend that more radical changes of the CAP are needed in the short run to deal in particular with climate change challenges and biodiversity loss. Criticism by politicians, NGOs, scientists and independent auditors has enhanced the politicization of the CAP debate, but policy change remains difficult.

We first discuss important debates with respect to agricultural policy, connecting them to the concepts of exceptionalist and post-exceptionalist arrangements, each with its own combination of policy ideas, interest, institutions and policies. These concepts are subsequently used as heuristic devices to describe and explain historical moments in the development of the CAP in the third section, discussing the CAP's history up to the 2013 CAP reform. The fourth and fifth sections then shift the focus to current debates on and developments within the CAP, analysing the most recent CAP reform which was concluded in June 2021. Again, we show how changes in the ideational and institutional dimensions of the policy arrangement have contributed to the policy reform. Finally, we reflect on several of these changes. We turn in particular to the Commission's effort to circumvent existing institutional arrangements to enhance the odds of significant reform by focusing on the national implementation of the CAP.

### MAIN DILEMMAS, DEBATES, AND PERSPECTIVES

Developed countries tend to support national farm sectors through their agricultural policies, the EU's CAP being a prime example. The CAP is one of the first EU's 'common' policies, its development dating back to the 1960s, and it still accounted for 33 per cent of the EU's

overall budget in 2021. The major EU member states, particularly France and Germany, have been closely involved in the policy since its inception. Eastern enlargement in 2004 and 2007 added countries with significant farm sectors to the EU, with particularly Poland engaging in the CAP-debate on behalf of the group. Four major issues of debate characterize agricultural policy discussions globally and have affected developments in the CAP over time.

First of all, contestation exists on the degree to which state-intervention is required and legitimated in agriculture. The view of agriculture as an exceptional sector deserving special treatment has long been dominant. Farming is considered a risky profession due to potential environmental challenges as well as volatile market conditions beyond the farmers' control (Daugbjerg and Swinbank, 2009). Combined with the importance attached to the national interest of food security the farming sector contributes to (Skogstad, 1998), these arguments continue to underpin state intervention in the sector, resulting, amongst others, in direct income support to farmers in the case of the CAP. While the 'exceptionalism' of the sector is increasingly called into question in the meantime and demands for more market-oriented agricultural policies have led to significant policy reforms in many developed countries, debate on the appropriate degree of state intervention in the sector remains.

A second debate concerns the appropriate goals of agricultural policies. Socio-economic and ecological goals are particularly juxtaposed in this respect: where food security and sufficient farm income traditionally formed the dominant goals of agricultural policies, environmental objectives – instigated by consumer demands and climate change concerns – currently pose a major challenge to traditional farm policies (Matthews, 2013; Alons, 2017). The dilemma is that while agricultural policies can have a multitude of legitimate policy objectives, it appears impossible to secure all of them simultaneously, and different existing policy instruments tend to work at cross-purposes (e.g., productivist policies aimed at securing sufficient food supplies may induce negative environmental side-effects).

In the context of agricultural policies incurring significant amounts of government spending, a third issue concerns the efficiency, effectiveness, and fairness of farm policies. Major challenges for the EU's CAP in this respect include the distributive aspect of direct payments to farmers – 80 per cent of these payments end up in the pockets of 20 per cent of the farmers (large-scale intensive farming mostly), the distribution between 'old' and 'new' member states is skewed to the advantage of the old member states, and in some instances landowners who are not actually farming receive the payments. Direct payments thus appear not to end up in the hands of those farmers that need them most, making them an inefficient and ineffective instrument of farm income support. The EU Court of Auditors has been highly critical of different CAP policy instruments (both income measures and environmental measures) in this respect (European Court of Auditors, 2000, 2011, 2017).

Finally, national or EU policies have global consequences. Although member states and the EU can have good reasons for intervening in agricultural markets and supporting their farmers, the policy instruments they apply also affect trade partners and developing countries. Privileging EU products on the EU internal market – an intention of the EU labelled 'community preference' – while 'dumping' excess EU produce on global markets with the help of export subsidies (a policy instrument the EU used intensively up to the mid-1990s), negatively affected market access and global price stability for trading partners and developing countries and put their relations with the EU under pressure.

These four debates and dilemmas are easy to understand and difficult to solve considering the multitude of involved actors with divergent interests in the agricultural policy domain:

Table 20.1 *Overview of historical moments in the CAP*

1960s	Developing the CAP: prioritizing socio-economic goals
1970s and 1980s	The CAP in crisis: of butter mountains and milk lakes
1990s	Shifting the CAP: from price policy to income policy
2000s and 2010s	Challenging the CAP: towards a more sustainable agriculture?
2020s	New horizons: renationalization as a solution?

farmers prioritizing the economic viability of their endeavours and low administrative burdens; taxpayers aiming at the efficient and effective spending of tax-money; consumers preferring both affordable and ‘acceptable’ (environmental, animal welfare, etc.) food options; environmental actors promoting sustainable farming; and trading partners demanding market-access for their products. The debates also reflect competing underlying ideational perspectives on agriculture, resulting in different policy rationales and institutional arrangements. In this respect, Daugbjerg and Feindt (2017) juxtapose exceptionalist and post-exceptionalist policy arrangements, each with its own combination of ideas, interest constellations, institutions and policies.

In an exceptionalist policy arrangement, ideas emphasizing the ‘exceptionalism’ or specialness of the agricultural sector contribute to compartmentalized institutions providing privileged access for a subset of (i.e., mainly agricultural) interests, and result in policy programmes and instruments that serve the interests of these actors (Daugbjerg and Feindt, 2017, p. 1567). The CAP has for a long time reflected exceptionalist policy arrangements: a focus on food security and farm income was based on exceptionalist policy ideas, while a dedicated closed policy-community – including the Commission’s DG AGRI, member state farm ministers, and farm groups – secured interventionist policies benefiting the farm sector. Over the past decades, however, this exceptionalist perception of the sector has come under pressure, partly due to the increasing interconnectedness between agriculture and environment, trade and social policies, as well as due to exacerbated dissatisfaction with the performance of the CAP. The concomitant involvement of a wider range of actors in the agricultural policy debate (e.g., environmental interest groups) contributed to a less restrictive policy network that is more open towards other interests and ideas. Daugbjerg and Feindt (2017, p. 1567) propose that a shift towards a post-exceptionalist policy arrangement with less compartmentalized policy institutions and less exclusive and exceptionalist policies can be witnessed in the CAP, albeit with the conservation of ‘a significant legacy from the past’.

The concepts of exceptionalism and post-exceptionalism provide useful heuristic tools to describe and explain major developments in the CAP over time. In the next section, we will draw on the dimensions of the concepts to discuss and explain CAP developments, based on five historical moments (see Table 20.1 below).

## MAIN HISTORICAL MOMENTS

The CAP was developed at a time that memories of food shortages during World War II were still fresh and one of the main goals of the CAP at its origin was to modernize European agriculture in order to secure sufficient food supplies. The formal aims of the CAP are enshrined in Article 39 of the Treaty on the European Economic Community (1957), emphasizing productivity through technical progress, a fair standard of living for farmers, stable markets,

and a sufficient and affordable food supply for consumers. In the CAP's early years, the main focus was arguably on productivity and farm income, very much in line with the exceptionalist perspective on farming. High guarantee prices – supported by government intervention-buying and stockpiling when world prices were too low – combined with export subsidies to sell surplus production on global markets, incentivized production and supported farm incomes, albeit at the expense of prices for consumers and market access for trading partners. This combination of high guaranteed prices and export subsidies is considered the result of a compromise between the main EU member states at the time, France and Germany. While the relatively small-scale German family farms would particularly profit from high guaranteed prices, large-scale French grain producers were aided by export subsidies to compete on global markets.

These policies were not tenable in the long run, however. Their productivist incentives eventually created food surpluses – e.g., butter and (powdered) milk were stockpiled or even destroyed – increasing the cost of the CAP, while the policy's export subsidies led to conflict with external trading partners. New policy instruments such as milk quota and 'stabilizers' were introduced in the 1980s in order to balance supply and demand, but major reforms did not materialize until the 1990s. In decision-making on the 1993 MacSharry CAP-reforms, budgetary and trade pressures coincided – agriculture posed an obstacle to a favourable conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade – and paved the way for the introduction of a new policy instrument, direct income payments, which would gradually replace guarantee prices. While this did not immediately cut CAP spending, it made the policy more market-oriented, as the income payments did not directly affect market prices the way guarantee prices did. Considerations of broader trade interests and the conception of a more market-oriented approach towards agriculture reflect developments both in the dominant ideas underlying agricultural policy and the interests mobilized during policy-making, setting the stage for a gradual shift away from agricultural exceptionalism.

Eastern enlargement of the EU was an additional argument for reform after the late 1990s. As agriculture was an important industry (particularly in terms of employment) with significant production growth potential in the acceding states, there were concerns about the expenses and redistributive effects, especially with regard to the CAP and cohesion and structural funds. While particularly the Commission argued enlargement would require a swift and significant reform of the CAP, member states such as France considered the Commission overstated the effects of enlargement. In the end, it was decided that with respect to the costliest component of the CAP, direct payments, these payments would be gradually introduced in the new member states over a transition period of ten years. The solution was therefore not found in rapid significant CAP reform at the time, but rather in a slow phase-in of the new member states, buying time to adapt the CAP more gradually.

While environmental concerns were raised with regard to the CAP's predilection for large-scale intensive farming as early as the 1980s, it is only since the late 1990s and early 2000s that these concerns significantly affected the CAP debate and its policies. The Agenda 2000 reform introduced a second 'rural development' pillar in the CAP which, among others, included funding for agri-environmental measures, while 'cross-compliance' made the direct income payments conditional on meeting certain environmental conditions. Post-exceptionalist ideas now clearly got a foothold in the CAP debate, but eventually served to legitimate continuation of exceptionalist policies focusing on farm income support (Daugbjerg and Swinbank, 2009).

Two developments contributed to further politicization of environmental aspects of farming in the last decade: the climate change challenge and the increased powers of the European Parliament (EP) with respect to the CAP (introduction of co-decision on the CAP in the Lisbon Treaty). The former increased the mobilization of new interests, putting pressure on the closed agricultural policy network while seeking to achieve a more environmentally sustainable agriculture. The enhanced power of the EP as a co-legislator had mixed results. On the one hand, it contributed to a broader debate both in terms of involved actors and content. On the other hand, the dominance of the EP's Committee on Agriculture with respect to decision-making on the CAP resulted in an EP that was nearly as conservative as the Council when it came to the 2013 CAP reform (Roederer-Rynning, 2015).

Encouraged by demands of environmental groups supported by large segments in European society, the Commission had proposed to introduce 'greening' payments in this reform, making 30 per cent of the direct payments to farmers conditional on three environmental requirements. However well-intended this proposal may have been, the eventual policy outcome was heavily watered-down, both by the Council and the EP, resulting in greening requirements that were relatively easy to fulfil by farmers and would not result in significant changes in the farming sector (Bureau and Mahé, 2015).

A range of authors conclude that while the ideas and discourse with respect to the CAP has significantly changed and the policy-network has opened up to some extent, the policy outcomes ultimately principally serve farm interests, albeit by means of different policy instruments over time (Daugbjerg and Feindt, 2017.). A complete shift from exceptionalism to post-exceptionalism had not yet been accomplished by the 2013 reform (Alons, 2017; Greer, 2017).

## MAIN CHALLENGES

To many the 2013 reform was a lost opportunity to reform the CAP. Some, however, believed (or hoped) that the changes made in the 2013 reform, even if they proved largely cosmetic, could steer the CAP in a different direction and ultimately lead to more radical changes to take better care of the environment and to take climate action. These issues continued to dominate the agenda for a new reform of the CAP. Concerns about the fairness of the distribution of payments (both among regions within states and between states), as well as concerns about the complexity and performance of the CAP also continued to be considered as main challenges for the CAP.

Dealing with these demands took place against the background of expected budget cuts for agriculture due to Brexit (with the UK being the second largest net contributor to the budget) as well as due to other policy issues that gained priority and called for EU funding.

## APPROACHES

The Communication on a new CAP, presented by Commissioner Hogan in 2017, showed the first contours of how to approach these challenges. In the Communication, the Commission stressed the need for a more flexible, fair and sustainable CAP (European Commission, 2017).

In terms of sustainability, the ‘greening’ direction taken in the 2013 reform was continued in the Communication, but clearly presented as an evolution, rather than a revolution, of the 2013 reform. This desired evolution was translated in further cuts in direct payments and the introduction of so-called ‘eco-schemes’. To compensate for a loss in direct income support, farmers would be able to receive additional financial support – also financed via the first pillar – by implementing eco-schemes. Via these schemes – adopted on a voluntary basis – farmers taking further steps in terms of environmental care would be rewarded. The greening conditions attached to direct payments were also continued, but now applied to all direct income support rather than 30 per cent, by integrating these conditions with the standards for Good Agricultural and Environmental Conditions (GAECs). These conditions would form the baseline for the implementation of the eco-schemes.

In term of fairness, the Commission aimed to address the skewed distribution of direct income support, of which around 80 per cent went to 20 per cent of European farms. To address this, the Commission proposed a mandatory capping of direct income support at 100 000 euro per farm and a progressive reduction of payments to take place above 60 000 euro.

The Commission’s plans, further, reflected a strong continued concern for modernizing and simplifying the CAP. To allow for greater flexibility and to increase the impact of the CAP (and to also make the member states themselves more accountable for this), the Commission proposed a new delivery model for the CAP, requiring states to draw up national strategic plans – to be approved by the Commission – in which they would specify how to combine different policy instruments of the CAP. To preserve a common element, states would have to choose from common objectives and instruments and combine and adjust these to fit national conditions. Instead of having one common agricultural policy, the new CAP would be a policy ‘à la carte’.

This re-nationalization of the CAP fits a longer process in which states are granted more discretion to implement the CAP. Already, member states had to draw up their own strategic plans for receiving funding from the second pillar, based on national and regional needs and additional national funding available. The 2013 CAP reform had further introduced several flexibilities, for example for the implementation of direct payments and the transfers between first and second pillar funds. The new delivery model of the CAP took this a step further by linking an increase in flexibility with an increase in the performance of the CAP. Regular reviews and monitoring of the impact of the strategic plans, as well as a structured dialogue with the Commission to discuss possible changes to the strategic national plans were important elements of the new delivery model. The focus of the CAP would thereby, arguably, shift from compliance to performance (European Commission, 2017).

The new delivery model for the CAP was originally seen as the more revolutionary part of the new CAP. While greater emphasis was also given to environmental care, climate action, specific targets for the GEACs and eco-schemes were only specified to a limited extent. The flexible and voluntary basis of these new instruments made the ambition level also very dependent on actual implementation at the member state level. The need to increase the ambitions for the GEACs and eco-schemes was felt after the EP elections in 2018, which led to a more environmental-friendly EP plenary, and a new Commission that put climate action and the halting of the loss of biodiversity high on its political agenda. The Commission’s Green Deal, and its related Farm to Fork strategy and Biodiversity strategy set different specific targets for environmental and climate measures.

The new Commission decided not to change the proposal of the CAP based on this change in political priorities. Instead, it called upon the member states and the EP to bring the ambitions of the CAP in line with the Green Deal during the negotiations on the CAP, keeping the option of withdrawing the CAP proposal as a shadow hanging over the negotiations. The option to do so was particularly kept open by the Vice-President of the Commission, Frans Timmermans, responsible for the Green Deal, and charged with overseeing the CAP reform within the new Commission. This approach resulted in harsh criticism by member states – most publicly expressed by the German Agricultural minister (Dahm, 2021). In addition, the Commission made clear that it expected the member states to take into account the ambitions of the Green Deal and even recommended to include some of the targets from the Farm to Form strategy (especially with regards to the use of fertilizers and pesticides) and Biodiversity strategy in their strategic plans (Moore, 2020).

The co-decision process on the CAP progressed slowly. It took the Council and EP until July 2021 to reach an agreement, necessitating a transitional period of two years, before the reformed CAP would take effect fully. The election of the EP in 2019 and the installation of a new College of Commissioners was one factor slowing down the negotiation process, as the EP decided to adopt a position on the CAP only after the 2019 elections. Another important delaying factor was the difficulty to reach unanimous agreement by the European Council on the Multi-Annual Financial Framework (MFF), of which a proposal was presented in 2018 (just before the Commission presented its legislative proposals on the CAP). The MFF proposal included significant cuts for the CAP budget, due to Brexit and other priorities of the EU (e.g., external borders, digital economy). Although the main share of these cuts would be incurred by the second pillar of the CAP (focusing on rural development), the first pillar was also facing cuts. The reduction of the CAP budget complicated making real changes in the redistribution of CAP funds between member states (i.e., external convergence) (Mc Cormack, 2018). The economic crisis triggered by the COVID-19 pandemic eventually led to an updated proposal on the MFF in May 2020 and a supplementary economic recovery plan. The budget cuts for the second pillar, amongst others, were slightly compensated by this (Fortuna, 2020).

After agreeing on the MFF mid-2020, the EP and Council adopted their final negotiating positions on the CAP proposal at the end of 2020, enabling the commencement of trilogue talks. Especially during the trilogues, which started in 2021, several of the debates and dilemmas mentioned in the second section above came to the fore.

With regards to the environmental and climate ambitions of the CAP, discussion took place between the Council and EP over the exact conditions for GAECs and the level of flexibility granted to member states. On a number of GEACs, the positions of the Council and the EP diverged, the latter proving more ambitious and preferring less flexibility. With regards to eco-schemes, discussions were particular taking place over the percentage of the budget that had to be spent minimally on eco-schemes by member states in their national strategic plans. The effectiveness of this scheme would much depend on this. This issue turned out one of the most contentious ones during the trilogues. Both the Commission and EP argued that at least 30 per cent had to be earmarked for eco schemes to meet the Green Deal ambitions. Member states, however, leaned towards 20 per cent, fearing that much of this funding would not be spent, as farmers would possibly be hesitant to implement these voluntary schemes. In the end an agreement was found resulting in a percentage of 25 being earmarked for eco schemes for the overall period of the new CAP, with a transition period in the first two years (Fortuna and Foote, 2021).

The new delivery model itself was also disputed. Originally, the new delivery model envisioned annual reviews by the Commission, supported by a performance monitoring framework and specific targets and incentives to increase the performance of the CAP. Fears about additional administrative burdens expressed by both the Council and the EP, eventually, led to a stripping down of the performance monitoring framework: several targets and incentives were removed and the reviews would take place on a more irregular basis (Council, 2021; European Parliament, 2020).

The distribution of direct payments within member states also proved contentious. Especially the capping of direct income support was an issue on which the EP and the Council again differed. With regards to capping of direct payments, the EP had supported the proposal of the Commission to make capping mandatory. The Council, however, proposed to make capping voluntary. Eventually, this position prevailed in the final agreement (Moore, 2021).

## CONCLUSION

The history of the CAP shows that many of the challenges continue to be on the agenda for a next CAP reform. While many challenges are increasingly recognized and addressed rhetorically, it is difficult, given the existing interests and institutional rules, to find effective policy solutions that are politically acceptable. It is too early to explain the outcome of the recent CAP reform in detail and what role was played exactly by the different institutions or what other developments affected the outcome. The first impression is that the outcomes of many of the more contentious debates were closer to the position of the Council than the EP. While the CAP has become more flexible, fair and sustainable in comparison to the previous CAP, the eventual targets and ambitions for several issues are lower than the EP and especially the (new) Commission had hoped for. The need to reform the CAP more fundamentally, thereby, remains the elephant in the (meeting) room (especially of the Council) and illustrates agriculture's continuing exceptionalist status.

In order to reach an agreement on the CAP many solutions were found in granting flexibility to the member states. How the CAP eventually takes shape and will address its different challenges will therefore depend much on the practical implementation of the policy by the member states. The national strategic plans play an important role in this respect and have the potential to lead to ambitious plans on the ground. Whether this potential will be realized will depend in part on the ambitions of member states, but also on their capacity for strategic planning. The Commission plays an important role in this respect by approving, evaluating and monitoring the performance of these plans. While several aspects of this performance system have been 'softened' during the trilogues, the reviews will increase the accountability of the CAP.

The new delivery model has the potential to open-up or by-pass the exceptionalist policy arrangement of the CAP. By making recommendations to member states about specific targets to be included in their national plans – based on the Commission's Farm to Fork and Biodiversity strategies – the Commission is able to bring in new interests and push for more ambitious national policies. Attentive to this risk, the Council has been keen to make sure that these Green Deal targets did not have a legal status and limited the authority of the Commission to take into account the Green Deal targets in approving member states' strategic plans. The near future will tell to what extent the Commission will be able to let member states

face the elephant in the room through this approach and what this will mean for the exceptional status of EU agricultural policy.

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## 21. Cohesion policy

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The role of the EU's cohesion policy is to promote and support the 'overall harmonious development' of its Member States and regions. Its task, set out in article 174 of the Treaty on the Functioning of the European Union (TFEU), is to strengthen economic, social and territorial cohesion by reducing disparities in the level of development between regions while paying particular attention to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. It is financed by four funds, the European Regional Development Fund (ERDF), the Cohesion Fund, the European Social Fund (ESF) and since 2021, the Just Transition Fund (JTF). In addition, around 5 per cent of the ERDF is allocated to European cross-border, transnational and interregional cooperation (INTERREG).

Since 1988, the budget has grown to around one-third of the European Union (EU) Multiannual Financial Framework (MFF) and 0.3 per cent of the EU GDP. In some countries, it represents more than 2 per cent of GDP and in some regions, is even larger, amounting to over 3.5 per cent. Roughly, two-thirds of the resources go to less developed regions with less than 75 per cent of the EU average GDP marked in red in the map at Figure 21.1 below. These account for slightly more than a quarter of the EU's population. This results in a significant concentration of resources.

In recent years, the policy has been a major source of investment allocating almost 15 per cent of government capital investment in the EU-27 over the period 2014–20. It supports investment ranging from innovation to environment, transport, broadband, education and social facilities, with a stronger focus on infrastructure in less developed regions and Member States eligible for the Cohesion Fund (see Table 21.1).<sup>2</sup>

By the end of 2023, it is estimated that the investment financed by cohesion policy will have increased GDP in some of the least developed regions in the EU by up to 5 per cent, with spillover benefits in more developed Member States. (European Commission 2022). However, the impact and effectiveness of the policy varies greatly between Member States and regions due to differences in quality of government, absorptive capacity and territorial assets. (Fratesi and Wishlade 2017). For the 2021–27 period, the total budget for cohesion policy will grow to 381 billion euros under the MFF and 11 billion euros from the Next Generation EU temporary

<sup>1</sup> The information and views set out in this chapter are those of the author and do not necessarily reflect the official opinion of the European Commission. I would like to thank Hélène Lauerière, Nicola De Michelis and Philippe Monfort for their helpful comments.

<sup>2</sup> The Cohesion Fund provides support to Member States with a gross national income (GNI) per capita below 90 per cent of the EU-27 average for investments in the field of environment and trans-European transport networks. For the 2021–2027 period, the Cohesion Fund concerns Bulgaria, Czechia, Estonia, Greece, Croatia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Portugal, Romania, Slovakia and Slovenia.

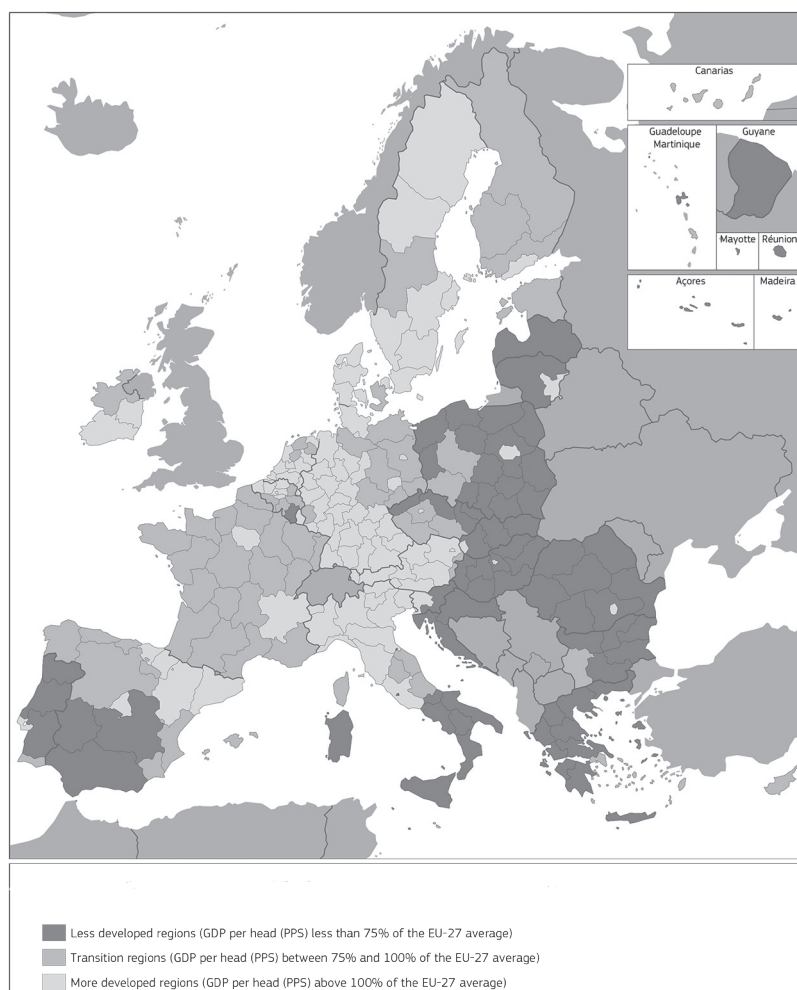


Figure 21.1 Category of regions for cohesion policy (ERDF and ESF+), 2021–2027

instrument. (ERDF: 226 billion euros, ESF: 99 billion euros CF: 48 billion euros, JTF: 20 billion euros).

The purpose of this chapter is to take stock of the main issues confronting the policy in the light of the evolving challenges the EU is facing and recent policy innovations within the EU budget. Historically, policy discussions about cohesion policy have centred on four issues – redistribution vs allocative efficiency, EU priorities vs subsidiarity, geographical coverage and accountability vs simplification. Over time, the policy has become more closely linked to the delivery of EU policy objectives and integrated with the new structures of economic governance. This has driven a major set of reforms in 2013 that were consolidated in 2021. However, in the coming years this model faces a number of challenges linked to issues such as the climate, digital and demographic transition, a changing EU budget landscape, an evolving system of economic governance and the development of new delivery mechanisms. In the

Table 21.1 *Expenditure under Cohesion Policy by main area of intervention 2014–20*

EU-27 2014–20	Research and Innovation	Business Support	Transport	Other Infrastructure	Human Capital	Technical Assistance	Total
%	14.7	8.9	19.8	28.3	25.1	3.2	100

Source: European Commission, Eighth Report on Economic, Social and Territorial Cohesion 2022.

context of a complex MFF budget discussion for the next financing period post 2027, it likely that many of the perennial policy issues within cohesion policy will remerge.

## MAIN ISSUES IN THE DEVELOPMENT OF COHESION POLICY

Since its inception, a major issue for cohesion policy has been whether it offers economic benefits beyond simply redistributing resources from richer to poorer regions. The 1973 Thomson Report took a Keynesian approach and argued that public investment in disadvantaged regions will allow factors of production of the Community to be more fully utilised and ‘the idle human resources and under-used social capital and infrastructure to be more fully employed’. (European Commission 1973:7). By encouraging the allocation of resources to parts of the economy that were less prone to overheating and congestion, this would allow expansionary policies with less risk of inflation.

In the following decade, attention turned increasingly to the risks of single market opening, technological change and enlargement in accentuating differences in productivity and increasing subnational disparities as industry underwent restructuring, particularly in older Member States. The policy response was seen increasingly in a neo-classical framework in which the funds should support the development of human and physical capital in affected regions, with financial instruments supporting private sector investment (Padoa-Schioppa 1987). In the reforms of 1988 and 1993, this approach was complemented by measures aimed at endogenous growth such as research and innovation as well as grant support for productive investment in firms. In short, the primary purpose of the transfers of resources was not redistribution, but rather through investment, to strengthen the economic base in recipient regions, including human capital formation. (European Commission 1996)

However, at the start of the 2000s, critics of the policy argued increasingly that there were trade-offs between redistribution and efficiency and that by their nature, regional policies create rent-seeking behaviour and corruption and lead to inefficient allocation of resources in the regions concerned (Boldrin and Canova 2001). At the same time, urban economists argued that spatially targeted economic development policies for peripheral regions could be inefficient as they sought to work against the dynamic of increasing returns through agglomeration that urbanisation brings (Martin et al. 2003). This meant there was no general indication of the direction in which governments should push with regional policies when seeking efficiency. (Puga 2002) A combination of migration, education, connective infrastructure and income support to individuals would allow growth which although territorially imbalanced, would be inclusive (World Bank 2009).

In contrast, other economists have argued that economic growth and the corresponding adjustment processes were not smooth and depended on a broad range of historically determined endowments that brought path dependency and transaction costs. Place-based policies that target less developed areas can therefore unlock economic growth potential, where more

traditional policies might not be effective (Barca 2009, McCann and Rodriguez-Pose 2011). However, there was increasing agreement on the central role of institutions and administrative capacity in economic growth, particularly in the South of Europe and newer Member States. (European Commission 2010).

The reforms of the late 1980s and early 1990s put in place an approach that sought to address the strongly national nature of the 1970s instruments. This involved a concentration of resources on specific areas determined at EU level, the replacement of a project-based approach by integrated programming, a strong focus on partnership and the principle of additionality. Since such arrangements, including programming, monitoring committees and managing authorities, were determined in accordance with national institutional practices, new dynamics of multilevel governance were created between European, national, regional and local levels (Hooghe and Marks 2001). An integrated approach across policy areas allowed the mix of investment to be better tailored to the specific characteristics of different regions.

However, from the late 1990s onward there was a growing consensus that cohesion policy should contribute to European goals beyond growth and employment. These included the objective set by the European Council in Lisbon in March 2000 to become the most competitive and dynamic knowledge-based economy in the world to which was added an environmental dimension in Göteborg in June 2001. (European Council 2000, 2001) These were increasingly reflected in the regulatory framework for Cohesion Policy notably following the adoption of the Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth by the Council (Council of the European Union 2010) Although the policy has developed a broad range of instruments to devolve decisions to urban, subregional and community levels, critics argue that the alignment with EU objectives and earmarking for specific areas undermines the capacity of regions to determine the most appropriate strategy for their economic development needs in an integrated manner.

Support from the ERDF under cohesion policy in the 1994–99 and 2000–06 periods was targeted on less developed regions and areas undergoing socioeconomic change (including industrial and service sectors, declining rural regions, urban areas in difficulty and depressed fishing areas). In all this accounted for around of 45–50 per cent of the EU15 population (Bachtler and al. 2013). In the 2007–13 reform, the coverage of the policy was expanded to cover all regions, reflecting the objective to promote balanced development across the EU, with most of the budget still going to less developed regions. It has remained that way to this day.

Critics of a policy for all regions argue that in richer Member States, the policy is simply recycling resources at a national level with the added transaction costs associated with managing EU resources, encouraging rent-seeking behaviour and distorting economic decisions. In contrast, the proponents of a policy for all regions put forward constitutional, political and economic arguments (Begg 2009). First, article 174 of the TFEU requires actions to address the challenges facing certain types of regions in all Member States and to pursue balanced development. Secondly, there is support at regional level, particularly in federal Member States due to the multi-governance system and the long-term stability of the programming framework. Third, as cohesion policy has been increasingly embedded in the economic governance of the EU, there have been synergies between the programming of the funds and the identification of reform and investment needs within the European Semester. Finally, the policy can play an important role in addressing the structural challenges created by other policies and the associated subnational disparities.

Within the framework of the EU's Financial Regulation, Cohesion Policy falls under the heading of shared management. Budget implementation tasks are delegated to Member States under the supervision of the Commission. At the centre of this process is the annual discharge procedure in which the European Parliament (EP) approves expenditure from previous years on the basis of the opinion from the European Court of Auditors about the legality and regularity of expenditure in the EC accounts. The goal of reducing the error rate has led to a separation of functions between audit, payment and management, and rigorous accounting and audit arrangements, while the need for accountability has led to extensive reporting requirements. This increase in requirements has led to constant calls for simplification from Member States. (Mendez and Bachtler 2011).

While the administrative costs of auditing and managing Cohesion Policy have been considerably lower than similar programmes managed by international financing institutions, they are generally higher than those of similar national or regional programmes. This is largely due to the additional requirements within the context of the EU budget, although it should be noted that such requirements have had spillover benefits on the quality of domestic public administration in some less developed Member States. (Bachtler et al. 2014)

Beyond legality and regularity and accountability, the issue of effectiveness has become increasingly central to policy discussions. Although monitoring and evaluation have been an integral part of the policy for many years, only in more recent years has performance become a central feature, notably in the context of the EC initiative 'A Budget Focused on Results' (European Commission 2016). Cohesion policy has therefore introduced a broad range of mechanisms including a performance framework and reserve mechanisms as well as sanctions for non-performing projects. Here again much discussion has focused on the costs and benefits of such mechanisms.

## FROM REGIONAL TO EUROPEAN PRIORITIES

At each negotiation of the MFF these issues have come to the fore, shaped by the main challenges of European integration at the time. Given the place of cohesion policy in the EU budget and its importance for net payer and beneficiary Member States in facilitating intergovernmental bargaining, many of these issues have only been resolved at the end of the discussions of the MFF. (Baun and Marek 2014).

In the first half of the 1990s, the key forces shaping the evolution of Cohesion Policy were the completion of the Single Market and the preparation for the Euro, established in the context of the Maastricht Treaty. As we have seen, this reflected concerns about the adjustment costs and disparities resulting from the opening European industry to increased competition, and the structural constraints that could slow the adoption of the single currency by slowing real convergence. The Treaty included provisions for the creation of a new nationally-managed Fund for Member States with less than 90 per cent of GNI, the Cohesion Fund, focusing on transport and environmental infrastructure, without an obligation for additionality.

The late 1990s were marked by two main events – the adoption of Agenda 2000 proposals which set the scene for enlargement, and the resignation of the Santer Commission due to the threat by the EP to adopt a motion of censure due to weaknesses in the internal management of the Commission's services. The impact of enlargement towards Central and Eastern Europe would be to further shift the centre of gravity of the policy to the poorest regions, by

significantly lowering the average GDP of the EU, requiring the policy to adapt to the needs of Member States with lower administrative capacity and addressing the challenge of providing a safety net for regions that lost funding due to the statistical effects of enlargement. As a result, the policy was simplified from six policy objectives to three: convergence, competitiveness and cooperation. The resignation of the Santer Commission led to an in-depth reform of the Commission administrative practices, internal control systems and financial and budgetary arrangements aligning them with international standards under the Prodi Commission. (European Commission 2005)

The early 2000s were marked by the Lisbon Agenda, which set the ambition that the EU should become the world's most competitive economy by 2020 and brought pressure for the policy to justify itself in terms of its contribution to the delivery of European public goods. In particular, the Sapir Report (2004), commissioned by President Prodi, argued that in the context of increasing Europe's overall growth rate there was need to better align the EU budget with policies that would encourage a shift to a knowledge-based economy such as research and innovation.

The regulations for the 2007–13 period therefore set objectives that were closely aligned to broader EU goals such as competitiveness and sustainability and introduced a 'Lisbon' expenditure earmarking mechanism that was to be expanded in the following years. At the same time, management and control obligations were significantly reinforced through the establishment of a new architecture of audit, certifying and managing authorities for the audit, control and implementation of programmes. Both trends were perceived as reducing flexibility and increasing complexity and administrative burden by Member States and project managers.

## AN ECONOMIC DEVELOPMENT POLICY DELIVERING THE EU STRATEGY FOR SMART, SUSTAINABLE AND INCLUSIVE GROWTH

The 2014–20 reform adopted in 2013 was a turning point in the evolution of EU Cohesion policy and took place in the specific context of the post-economic and financial crisis. Rather than focusing on questions of geographical coverage, the Commission proposal addressed the shifts in the economic governance of the EU and the need to tackle the effectiveness of the policy, notably through taking account of the role of institutions and administrative capacity. These issues were closely linked by the concerns of richer Member States that countries receiving cohesion policy funds respected the Stability and Growth Pact, addressed relevant country-specific recommendations and made good use of the funds that were allocated to them. The negotiations were characterised by shifting alliances on different issues between net payers, southern Member States and central and south-eastern Member States, roughly divided into 'Friends of Cohesion' and 'Friends of Better Spending' resulting in a broad new balance of interests on the main features of the policy (Bachtler and Mendez 2016).

Perhaps the most controversial element was the extension of macroeconomic conditionality from the Cohesion Fund to a broader range of funds. This involved the introduction of a broad range of new conditionalities linked to the 'Two-Pack' legislation which improved budgetary coordination and reinforced financial surveillance and the 'Six-Pack' legislation which included measures to enforce greater budgetary discipline within the Stability and Growth Pact and a new macroeconomic imbalance procedure. This conditionality also included mechanisms to support the delivery of structural reforms by linking cohesion policy programming

to country-specific recommendations. Macroeconomic conditionality was strongly opposed by the EP and the Committee of the Regions, but agreed as part of the final negotiations on the MFF.

However, the quality of investment depends on framework conditions in terms of the institutional capacity to apply EU policy more generally, strategic capacity and coordination, and the application of EU legislation. The 2014–20 reform therefore also introduced a broad range of *ex ante* conditionalities which had to be fulfilled before payments could be made by the Commission. (Berkowitz et al. 2017) These include, among others, mechanisms to ensure effective implementation of state aid and public procurement rules, the EU Charter of Fundamental Rights, the effective application of EU legislation for water and waste, or the requirement to develop smart specialisation strategies in the area of regional innovation. (European Commission 2017). In the 2021–27 period, these ‘enabling conditions’ will apply throughout the period and potential suspension of payments will be triggered more automatically.

Beyond formal conditionality mechanisms, cohesion policy has been further integrated into the European Semester, the EU’s annual cycle of economic and fiscal policy coordination. This includes recommendations to each Member State and overall surveillance of fiscal and macroeconomic trends in the form of country reports and, where appropriate, country specific recommendations on reforms. In 2019, the Commission started to set out investment guidelines for cohesion policy in country reports reflecting the importance of linking investment from the EU budget to economic and social reforms.

The priorities of the policy in the 2014–20 period took the form of 11 thematic objectives aligned with the European Strategy for Smart, Sustainable and Inclusive Growth and a new more targeted earmarking mechanism (thematic concentration) was applied for four of the 11 objectives. In the 2021–27 period, these were simplified to five objectives with a similar mechanism to concentrate ERDF resources on key priorities of innovation and environment and ESF+ on social inclusion. In addition, climate and biodiversity tracking mechanisms were introduced across the EU budget. From 2021 onwards, climate expenditure should represent at least 30 per cent of the ERDF and 37 per cent of the Cohesion Fund.

The commitment to achieve ambitious greenhouse gas emissions targets with a view to climate neutrality by 2050, led to the introduction for 2021–27 of a new Just Transition Mechanism in the context of the Green Deal. This included a Just Transition Fund with a budget of EUR 19bn to address the economic and social consequences of the climate transition in regions dependent on fossil fuel production and carbon-intensive industries. (Kyriazi and Miró 2020)

Finally, in order to reinforce the financial management of EU funds, the 2014–20 reform clarified the respective roles and responsibilities of the different audit, certifying and managing authorities and introduced an annual system of accounts and the possibility for the Commission to apply net financial corrections (i.e. a net reduction of resources to the Member State), where the Member State fails to correct irregular expenditure itself in areas such as public procurement, state aid or misuse of funds. The 2021–27 reform simplified implementation by introducing a significant reduction in secondary legislation and reporting as well as lightening Member State checks and audit requirements.

Table 21.2 Thematic concentration requirements for ERDF and ESF 2021–27

ERDP and ESF+ Thematic Concentration by Priority 2021–2027	More Developed Regions	Transition Regions	Less Developed Regions
1. A more competitive and smarter Europe	> 85% of ERDF for Priority 1 and Priority 2	> 40% of ERDF for Priority 1	> 25% for Priority 1
2. A greener, low carbon Europe transitioning towards a net zero carbon economy	> 30% of ERDF for Priority 2	> 30% of ERDF for Priority 2	> 30% of ERDF for Priority 2
3. A more connected Europe by enhancing mobility			
4. A more social and inclusive Europe	> 25% of ESF for social inclusion	> 25% of ESF for social inclusion	> 25% of ESF for social inclusion
5. Europe closer to citizens by fostering the sustainable and integrated development of all types of territories	> 8% of ERDF for urban areas	> 8% of ERDF for urban areas	> 8% of ERDF for urban areas

Source: Own elaboration based on Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions *OJ L 231, 30.6.2021*.

## NEW CHALLENGES FOR COHESION POLICY

Cohesion policy faces four major challenges which will determine whether the post-crisis balance of interests on the main elements of the policy will hold, or whether further adaptations are needed. These include the changing drivers of disparities and dynamics of the convergence process, the policy framework of the EU budget, conditionality and implementation mechanisms.

Until the economic and financial crisis that started in 2008, progress, though uneven, had been steady in terms of the overall reduction of regional disparities. This convergence was even more marked between countries. The 2008 crisis reversed this trend for a number of years and created severe contractions of growth in many countries, in particular in the South of the EU. Although it is too early to fully assess the impact of the Coronavirus pandemic on regional growth, many of its negative effects were felt most strongly in urbanised areas, in particular in the south of the EU and in many cases in more developed regions.

A notable feature of this process of convergence in recent years has been that many middle-income regions ('transition' regions with a GDP per head between 75 and 100 per cent of the EU average), particularly in more developed Member States, seem stuck in a 'development trap'. Between 2001 and 2019, the growth of their GDP per head was far below the EU average, and they were faced with low productivity growth and employment creation to a larger extent than other regions (European Commission 2020).

A further impact of the 2008 crisis was to consolidate longer term trends in many regions, linked to deindustrialisation, decline of small- and medium-sized towns and rapid growth of capital regions. The emergence of a politics of discontent in 'left-behind places' has drawn the attention of policymakers to the risks of unbalanced patterns of growth and disaffection in many advanced economies (Dijkstra et al. 2020). At the same time, the EU's commitment to climate neutrality by 2050 may create new territorial disparities. New regulatory requirements and the extension of the EU Emissions Trading Scheme to transport may create opposition in

rural areas. A higher level of ambition in the housing sectors may affect poorer communities disproportionately. Finally, demographic shifts have led to shrinking and ageing of the population in many regions that puts pressure both on public services and economic dynamism.

Cohesion policy will therefore face a much more complex pattern of disparities in the coming years. It will be necessary to address development traps and strengthen the role of place-based policies in generating productivity and employment growth as well as addressing the factors driving political discontent.

The significant increase in resources available to Member States as part of the Next Generation EU (NGEU) recovery package presents a specific challenge. Support under NGEU is provided primarily through the Recovery and Resilience Facility (RRF) which makes a total of 723.8 billion euro: €385.8 billion euro in loans and 338 billion euro in grants available to support reforms and investments undertaken by Member States. The aim of this temporary recovery instrument is to mitigate the economic and social impact of the coronavirus pandemic and make EU economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transition. The resources available for the 2014–20 period for cohesion policy have also been increased by 50.6 billion euro under the Recovery Assistance for Cohesion and the Territories of Europe initiative (REACT-EU).

This creates a significant increase in resources to be absorbed from the different instruments in a relatively short period. There are both micro- and macroeconomic risks if a sufficiently robust pipeline of projects is not available as public investment projects often require significant preparation and involve implementation over many years. Absorption of public resources can be particularly challenging in low-capacity Member States, where significant support is often required to help public administrations and beneficiaries with project preparation. An example is the technical assistance provided by the European Investment Bank through the Joint Assistance to Support Projects in European Regions facility. (JASPERS)

The role of Cohesion policy within the European Semester will encourage stronger linkages with sectoral reforms, particularly as experience under the RRF grows. Member States may see this as an encroachment on their institutional prerogatives and the subsidiarity inherent to the programming process of cohesion policy. One of the reasons for the acceptance of ex-ante conditionality and enabling conditions is that Member States through the EU Council of ministers have been able to circumscribe the scope and depth of such conditionality (Jašurek and Šipikal 2021).

A particularly sensitive issue concerns links between the EU budget and the respect of the rule of law, which was introduced late in the discussion of the last MFF. Although there is already a general mechanism through the Conditionality Regulation which establishes the rules necessary for the protection of the EU budget in the case of breaches of the principles of the rule of law in the Member States, there may be a difficult discussion between net payers and net beneficiaries as to whether more detailed rules are required within the cohesion policy framework (Barragia and Bonnelly 2022).

A final issue relates to the delivery mechanisms for cohesion policy. The Commission together with the European Court of Auditors has increasingly promoted financing not linked to costs, where payments by the Commission are made not on the basis of declared expenditure, but rather deliverables such as milestones towards the achievement of reforms, project results or changes in broader economic and social indicators. Such a model is attractive as it focuses on performance rather than financial inputs but brings a range of new challenges such as the quantification of deliverables, the definition of milestones and agreements on dis-

bursement trigger points. As a general rule, such an approach is applied at national level as it relies on national management and control systems rather than dedicated structures. (European Court of Auditors 2021).

Currently the use of such approaches is optional under Cohesion Policy. However, the new RRF is entirely implemented through financing not linked to costs. A key question is therefore whether Cohesion Policy could shift to such a model without losing some of its essential characteristics. The current shared management system is very effective at detecting irregularities and offers the Commission the possibility to correct expenditure. It offers the possibility of delegating management directly to regions and to intermediate bodies such as cities. It is based on a principle of partnership that involves multilevel government arrangements with subnational public, private and civil society actors that may not have the capacity to implement such an approach. A key question is therefore how such a performance-based model can be further integrated within the policy (European Commission 2018a).

## CONCLUSION

As we have seen, the environment in which the Cohesion Policy is operating has fundamentally changed since the 1990s. The policy has become increasingly integrated within the broad economic governance of the EU and aligned to its priorities. The asymmetric shocks of the last 12 years have drawn attention to the political and social consequences of disparities and the challenges that this can create for European integration as well as the need to address the diversity of situations in Member States. (Crescenzi et al. 2020) In response to these challenges, the policy has developed a framework that seeks to address the perennial issues of redistribution vs allocation, EU priorities vs subsidiarity, geographical coverages, and between accountability vs simplification. For most of these, the direction of travel is clear.

There is a much better understanding of the how to address trade-offs between equity and efficiency is the design of place-based policies (Duranton and Venables 2018; Ehrlich and Overman 2020). Factors that undermine programme effectiveness such as administrative capacity, institutions and reforms are increasingly addressed through conditionality, support through other EU instruments and integration in the European Semester. The issue is therefore how to design programmes to achieve the most effective outcomes.

In terms of alignment with EU priorities, mechanisms such as earmarking for smart and green expenditure and tracking for climate and biodiversity expenditure are well established. At EU, national and regional level there is increasing recognition and ownership of objectives linked to innovation, climate change and adaptation, or social inclusion (OECD 2019), based on experience of smart specialisation and urban initiatives. Nevertheless, there are still calls for more subsidiarity notably in relation to increased flexibility in areas such as support for large companies and infrastructure in areas which are not linked to EU-level priorities.

New disparities linked to climate change commitments, the pandemic and the emergence of regions in a ‘middle income trap’, have increased potential needs outside less developed regions. At the same time, other EU policies are offering alternative means of support for the digital transition, regional innovation, the social costs of climate transition, or recovery from the pandemic. It is possible that future discussions will not be about the renationalisation of the policy in richer Member States, but rather the provision of support through other EU instruments.

Finally, there is broad agreement that the existing model of shared management has reached its limits in terms of simplification without undermining the capacity of the Commission to fulfil its supervisory role and ensure that the budget is correctly spent. The way forward is likely to be a greater shift toward performance-based funding systems, which are currently optional in the policy. (European Commission 2018b)

The degree of ambition of the next reform of Cohesion Policy will depend as always on the political and budgetary context in which the debate will take place. As the exceptional monetary and fiscal policies of the last two years are unwound, it is likely that there will be considerable constraints on the long-term EU budget. Such a context will accentuate differences between net payers and beneficiaries, particularly where budgetary interests are aligned with major policy differences in terms of climate ambition, energy policy or rule of law. It is therefore likely that cohesion policy will have to adapt once again to new circumstances.

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## 22. Social and health policies

*Amandine Crespy*

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In many ways, the Covid-19 pandemic has shed light on the embeddedness of national and EU policy in the realm of social policy and healthcare. From the debasing of healthcare systems by EU-driven fiscal discipline, to the lack of social investment in education, the dramatically low level of wages in some crucial economics sectors, or, on the contrary, the capacity of the EU to coordinate the purchase of vaccines, or to absorb a sudden shock by, for instance, help funding national short-term work schemes, many aspects of the pandemic management point to the inconspicuous, often ambivalent nevertheless important role of the EU in this domain. And yet, only a few citizens are aware that the EU plays a role in Social and Health policy. This is due to the multi-level and piecemeal nature of the European social policy-making. From a legal point of view, the EU may enact legislation in a series of well-circumscribed policy issues (shared competences described in article 153 TFEU) and it can only supervise the coordination of national policies through soft law in others (supporting competences defined in article 156 TFEU). Thus, the treaties offer a mixed picture in which sub-policy areas do not overlap with the various modes of governance used. Regulation enacted through the EU's ordinary legislative procedure applies to specific aspects of industrial relations, health and safety at work (labour law), rights of mobile workers (free circulation and coordination of social security), and anti-discrimination measures including gender equality. Regulation is also used for the allocation and implementation of structural and investment funds with the European Social Fund being the main tool for social policy. From the early 1990s, the 'European social dialogue' developed as a distinct mode of governance allowing for the agreements between the social partners at EU level (organizations representing the employers and workers) to be turned into binding legislation (articles 154–155 TFEU). At the end of the 1990s, soft coordination was initiated to supervise reforms in the areas of employment policy (labour markets), social security systems (including pensions, healthcare and long-term care), and the fight against poverty and social exclusion.

Besides policy areas and modes of governance, two further components are constitutive of the EU Social and Health policy-making. The first is the patchwork of national social models that filter EU actions. In 1990, Esping-Andersen pioneered the categorization of welfare state models in Europe, distinguishing between the liberal or Anglo-Saxon model, a conservative continental model and a social-democratic Nordic model. Later, scholars have also put forward the idea of a Mediterranean Southern model (Ferrera 1996) and of an eclectic Central and Eastern post-communist model relying on 'dependent' market economies (Nolke and Vliegenhart 2009). Far from being a straightforward top-down process, the EU's social policy is shaped, often in a bottom-up fashion, by the ideas and reforms promoted in national arenas. Whatever happens in 'Brussels', implementation remains in the hands of local and national policy-makers who act as facilitators or exert resistance. Finally, therefore, the EU's policy has a deep political – if not ideological – dimension. 'Social Europe' has been a recurrent motto in the European manifestos of left-wing parties and unions for decades. Improving the living conditions of European citizens and promoting social progress have been proclaimed

objectives ever since the Treaty of Rome from 1957. And the ‘social dimension’ often served to legitimize European integration as a whole. Yet, the institutionalization of a truly *social* market economy with the neo-corporatist and distributive components has clearly remained an unfulfilled promise. Today, whether the EU should do more in the fields of Social and Health policy remains more controversial than ever. This chapter starts with an overview of the main scholarly assessments of the EU’s role followed by a brief historical account for the main relevant developments. Then, two main contemporary challenges are outlined, namely the continuous tension between legitimacy and effectiveness, on one hand, and the reconciliation of existing EU policy instruments with the new agenda for a just ecological transition, on the other hand. The final section presents three different directions advocated by different scholars to reform the EU and improve its policy-making in the realm of Social and Health policy.

## MAIN DILEMMAS AND DEBATES

The contentious debates surrounding Social and Health policy at EU level raise two intertwined questions. The first is empirical: looking back, has the EU served to effectively enhance social cohesion at the scale of the continent? Overall, there is a consensus among scholars in various disciplines including law, political economy, public policy and political theory that the EU is exhibiting a social deficit. This begs a second, more normative question, as to whether and how the EU really can tackle pressing social problems (including health) and, therefore, whether its competences in this realm should be strengthened or, on the contrary curtailed, going forward. In an attempt to escape the half full vs. half empty glass type of discussion, this section will present three qualitative arguments articulated in the scholarly and political debates, namely that the EU’s social and health policies are irrelevant, catching-up, and dangerous.

A first group<sup>1</sup> of scholars tends to describe the social policy of the EU as irrelevant, meaning that it is too weak to help EU states tackle social problems. Not only is the redistributive dimension trumped and restricted to the EU’s structural and investment funds (cohesion policy); but even its regulatory instruments are often weak and only apply in a narrow range of policy issues. The EU could therefore be described, at worst, as an ‘empty shell’ (Falkner 2000). Fundamentally different from national social policy in its nature and function, EU social policy was never conceived as to effectively counterbalance market-making through market-correcting. From the outset in the Treaty of Rome, it was rather an ‘add-on’ (Copeland and Daly 2015; Daly 2017) to economic policy, supposed to ease labour mobility within the single market. Legal scholars have argued that the EU’s social objectives had been ‘displaced’ from the realm of social policy to that of economic and fiscal policy, from the legislative to judicial terrain and from the realm of hard law to the realm of soft law (Dawson 2018; Garben 2018). This converges with the idea that Social Europe had been to a large extent ‘left to the judges and the markets’ (Leibfried 2005). Furthermore, the Europeanization literature has shown that whether EU social policy translates – if at all – into progressive or regressive reform depends essentially on the strategic ‘usages’ from domestic actors (Palier 2000; Jacquot

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<sup>1</sup> The ‘groups’ described in this introduction refer in no way to coherent schools of thought and the scholars included in them may have never worked together. These ‘groups’ or ‘schools’ are only used here with the heuristic aim of shedding light on key lines of interpretation within scholarship, in the hope of remaining faithful to the work cited.

and Woll 2004, 2010, Graziano et al. 2011). Thus, for many scholars, it is fair to say that the idea of ‘Social Europe’, understood as a supranational social market economy, including its redistributive and corporatist components, is dead (Crespy and Menz 2015b; Ewing 2015).

Putting into perspective the irrelevance or weakness, a second group of scholars tends to show how social policy at the EU level is catching up. Studying the developments in the field, they show how EU competences develop incrementally as the interdependency between economies and societies increases. Thus, market-correcting instruments are adopted in a second step of policy-making to match new stages of economic integration. To a certain extent, this echoes the neo-functionalist idea that a spillover from economic and monetary integration to social integration is taking place, albeit not in a linear fashion. This ebb and flow of social policy is particularly visible in the early twenty-first century. The EU experienced a pro-market offensive led by the Court of Justice of the European Union (CJEU) in particular and the European Commission under the leadership of Jose Manuel Barroso (Crespy and Menz 2015a). In this period, liberalization and economic liberties predominantly shaped the EU agenda. Legislative initiatives to bring social regulation forward were rather scant (Graziano and Hartlapp 2019). When the 2008 financial crisis erupted and turned into a crisis of sovereign debt in Europe, the EU initially promoted an ‘austeritarian’ response that met little resistance (Hyman 2015). Since 2014, however, the EU institutions have taken a clear pro-investment turn, implying a heightened awareness of pressing social matters. Flexibility vis-à-vis the deficit and debt rules of the Stability and Growth Pact has been granted in order for governments to implement structural reforms including social investment in education, training, and help to job seekers.

The European Semester, the main governance framework for coordinating social and economic policy in the EU, has therefore (arguably) undergone a process of ‘socialisation’ (Verdun and Zeitlin 2017; Zeitlin and Vanhercke 2014). Under the President von der Leyen (2019–24), the European Commission has shown a renewed entrepreneurship for driving social policy forward (Vesan et al. 2021). Beyond institutional features, the political struggles between ‘economically oriented actors’ and ‘socially oriented actors’ (De la Porte and Pochet 2002) are key in shaping phases of progressive policy-making alternating with phases of regressive policy-making.

A third group of scholars has analysed the EU’s action in the social realm from a very critical angle, implying that EU social policy is dangerous for social cohesion. Anchored in political economy, a German school has argued that the EU suffers from an intrinsic pro-market bias built into its institutional and legal architecture. Fritz Scharpf has famously claimed that the EU ‘cannot be a social market economy’ (2010) because powerful institutional actors – European Commission and the CJEU – favour market-making and liberalization. While competition and the four freedoms are constitutionalized in the treaties, member states fail to agree on common policies in favour of market correction and social regulation (e.g., Höpner and Schäfer 2010: 401). Becoming one of the harshest critics of the EU, Streeck argues that the prevalence of business interests at EU level precludes effective neo-corporatist politics at EU level (Streeck 1994) and that the history of European social policy is the story of a ‘progressive regression’ (Streeck 2019).

Embracing a broader view, an ‘English school’ has argued that the more recent developments in EU social policy had only exacerbated the asymmetry between economic and social policy and questioned the fact that it was ever to be tackled in the face of major institutional, political and social obstacles (Bailey 2017; Copeland and Daly 2014; Daly 2006). Critical accounts of, for instance, soft coordination, from the OMC to the European Semester

(Copeland and Daly 2014; Daly 2006) have been put forward. Analysing the neoliberalisation of EU policy-making under its many facets, some concluded that ‘a Social Europe is an impossible dream’ (Whyman et al. 2012: 321).

The neo-Gramscian scholars of the ‘Amsterdam school’ have analysed how the EU has fed the hegemony of neoliberalism. In this perspective, effective social and health policies are impeded by the power of dominant elites promoting an ideological consensus fostering their own material interests. From the late 1980s onwards, a transnational class of capital holders acting collectively through business associations has garnered political influence (Van Apeldoorn 2003) – starting with the round table of industrialists, today *BusinessEurope* –, international groups of experts (Horn 2009: 170) and multinational corporations (Horn and Wigger 2016). So far, the labour movement has proved unable to elaborate strategies of transnational cooperation sufficiently effective to rebalance the power relations between capital and labour (Bieler et al. 2015).

In a more eclectic fashion, a ‘French school’ building on history and sociology similarly argues that EU integration is fundamentally a neoliberal project promoted by the United States in the aftermath of the Second World War. Since economic liberalism (and the four freedoms) constitutes the DNA of the EU, as for instance Denord and Schwartz (2009) contend, a ‘Social Europe’ never existed and will never exist. Rather than thwarting market integration, European social policy has only empowered it, serving to legitimize a strategy that relies primarily on financial liberalization (Salais 2013). In contrast, social policy can only be legitimized by culture, communities and language, it can only be rooted in nation states and local communities, while concepts of social policy can never effectively ‘translate’ at EU level (Barbier 2015).

## MAIN HISTORICAL DEVELOPMENTS

There are three key moments in the history of European social policy. The beginnings and the long period of initial growth of European integration, from the 1950s to the end of the 1980s, are dominated by an economic imperative. The social measures contained in the 1957 Treaty of Rome creating the European Economic Community (EEC) are essentially intended to accompany the construction of a common market through the liberalization of trade between the six member states. In the eyes of post-war political elites, the increase in the production of wealth and goods should necessarily lead to an improvement in living and social standards. High wages were maintained in a context of competition between member states, and compensation and support measures for workers affected by the restructuring of certain economic sectors would be provided, for instance by the European Social Fund. The nascent body of EU social law concerned essentially non-discrimination and the coordination of social security for mobile workers. When the construction of the single market is revived at the end of the 1980s, European politics was dominated by the radical economic liberalism of Margaret Thatcher (the UK joined the EEC in 1973) and in France François Mitterrand’s abandoning of Keynesian policy in 1983.

The decade between the end of the 1980s to the end of the 1990s opens a second phase, often considered as the golden age of Social Europe. Under the impetus of Jacques Delors – a French politician from the liberal wing of the French Socialist Party, who served as president of the European Commission from 1985 to 1994 – European governance in social matters

experienced a relative boom. Jacques Delors spread awareness about the fact that intensifying market integration must go along with social measures aimed at alleviating the adverse effects of competition in certain territories and social groups. The most emblematic achievement in this period was the endorsement of a protocol on social policy appended to the 1992 Maastricht Treaty. The protocol gave the European social dialogue institutional recognition by making it possible to transform agreements negotiated by the social partners at the EU level into binding legislation. Signed in 1996, the Treaty of Amsterdam strengthened the EU's role in combatting discrimination, and soft coordination was inaugurated with the European Employment Strategy. The widespread idea of a social 'golden age' should nevertheless be put into perspective. Even when simultaneously in power, like in the 1990s when 12 out of 15 governments in the EU were entirely or partly governed by centre left parties, the Social Democrats never shared a 'substantive social democratic agenda' at EU level (Bailey 2005). In fact, the Social Democratic leaders in power in a majority of EU countries largely embraced the neoliberal reforms of the welfare state under the leadership of Tony Blair's and Gerhard Schröder's 'third way'.<sup>2</sup>

The 2000s marked a new phase characterized by the hegemony of neoliberal ideas and the decline of 'Social Europe' as a political project. Soft coordination through soft law was presented as an innovative alternative to regulation, but the disappointing outcomes of broad policy programmes such as the Lisbon strategy or Europe 2020 spurred little policy results. Political forces hostile to more EU social action – conservative, liberal, Eurosceptic and far-right parties – gained ground continuously. The financial and debt crisis of 2008–10 reinforced the subordination of social policies to the economic imperatives of budgetary discipline and competitiveness. The implementation of drastic austerity plans in countries receiving loans from the ECB, the European Commission and the International Monetary Fund – garnered in the so-called Troika – to bail out their debt had dramatic devastating social and political effects. Inequality between the EU's wealthy core of Northern-Western countries, on one hand, and its Southern, Eastern and Baltic peripheries, on the other, widened. Soon, the neoliberal and austeritarian decade backlashed both on the socio-economic ground (with poor growth and rising inequality) and on the political ground (with anti-EU populist movements being on the rise (Crespy 2020). In response, the EU institutions took from 2014 onwards a social turn aiming to boost investment and tackle social issues. The most emblematic initiative was the proclamation in 2017 of a European Pillar of Social Rights, a catalogue of 20 social objectives to be achieved both through legislative (hard law) and coordination (soft law) measures.

Since 2019–2020, the European political constellation has been profoundly altered by the conjunction of two crucial developments. First, the problems surrounding climate change have become increasingly acute and have been accompanied by youth mobilization calling for action. In response, the von der Leyen Commission has put the Green Deal and the idea of a socially fair transition at the centre of the EU's agenda. Second, the break-out of the Covid-19 pandemic and the ensuing recession have triggered important change in EU socio-economic

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<sup>2</sup> The Third Way is a movement of ideological revision within social democracy which has consisted in integrating the key tenets of economic liberalism and supply side policies into the programmatic identity of social-democratic parties. Especially vivid in the UK under the influence of Anthony Giddens and the transformation of the Labour Party into the New Labour under the leadership of Tony Blair, it was also influential in the rest of Europe, especially Germany and, to a lesser extent, Scandinavia.

governance. Fiscal discipline has been – at least temporarily – suspended and new resources were agreed under NextGenerationEU, a recovery package of over 800 bn euros adopted to tackle the effects of the Covid-19 pandemic. Relying on an unprecedented mechanism for creating joint debt, the package has two main objectives: (a) fund the measures foreseen under the European Green Deal for a major energy and economic transition in a way which do not exacerbate social and territorial inequalities; and (b) act as a redistributive instrument by supporting those countries who need it most in Southern and Central and Eastern Europe. Finally, with EU4Health and other initiatives, Ursula von der Leyen has attempted, albeit with limited success, to expand the EU's competences of health policy. In this regard, though, no substantial change is at stake, as will be explained in the following section. The European response to the Covid-19 pandemic has therefore confirmed a major turn away from fiscal discipline towards investment and even redistribution across member states.

## MAIN CONTEMPORARY CHALLENGES

An overarching challenge for the EU in the realm of Social and Health policy concerns the trade-off between effectiveness and legitimacy. On one hand, the EU needs to make the best out of its competences and resources – or even to expand them – to meet today's key challenges, namely high unemployment, changing forms of work and insufficient social security, rising inequality and poverty, increasing needs in health and long-term care, cross-border health threats caused by epidemics or the deterioration of the environmental. The continuation of an unbalanced regime whereby the EU continuously drives liberalization and economic competition but does not act effectively in the social realm is only undermining its weak legitimacy among the public, feeding the idea that the EU is intrinsically anti-social (and/or a neoliberal monster).

At the same time, though, any attempt to reinforce the EU's social action is impeded by resistance coming from a number of governments. Typically, the UK – under M. Thatcher's leadership – had refused to subscribe to the 1992 Protocol on social policy. Later, it systematically opposed any progress in social regulation, such as the adoption of the 1993 Working Time Directive and its revision in 2004 and 2009. As explained above, the use of voluntary governance and soft law in matters of social security, healthcare, employment and social inclusion was as a means to compensate the objection of national governments to new transfers of competences to the EU institutions. Yet, Brexit did not mean a leap towards a more 'social Europe'. The latest legislative proposals of the European Commission – e.g., the 2019 Directive on work-life balance for parents and carers or the 2020 Proposal on a Directive on adequate minimum wages for workers – have met significant resistance, especially from Nordic countries seeing the EU as a disruptive actor for their well-functioning social systems. In May 2020, as the Portuguese Council Presidency attempted to promote a bold social agenda at the Porto Social Summit, 11 member states issued a political statement claiming that subsidiarity was prevailing in the social domain and that the EU should act mainly through non-binding means (*Politico* 2021). In a different vein, welfare chauvinism in a number of wealthy Northern states has clashed with free movement of persons. Responsive to the public and governments' mood, the judges in Luxembourg have issued, in 2013–2016, judgments curtailing the access to social benefits for non-active (understood unemployed) EU citizens.

The resistance of national governments to stronger EU action is nevertheless not always in tune with citizens' views. In the 2010s, the EU had lost most of its credibility due to its authoritarian approach to the EU crisis. In Southern Europe especially, historically pro-European societies developed harsh feelings towards an EU which had taken the face of the Troika. At the same time, studies showed that significant numbers – even majorities – were in favour of more EU instruments for fiscal sharing notably to combat unemployment (Ferrera and Pellegata, 2017; Vandenbroucke et al. 2018). Unemployment, the rise of living costs and health are rated among the key issues facing the EU in Eurobarometer surveys (Eurobarometer, 2021).

The recent discussions about the EU's competences in health policy illustrate the persisting tension between effectiveness and legitimacy. To be sure, the von der Leyen Commission has sought to use the Covid-19 pandemic as an opportunity to strengthen the EU's prerogatives in the area of public health. It has taken essentially three types of initiatives. First, extend the scope of the European civil protection mechanism (RescEU) to matters of public health. Second, adopt EU4Health, a new programme aimed at strengthening the coordination and crisis management in dealing with epidemics; supporting the weaker healthcare systems to especially ensure access and affordability for people and enhance prevention policies; guaranteeing the availability and affordability of medicines. Third, regulatory measures to strengthen the mandate of two agencies in field, namely the European Centre for Disease Prevention and Control the European Medicine Agency. Yet, national governments have once again strongly resisted competence creep and the discussions about expanding the EU's competences through a treaty change have rapidly lost traction. Initially set at €9.4 billion by the Commission, the budget for EU4Health was slashed to €1.4 billion by the European Council in July 2020, before rising once more to €5.4 billion thanks to the EP. While the weakness of the EU's action has been deplored from all sides since the outbreak of Covid-19, we are witnessing gradual technocratic capacity-building without any significant political impetus in response to the ongoing pandemic (Brooks and Geyer, 2020, p. 1073)

A second key challenge facing the EU is the embedding of Social and Health policy into the broader agenda for an ecological transition of the European economy. Both globally and locally, the poor and the vulnerable are disproportionately impacted by climate change and the destruction of the environment. In turn, there is a great to see the unprivileged bearing the costs of the transition. This is reflected in the inevitable destruction of employment carbon-based sectors or on taxation issues, how the movement of the *Gilets jaunes* in 2018–2019 in France has recalled.

The European Commission has made an historic move to spearhead the fight against climate change by putting forward the European Green Deal in December 2019. The most striking measure deployed is the so-called European Climate Law passed in 2021, which makes the commitment to climate neutrality in terms of CO<sub>2</sub> emissions by 2050 a legal obligation for all EU member states. In addition, a range of actions are planned to foster a new green growth and industrial model. From the outset, the notion of 'just transition' was put to the fore with Frans Timmermans, the Commission's Vice-president in charge of the Green Deal, repeatedly insisting that the ecological transition should 'leave no one behind'. The main instrument set up for this purpose is the Just Transition serving to distribute €40 billion to regions with the most carbon-dependent economies. Furthermore, the European Social Fund and the European Pillar of Social Rights should also be geared towards the just transition, for instance by helping to re-skill workers in green sectors or to fund initiatives promoting the circular economy.

It is however difficult to find a consistent and convincing frame articulating ecological and social goals in EU policy-making. Three main weaknesses raise doubts regarding the EU's ability to bring about a just transition (Denis and Denuit 2020). First, the overall amount of money dedicated to the 'just' dimension of the transition is insufficient. Although 40 per cent of NextGenerationEU will be dedicated to the ecological transition (approximately €100 billion a year), the European Court of Auditors estimated that about €1,115 billion a year would be necessary to allow the EU to meet its objectives. Because the devil often lies in the detail, the methodology foreseen to assess whether expenses from the governments will be counted as 'green' seems particularly problematic (European Court of Auditors 2020). Second, the budget of the Just Transition Fund was significantly cut down from €40 to €17.5 billion by the European Council in the negotiations on the multiannual financial framework in 2020. Third, the notion of inequality is conspicuously absent from EU policy-making (Denis and Denuit, 2020). Neither the unequal distribution of environmental damage nor the costs associated with the transition have a prominent place in the Green Deal. How taxes should be used to make the transition 'just' is a particularly dramatic blind spot, as deplored by the European Anti-Poverty Network, one of the largest European platforms of social NGOs (2020). Looking at how the €338 billion of the Resilience and Recovery Facility will be spent by the member states, social policy objectives have not been associated with a specific earmarking (or conditionality) like measures for the green transition (33 per cent) or digitalization (25 per cent). The monitoring and effectiveness of social investment in connection with the green and digital transition therefore remains particularly hard to steer and assess, and there is a big risk that social justice will get 'lost in transition' (Crespy and Munta forthcoming).

While the EU has embarked towards a European Green Deal under the motto of a socially just transition, the instruments set in place focus on targeted compensation (Sabato and Fronteddu 2020). They will be insufficient to develop an industrial strategy for creating new green value chains, ensure that the more vulnerable do not foot the bill in cash or kind, and foster broader societal change leading to reappraising the environmental and social value of certain activities.

## APPROACHES TO NEW SOLUTIONS OR REFORMS

If most scholars agree that something is wrong with the role of the EU in social policy, they have diverged as to what should be done going forward. Is it possible – and how – to close the gap between expectations for a more efficient and just European social policy, on the one hand, and actual EU policy-making, on the other? In an endeavour to present the main lines of the debate in a simple and analytical way (at the risk of oversimplification), three stances will be distinguished: a minimal Social Europe advocated by the 'defenders of nation-states', the further build-up of EU social policy proposed by the 'European advisers', and a major overhaul of European social policy called for by 'Keynesians' and 'Habermasians'.

Arguing that 'Social Europe is a myth' (Höpner 2018), the political economists of the 'German school' presented above have been the most vocal defenders of nation-states as they call for better protection of national social systems against the 'destructive dynamics of liberalization', deploring calling from 'protection against too much Europe', something that 'remains a taboo among social democrats and trade unionists even today'. Focusing on how the EMU has forced contrasted national growth models and social systems to converge for

the worse, Scharpf (2016) has for instance called for breaking the EMU into two different currency areas, leaving room for a more flexible mechanism of monetary adjustment. In a confrontational piece criticizing the views of Habermas and the German political establishment alike, Streeck claimed that: ‘the European currency union is not ‘Europe’’ (Streeck 2014: 213). From a legal perspective, Joerges saw the emergency politics during the Eurocrisis as a perversion of EU law leading to ‘de-legalisation, de-socialisation and disenfranchisement’ of the EU (Everson and Joerges 2012; Joerges 2017). Unfreezing the EU constitutional framework to allow possible conflicts with legitimate national law (e.g., labour law) is accordingly presented as a solution to address the EU’s drift towards ‘executive managerialism’.

Adopting a different stance in this debate, a number of social policy specialists have suggested ways to tackle the weaknesses of European social policy through a further build-up of the EU’s capacity. These scholars have often acted as advisers of the EU institutions or think tanks close to policy-making circles. Beyond the variety of policy proposals, there is arguably a shared vision relying on moderate reforms, which can be undertaken in the current constitutional framework of the EU and avoids opening the political Pandora’s Box of treaty reform. Departing from a call for a federal leap, Ferrera and Vandenbroucke have promoted a European Social Union best conceived as a ‘holding environment’ for national welfare states (Ferrera 2018; Vandenbroucke et al. 2016). Their purpose is to allow the coexistence of diverse social systems while preventing detrimental competition and ensuring their resilience during economic downturns. This vision accommodates two long-standing proposals, namely the promotion of social investment as a unifying paradigm driving the reforms of welfare states (Hemerijck 2016; Vandenbroucke et al. 2011), on the one hand, and the set-up of a European unemployment insurance scheme for stabilizing economies in the face of recession (Andor et al. 2014), on the other. More recent debates have suggested making the European Semester more conducive of social cohesion, for instance by focusing more on progressive taxation (Antonucci and Corti 2020) or by creating a social imbalance procedure mirroring the economic imbalance procedure (Sabato et al. 2022).

Sceptical of small steps for reforming Social Europe at the margins, many voices have called for a major overhaul of EU social policy and its institutions. A widely-shared claim among authors with Keynesian views is to shift away from the triangle of fiscal discipline, competitiveness and activation to a return to demand-side policy and the de-commodification of workers and public services (Copeland 2020). Achieving this at a European scale implies to fight against two ‘natural enemies’, namely neoliberalism and nationalism (Crouch 2020: 2). However, this does not mean a return to the national Keynesian welfare state of the twentieth century. Rather, there is a need for creative and future-oriented policy solutions, for instance, a turn to a new socio-ecological paradigm which can ‘redefine prosperity without growth’ (Pochet 2019: 324) or to address the structural transformations of work driven by technological and societal change (Crouch 2020: 36–41). In this perspective, progressive EU social policy can only go hand in hand with the democratization. One proposal has been to give national representatives a strong say in EU socio-economic governance in a Treaty on the Democratization of the Economic and Social Government of the European Union dubbed ‘T-Dem’ (Hennette et al. 2019). Democratization also implies making EU institutions more responsive to grassroots’ grievances, for instance, when contestation about liberalization and the marketization of welfare arises (Crespy 2012, 2016). Others have also called for extending the ECB’s mandate to deal better with redistributive issues and thus really ‘serve the people’ (Dietsch et al. 2018). In a Habermasian perspective, a major overhaul of the EU’s

action in the social realm is only possible through a process of federalization. In contrast with ‘post-democratic executive federalism’ (ibid., p. 12) (understood intergovernmentalism), collective choices should be underpinned by shared norms enshrined in a common constitution. In the name of interpersonal social justice Europe wide, the idea of a European basic income, called ‘Euro-Dividend’, has been put forward by Van Parijs (2018). Calls to strengthen the EU’s redistributive capacity are based on the idea that there is no theoretical ground for restricting distributive justice to – ethnically defined national communities instead of broader social cooperation and solidarity among distinct *demos* as is already the case in multinational states (Rawls and Van Parijs, 2003).

## CONCLUSION

A Social and Health policy at EU level was always highly constrained. In a neo-functionalist logic, they were always born from the necessities of the single market – with freedom of movement spurring the coordination of social security, or the need for common standards to commercialize medicines – as well as cross-border interdependency – for instance to the need of coordination against cross-border health threats or regulation to prevent social dumping. Legitimacy for the EU to make far-reaching decisions was always disputed among member states, political parties and citizens alike. In this regard, a key challenge has been to strike a balance between effective means of action and fragile legitimacy. This tension has only grown as the EU kept enlarging with a relative dearth of financial resources to conduct social policy. In spite of political resistance, and far from being linear, the EU’s prerogatives in the social realm have only expanded in a gradual fashion. But in many ways, they have remained ‘secondary’ areas (Copeland 2020) subjected to broader economic strategies.

Before 2020, the EU’s action was ‘best characterized by continuity in form of dominance of economic over social integration, incremental development and a focus on soft, non-binding instruments’ (Hartlapp 2019). Against this background, the conjunction of the European Green Deal and the outbreak of Covid-19 have brought about a new political momentum. In an attempt to reconcile social policy and an economic ecological turn, the agenda for a ‘just’ transition is now the new overarching agenda. Yet, it is still difficult to see whether, and how, it will articulate with the existing policy instruments for social policy. With initiatives such as a Directive proposal on minimum wages or a Recommendation for establishing a child guarantee, the European Commission and the European Parliament in particular are showing a willingness to go further on the social terrain. In the area of health, national governments have proved particularly reluctant to increase the EU’s prerogatives despite the pandemic. Overall, it remains uncertain whether the recent initiatives will be successful in tackling multi-faceted poverty (child and youth poverty, energy poverty, in-work poverty, etc.) just as climate change is threatening to widen inequalities both *within* and *between* EU countries.

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## 23. Gender equality policy

*Sophie Jacquot*

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Gender equality policy is a precious gem for European Union (EU) studies. One of its many values is that observing this specific policy allows one to have a look at a series of processes that highlights the complexity and sometimes ambiguity of the general mechanisms of European integration. One can pick-and-choose among many different examples to see how much the case of gender equality can be an illuminating illustration for EU scholarship.

In terms of theoretical readings on the functioning of the process of European integration, gender equality policy is a good example of neo-functionalist mechanisms (Cram 1993; Mazey 1995). Looking at this policy allows one to see some of them at play: loyalty transfer towards the supranational level, especially through the support of the European Commission to the formation of the European Women's Lobby, functional spill-over (from equal pay to equal treatment on the labour market to gender equality promotion in all matters in which the EU has a jurisdiction), political spill-over and socialisation (with the development of a large policy community), or integration through law (with the specific role played by the European Court of Justice especially thanks to the textbook example of the *Defrenne* rulings.<sup>1</sup> But, it has been demonstrated that the gender equality policy is also an interesting example of the functioning of a 'modified version of intergovernmentalism' (van der Vleuten 2016: 93). When forming their preferences during the negotiations on European regulations in this field, member states have balanced the economic with the political and ideological costs of adopting and implementing far-reaching measures (van der Vleuten 2007; Liebert 1999).

If we look at another analytical tool, i.e., the concept of Europeanisation, we can see that gender equality policy can also be an illustration in the study of the top-down mechanisms of impact of the EU level on domestic structures and actors (Caporaso and Jupille 2001). It has also given birth to more informal interactions between them, inducing policy changes and various forms of usages of Europe (Graziano et al. 2011). This has been the case in a range of domains, from implementation of equal pay or parental leave schemes, to legitimising the debate on sexual harassment at work, mobilising in favour of the Istanbul Convention,<sup>2</sup> or contributing to the acceptance of electoral gender quotas in France.

We can think of again other illustrations of its usefulness. One of them has to do with the definition of the nature of the EU political regime. Taking into account gender equality policy in this endeavour helps to characterise it as a 'regulatory State' (Majone 1996), but also to describe its transformations under the influence of soft law instruments and new modes of governance (Beveridge and Velluti 2008), such as gender mainstreaming.

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<sup>1</sup> These three rulings, and especially the second one in 1976, acknowledge the direct effect of the principle equal pay between women and men workers and as such opened the European legal system to private actors and citizens in this field (see Caporaso and Stone Sweet, 1998; Cichowski, 2007).

<sup>2</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence.

Focusing on the institutional side of this policy can be a way of grasping the intricacy but also the power play of the multi-level system of governance of the EU as well as the role of its multiplicity of actors: when studying the EU gender equality policy, you have to consider the respective role of dedicated structures within the Commission, as well as European Parliament's committees, EU Council's formations, expert groups, agencies, Courts, NGOs, domestic bureaucracies.

Such examples are numerous. But, beyond the diversity of the general mechanisms that the EU gender equality policy exemplifies, it is also a precious object of analysis per se. Considering that the EU has for a long time been considered as an innovative, dynamic political system when it comes to the promotion of gender equality, analysing the EU gender equality policy allows to examine the mechanisms at play in the emergence and development of a policy aimed at fighting gender inequalities. More recently, in a constrained environment, it also allows to investigate mechanisms of policy dismantling as well as the extent of populist and illiberal attacks against 'gender ideology'.

This extraordinary fertile analytical ground has given birth to a full-fledged field of study on gender and the EU (Abels et al. 2021), and this chapter will try to reflect this richness. In this view, we will first explore the concept of gender equality regime which allows to grasp the specific nature of EU gender equality policy, especially in contrast with national policies. We will then present the content of the EU gender equality policy, its different instruments, institutions, and actors, and their recent evolution. Finally, having in mind the present state of the policy, we will review its main contemporary challenges – austerity politics, illiberal attacks and institutional blockages – and explore its way forward in front of these difficulties.

## THE POLITICAL ECONOMY OF THE EU GENDER EQUALITY REGIME

In 1957, the newly signed Treaty of Rome includes an article 119 (now art. 157 of the Treaty on the Functioning of the EU – TFEU) which guarantees 'the principle of equal pay for equal work between men and women workers'. With this article, the primary aim of the negotiators is to harmonise national social systems in order to avoid distortions in competition among the member states within the context of the gradual elimination of customs and trade barriers. It is not a matter of asserting the principle of gender equality as such or even of promoting social justice. The objective is rather to avoid any risk of social dumping. In sectors that rely heavily on female labour, such as textile industry (Hoskyns 1996). It is on the basis of this tiny building block that progressively emerged a full-fledged gender equality policy. Even more so, it is important to understand that it is not 'only' a public policy that has been developed but a specific EU gender equality regime.

### **The Concept of Gender Equality Regime**

In a recent text, von Wahl explains the origins of the concept. She defines it as follows: 'EU policies have grown over nearly seven decades from a few isolated policies only addressing women's equal pay to a complex web of egalitarian norms, rights, and court rulings, supported by institutions and interconnected opportunity structures also described as "regime"' (von Wahl 2021: 17; at the EU level, foundational works on the subject include Liebert 2003;

Ostner and Lewis 1995; Walby 2004). The characteristic of a gender equality regime is that the different elements of this complex web work together as a system and produce an approach to conceiving gender relations and achieving gender equality that is specific to the EU, independently from its member states. Moreover, important in gender equality regimes are the mechanisms which structure the relations between men and women in a given society, their places and respective positions of power. As such, they are situated at the interface between ideas and public policy: conceptions of gendered social roles have concrete effects on the policies that are implemented.

### **What is the Specificity of the EU Gender Equality Regime?**

The specific nature of the EU gender equality regime is to exist within a political system founded on market economy and economic liberalism, with the initial objective of developing the free circulation of capital, goods, services and workers. As exemplified with article 119, it is closely connected to market-building processes. As such, this regime is sometimes considered as inherently paradoxical: how could the fight against gender inequalities be part of a neoliberal project that participates in increasing gender inequalities? How could such a political system promote gender equality at all? It is in fact this relationship to the market that constitutes the very nature of the EU gender equality regime. In order to grasp this specificity, rather than reasoning in terms of contradiction and opposition between the norm of the market and the norm of gender equality, it is more fruitful to understand that they are articulated. The EU gender regime associates both norms more than it opposes them, bringing them together in a syncretism where economic liberalism meets gender equality promotion to produce a particular regulatory regime. This regime is characterised by an original combination where, on the one hand, gender equality promotion can be used for macroeconomic objectives, and where, on the other hand, instruments encroaching on the market can be developed to fight against gender inequalities. In short, the EU gender equality regime is certainly characterised by its market orientation. But, in this context, it is the articulation between the norms of gender equality and of the market and their relative equilibrium over time that is interesting to question.

### **How has the EU Gender Equality Regime Evolved?**

Schematically, we can say that there have been three successive configurations of the relationship between the market and the gender equality norms at the EU level: ‘equality *within* the market’, ‘equality *for* the market’, and ‘equality *despite* the market’ (Jacquot 2015). In the first configuration, up until the beginning of the 1990s, gender equality has to be compatible with the market, it is constrained by its principles and limited by its rules. However, as long as gender equality policy does not overcome the boundaries of the organisation and functioning of the internal market, it can benefit from a certain legitimacy to develop autonomously (‘*within* the market’). This explains that the principle of equal pay of article 119 has been extended to encompass equal treatment at work and on the labour market more generally, and then completed by equal opportunities during the period.<sup>3</sup>

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<sup>3</sup> Following the logic of ‘equality within the market’, positive actions are considered legal to the extent that they remain directed at individuals (i.e., men and women as economic agents) and not at groups (i.e., women as members of a structurally disadvantaged group).

This equilibrium started to change in the mid-1990s: the gender equality norm becomes subordinated to the market norm. Gender equality is no longer an objective in its own right but rather an instrument for other public policy priorities, especially growth and economic competitiveness. Gender equality has to produce results ‘*for the market*’ in order to be legitimate. Measures aimed at improving the ‘work-life balance’ (parental leave, childcare, working time organisation) which develop during this period illustrate this shift (Jenson 2008; Lewis 2006): the main objective is not to fight gender inequalities but rather to increase the employment rate (of women), regardless of the quality of jobs. Employability, fighting against the under-exploitation of human resources are the keywords. Sharing responsibilities in the domestic sphere, changing male behaviour or transforming the distribution of gender roles are not legitimate concerns anymore.

Starting from the Great Recession in 2008–2009, the EU’s policy agenda has been reorganised and the configuration of ‘equality *for* the market’ has been accentuated again: even when subordinated to economic objectives, initiatives in favour of promoting gender equality have had a hard time finding legitimacy and political support to be pursued. Gender equality has become an objective which is not only subordinate but genuinely secondary. In this configuration, gender equality can only exist ‘*despite* the market’, with minimal ambitions and restricting its focus to issues that can aggregate the widest possible interests. This minimalist conception is exemplified by the most recent flagship initiative of the European Commission. In March 2021, it has tabled a proposal for a directive on pay transparency to strengthen the principle of equal pay. Constrained by a shrinkage of political and budgetary opportunities, this proposal typically addresses the issue of equal pay through the restrictive and minimal lens of pay transparency, which has become the single issue to which gender equality in employment and occupation is reduced. Issues such as the quality of employment (including part-time work), working conditions, or the structural discrimination of the gendered classification of occupations are left unaddressed within the new gender equality regime.

## INSTRUMENTS, INSTITUTIONS, AND ACTORS OF THE EU GENDER EQUALITY POLICY

EU gender equality policy is constituted by a series of instruments. It also includes different institutional structures as well as networks of actors. All these components have been progressively established. On the eve of the 21st century, the EU was considered as ‘one of the most progressive political systems in the world regarding the promotion of gender equality (Hafner-Burton and Pollack 2000: 452). However, in the following years, under the combined influence of the 2004 enlargement and the higher political fragmentation it entailed, budgetary restrictions especially after 2008, transformation of the interinstitutional balance of power and administrative reforms, the EU gender equality policy has started to undergo a process of policy dismantling, casting a shadow on its future development. This part focuses on this policy trajectory, from expansion to dismantling.

### **The Diversity of Policy Instruments in the Field of Gender Equality**

There has been a gradual diversification of the instruments used in order to implement the EU gender equality policy. They include primary law, secondary law, case law, soft law, but also

budgetary and transversal/coordination instruments. This diversification of the instruments has allowed the extension of the field of action of the EU: from the limited issue of equal pay in 1957 to all matters under the jurisdiction of the EU since the entry into force of the Lisbon Treaty in 2009. We are going to examine these different categories.

When it comes to primary law, each treaty has increased the competencies of the EU in the promotion of gender equality. Recently, both the Charter of Fundamental Rights of the EU and the Lisbon Treaty have been important milestones: they notably reinforced the status of the gender equality principle as a common value of the EU and recognised the right to gender equality in all areas (Burri 2018).

Treaty articles are important as they offer a basis for the adoption of secondary law, and today gender equality legislation constitutes a solid and diversified corpus. In 2021, ten directives are in force, covering equal treatment and equal opportunities in matters of employment and occupation, equal treatment in the access to and the supply of goods and services or measures against trafficking in human beings. Important to consider nevertheless is the dynamics of legislative developments since over a decade, which have encountered many obstacles. The revision of existing directives included only minimal requirements.<sup>4</sup> Some proposals are blocked in the Council<sup>5</sup> or abandoned because of absence of compromise.<sup>6</sup> The adopted proposals have either known very conflictual negotiations<sup>7</sup> or resulted in side-lining of gender equality questions.<sup>8</sup>

The Court of Justice of the EU (CJEU) has played a crucial role ‘in ensuring that individuals can effectively invoke and enforce their right to gender equality’ (Burri 2018: 8). Recent studies have shown that gender equality case law constitutes around two thirds of EU equality law (Kilpatrick and Miller 2020, for the period covering 1971–2018). The CJEU has notably established and defined the concepts of direct and indirect discrimination, positive action or sexual harassment. Its rulings have regularly provided an interpretation of the law that went beyond the intentions of the governments, both in terms of meaning and consequences. However, the CJEU as such ‘is not specifically gender aware even though the case law demonstrates some small victories in the course of its development’, it has sometime even worked against gender equality (Guth and Elfving 2018: 2), and case law remains an uncertain instrument.

Starting from the mid-1980s, hard law has been complemented by non-binding legal instruments, which are also part of the *acquis*. Initially, these soft law instruments (resolutions, recommendations, communications) mainly remained restricted to the sphere of employment and were aimed at monitoring legislation. From the 1990s, there has been an increase in their number and a diversification of their content. More recently, as for hard law, soft law instruments have a hard time finding consensus to be adopted.

EU gender equality policy is not merely a regulatory policy. Distributive instruments have developed, accompanying the extension of the *acquis*. From the 1980s on, multiannual ‘Action programmes’ have been proposed and used by the European Commission in order to create new rooms of manoeuvre for itself, to extend the range of its actions and to ground its image

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<sup>4</sup> Directives on parental leave and on equal treatment of self-employed and assisting spouses in 2010.

<sup>5</sup> Proposal on gender balance on boards and proposal on horizontal discrimination.

<sup>6</sup> Revision of the directive on the protection of maternity.

<sup>7</sup> 2019 directive on work-life balance for carers or parents.

<sup>8</sup> 2011 and 2012 directives on human trafficking and the protection of the victims of crime.

as an active institution in the field (Ahrens 2019). Recently however, these programming documents, such as the Gender Equality Strategy 2020–2025, are no longer attached to a specific budget line and therefore tend to remain primarily declaratory. Funding programmes, more generally, have been impacted by cuts, and since the 2007–2013 financial framework, the amount of the budget allocated to gender equality as a proportion of the overall EU budget has regularly decreased.

Finally, starting from the mid-1990s, a new category of policy instruments has flourished. They include the incorporation of concerns linked to gender inequalities into the EU multiannual programmes in the field of social policy (European Employment Strategy from 1997, Lisbon Strategy from 2000), as well as the development and implementation of gender mainstreaming. These new transversal instruments contribute to the reinforcement of the non-binding measures of the EU gender equality policy, as well as to the extension of its boundaries to new domains. Recently, this type of instruments has experienced a setback. First, there has been a near-total evaporation of gender inequalities concerns in the major multiannual actions plan of the EU. In the Europe 2020 Strategy, the European Semester and the European Pillar of Social Rights, these concerns are in significant decline, with only a few mentions of the specific discriminations faced by women on the labour market and no accompanying objectives or indicators (Kantola and Elomäki 2020; O'Dwyer 2018). Second, the impact of gender mainstreaming on the nature and degrees of gender inequalities has been extremely limited (Guerrina 2020). Even more, recent analyses have shown that resistances to the deconstruction of gender norms and the transformation of power structures at the root of gender mainstreaming have started to emerge, even in policy domains which used to be considered as receptive, such as scientific research (Cavaghan, 2017; Vida, 2020).

### **The EU Gender Equality Policy Community: Institutional Structures and Networking**

The EU gender equality policy aggregates different types of policy instruments, which accumulated over time. They form its material basis. However, it is not enough to focus on this accumulation of instruments to capture the content and functioning of this policy. It is important to examine also its environment, the institutions and actors which have gradually organised to constitute a structured policy community, starting from the 1970s up to the 2000s. We will also see that, over the last decades, the EU gender equality policy community has been destabilised by a number of changes and administrative reforms, mainly aimed at fitting to the standards of EU 'good governance'. As a consequence, the cause-based coalition traditionally supporting the EU gender equality policy has been eroded and the interconnectedness of the key actors, whether public (femocrats, MEPs) or private (activists, academics, experts), has loosened, contributing to the process of dismantling of the policy.

The first embryo of structure of the EU gender equality policy is the creation at the beginning of the 1970s of a working group on women's employment gathering representatives from the member states. On this basis, the Advisory Committee on Equal Opportunities for Women and Men was established. It inaugurated a singular form of functioning, combining formal structures and informal socialisation, engagement for gender equality and for European integration. Within the European Commission, the institutionalisation of the gender equality policy began to take shape after the adoption of the first directives on equal pay and equal treatment: The Bureau for Problems Concerning Women's Employment in the DG in charge

for employment and social policy, and the Women's Information Service in DG Information<sup>9</sup> have been created in 1976. A major change happened in 2011 with the transfer of the structure in charge of gender equality from DG Employment and Social Affairs to DG Justice. This administrative restructuring signalled the fact that gender equality is (only) one ground of discrimination among other fundamental rights. It also implied a loosening of the ties between gender equality and social policy in times of economic crisis. This situation evolved with the von der Leyen Commission in 2019 and the introduction of an Equality Commissioner. This new portfolio is responsible for all matters linked to inclusion and equality, however it is only supported by a Task Force of experts and does not have its own administrative services which remain part of their respective DGs.

Besides the femocrats from the European Commission, another important group of actors of the gender equality policy community are the academics and experts. From the 1980s, the Women's Bureau developed thematic networks, in order to support and legitimate its initiatives. The members of these groups were chosen for their specific expertise but also for their engagement with the cause of gender equality. Since the mid-2000s, the number of expert groups has been drastically reduced. In line with the new approach to the role of scientific knowledge promoted in European governance, expertise is mainly outsourced, but this outsourcing is not seen and used as a possibility of creating partnerships, rather as mere service provision, diminishing their driving force in support of the policy (Jacquot 2020). This evolution goes hand in hand with the creation of the European Institute for Gender Equality (EIGE), inaugurated in 2010. Even though it was initially conceived as a tool aimed at producing gender expertise and liaising with a variety of gender equality actors, in practice EIGE tends to produce technical knowledge rather than alternatives or a political vision (Jacquot and Krizsán 2021).

In the European Parliament (EP), an Ad Hoc Committee on Women's Rights was created as early as 1979. The 'FEMM Committee' became permanent in 1984 and has been a relentless support of the policy since then. Gender research has demonstrated the important role of the EP in the agenda-setting of gender issues at the EU level and its efforts to mainstream gender and the gendered impact of policies. In a recent review, Ahrens and Rolandsen Agustín underline that it 'has been decisive in expanding the policy scope of the EU from gender equality related exclusively to the labour market to other areas' (2021: 115). These efforts are of course more (domestic violence, gender budgeting) or less (foreign affairs) successful.

When it comes to civil society organisations (CSOs), small groups aiming at defending women's interests at the European level have accompanied the development of the gender equality policy in the 1980s, but the main umbrella organisation, the European Women's Lobby (EWL), was 'only' created in 1990. Recently, there have been important transformations within the system of interests' representation in the field of gender equality. First, the development of a broad fundamental rights policy has led to a thematic competition, doubled with a financial competition for funding and subsidies intensified in period of budgetary crisis. Within this environment, the influence of feminist mobilisation remains limited (Cullen 2014), and the EWL has to manage the tension between providing efficient technical expertise to policymakers and acting as a critical voice advocating for women's interests (Seibicke 2020). Second, since the 2010s, gender equality as a policy issue has been downgraded in the social

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<sup>9</sup> This structure disappeared at the beginning of the 1990s.

partners' agenda (Elomäki and Kantola 2020), although the Social Europe route had been fruitful in the past (social dialogue notably gave birth to framework agreements which became directives on parental leave, 1996, 2009, and part-time work, 1997).

## CHALLENGES: EU GENDER EQUALITY POLICY AMIDST CRISES AND ILLIBERALISM

For a few years, the EU gender equality policy has had to deal with major contextual hurdles: indirect obstacles linked to the consequences of austerity politics, and direct obstacles linked to populist and illiberal attacks. It also has to deal with what Abels and Mushaben (2020) call 'structural limitations', especially the evolution of the institutional balance of power at the EU level, which put to the test the expectations born out of the von der Leyen presidency and its 'new equality agenda'.

First, gender research has highlighted the side-lining of gender in times of crisis in the EU, especially since the 2008 economic and financial crisis (Cavaghan and O'Dwyer 2018; Kantola and Lombardo 2017, 2021; Karamessini and Rubery 2014). The transformed EU economic governance which has followed the Great Recession has led to the implementation of gender-blind policies, even though austerity policies have unbalanced gender effects and disadvantage women, especially the most vulnerable, by reinforcing existing structural discrimination and inequalities in access to resources. The systematic exclusion of gender expertise and consideration of the gendered effects from the reflection, design and implementation of policy solution – such as in the case of the Recovery and Resilience Facility plan adopted in February 2021 – necessarily backlashes. Gender-blind austerity politics has a direct effect on gender inequalities and a negative impact on the legitimacy of the policy aimed at fighting against them.

Second, direct attacks against EU gender equality initiatives for ideological and political reasons have gained importance since a few years (Roggeband and Krizsán 2018; Siim and Fiig 2021). This type of opposition has always been voiced in the EP, now it also directly impacts the work of the Council of Ministers. We have recently seen Bulgaria, Hungary and Poland vetoing draft Council conclusions (i.e., conclusions on gender equality in EU external relations and conclusions on culture in December 2020), or refusing to endorse any document with the term 'gender' (i.e., Poland and the conclusions on the consequences of the Covid-19 pandemic in June 2021). This overt opposition becomes systematic and is sometimes used as a political cover by other member states whose opposition is mainly budgetary. Gender issues have become more politicised at the EU level and are the object of stronger polarisation. The consequences of this phenomenon are twofold for the EU gender equality policy. First, it implies a greater fragmentation, an increasing diversity of meaning and objectives. It puts the very notion of a unified EU gender equality regime to a strain (Krizsán et al. 2014; Walby 2020). Second, both the stronger polarisation and the greater fragmentation mean a difficulty in agreeing on the ends and means of the gender equality policy. Consensus is more difficult to obtain, which is of course a strong limitation within the EU political system.

Third, another important challenge to the gender equality policy is linked to the evolution of the balance of power between the three poles of the legislative triangle (European Commission, EP, Council of the EU). In line with analyses considering that European integration is undergoing a phase of 'new intergovernmentalism' (Hodson and Puetter 2019), member states

have increased their presence and dominance in EU gender equality policy, especially via the enhanced role of the presidency trios in the agenda-setting, design and monitoring of the policy. This stronger role induces a relative marginalisation of the Commission and the EP, traditional driving forces for the development of the EU gender equality policy.

These combined limitations weigh heavily on the EU gender equality policy, especially since, as we have seen before, it approaches this situation from a position of weakness induced by more than a decade of policy dismantling. In these conditions, the EU gender equality policy appears as doubly vulnerable, contextually and structurally. As such it is not in capacity to promote the fight against gender inequalities ambitiously, especially when confronted with political or economic issues with a high degree of salience – the marginalisation of gender equality during the entire Brexit process (Guerrina and Masselot 2021) being a case in point.

## CONCLUSION

This chapter started with a demonstration of how typical of the main mechanisms of European integration the EU gender equality policy is. This emblematic character is all the truer when it comes to the meaning and identity of the EU as a political system and a polity. The content and orientation of the EU gender equality regime has for a long time participated in the self-image and definition of the EU projects, both externally and internally vis-à-vis its own citizens: ‘gender equality is an important aspect of the foundational myths of the EU’ – whatever the realities supporting this myth (MacRae 2010: 155).

In a time of dire economic, institutional, and political constraints, the EU gender equality policy is at a crossroads and its future will be very telling as to the identity of the EU, what it is and what it should be according to its members. Will it become a domain of disintegration and continued policy dismantling because of lack of consensus on the ends and means? Will it definitively transform into a symbolic or a ‘poster’ policy, characterised by a widening gap between a display of values and principles on the one side, and a lack of concrete effects on the other side? Will it be carried again by political will and leadership? Will it be reinvented and profoundly transformed as an intersectional equality policy? All these questions remain open.

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## PART V

# WORLD AND GLOBAL ISSUES

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## 24. Trade policy

*Guri Rosen*

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While the European Union (EU) has been described as a political dwarf and military worm, it is without a doubt an economic giant, being the world's largest single market area. The EU is also one of the world's largest and most powerful trading bloc with formidable muscle *in* trade and *through* trade (Meunier and Nicolaïdis 2006: 907). The EU's external trade policy is the strongest manifestation of the EU as an international actor. However, the EU's role is under increasing pressure, both internally and externally. The Lisbon Treaty triggered a small revolution in the field of trade by introducing the Ordinary Legislative Procedure (OLP) to the area of trade and requiring European Parliaments's (EP) consent to international trade agreements, which it is now putting to full use. Post-Brexit, some suggest the EP might push for a more protectionist trade policy. This argument is also extended to the EU as a whole: will EU trade take a new direction without the British push for liberalization?

Amidst its internal predicaments, the EU is also facing colossal external pressure. The trade wars between the United States (US) and China brought the changing geopolitics to a pinnacle, and the EU is left to deal with the effects of the current power struggle as well as to navigate its own role between two strong partners and competitors. Traditionally a champion of multilateralism, it raises questions about how the EU's support for multilateral trade institutions can be sustained in the current global environment and to what extent it is a sustainable strategy. This chapter will give an overview of the current challenges facing the EU's trade policy as well as present different aspects of past and current debates. Building on an account of the development of EU trade policy and politics, it will assess how the Union is coping under the current internal and external pressure.

With the creation of the Customs Union in the Rome Treaty, trade policy became the EU's first foreign policy – the Common Commercial Policy (CCP). According to the Rome Treaty (ex. Article 113), the CCP was to be based on uniform principles, meaning that trade agreements would be concluded on behalf of all member states, liberalization measures were a collective endeavour, as well as export policy and trade protection. In addition, the EU's trade policy is instrumental in opening external markets to European investments and exports. After the financial crises, trade policy was identified as crucial to resuscitate EU competitiveness and growth. In the wake of Covid-19, we see similar aspirations for EU trade policy.

Since the late 1950s, both the scope of the EU's trade policy as well as the actors involved in making it, has changed considerably. Herein lies one of the main points of conflict in historical terms, but also several current, and quite likely, future challenges. EU trade policy entailed an extraordinary transfer of sovereignty when it was established, through the delegation of powers to the Council of Ministers as a collective decision-maker, to the Commission as the one who negotiates on behalf of the Union and implements 'all aspects of trade relations with the rest of the world' (Niemann 2006: 114). Furthermore, with significant changes to global trade patterns, the pressure to reform EU trade policy has increased, prompting the debate about the delineation of competences between member states and the EU, as well as the purpose of trade policy and its democratic legitimacy.

## DEBATES ABOUT TRADE

In trade policy, considerable competence has been delegated to the EU-level. This has given way to two intertwined debates: Who is in charge of EU trade policy and what should be the scope and purpose of the Union's competence in trade? The CCP was based on three core principles: a common external tariff, collective negotiations of trade agreements, as well as a common application of trade instruments across all member states, i.e., trade defence measures (Meunier and Nicolaidis 2011: 277). The Rome Treaty identified trade policy as an important policy of the European Economic Community (EEC) and gave extensive powers to the supranational Commission. Article 113 EEC provided for the Commission to recommend agreements with third parties and, after authorisation from the Council, negotiate on behalf of the EU, allowing the Union to speak with a single voice vis-à-vis the rest of the world.

While the Rome Treaty gave the EU exclusive competence over trade, it was less clear on what aspects of trade this entailed, as trade policy was not clearly defined (Dür and Elsig 2011: 325). During the negotiations on how to replace the General Agreement on Tariffs and Trade (GATT) – the Uruguay Round – the agenda included not only trade in goods, but also services, including agriculture, as well as intellectual property. Services was a sensitive issue for many member states, and agriculture was an area that raised concerns among strong domestic groups. In addition, tariffs were no longer the main negotiating point, as rates had been lowered over several years. Instead, non-tariff barriers were increasingly being discussed, i.e., different types of national regulations that were considered barriers to free trade. Several member states claimed that these areas were not part of the Rome Treaty, and therefore outside the EU's competence (Meunier and Nicolaidis 2011: 278).

Faced with opposition from member states, the Commission took the issue to the European Court of Justice, asking it for an opinion. The Court's ruling gave an equivocal answer on trade in goods, that was an EU exclusive competence. On services and intellectual property, however, the Court stated that competence was shared: EU and the member states were 'jointly competent' to conclude the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This meant that the decision on who was to be in charge of trade in services had to be political, not judicial (Meunier and Nicolaidis 2011).

The relationship between the Commission and the member states has been a dominant topic in the literature on EU trade policy, not only in terms of competence, but also control. With trade agreements, it is the Commission that suggests the opening of new negotiations, drafts the mandate, conducts the talks with third parties, and is responsible for enforcing trade policy once agreed. Thus, the question is to what extent member states are able to monitor the Commission and promote their own interests in international negotiations. Comparing the EU to the US, some argue that the Commission has less autonomy than the US negotiator (Woolcock 2010), others argue that the US Congress has more control over its negotiator, the US Trade Representative (Da Conceição-Heldt 2011). Beyond the discussion of autonomy are studies of the factors that affect levels of independence and control. The Council decides the mandate, which gives it an amount of control, but if the mandate is vaguely formulated, the Commission will have greater leeway during negotiations. At the same time, the Commission is well aware that venturing too far from the mandate will make it hard to get the agreement accepted (Damro 2007). Furthermore, member states' attention to the negotiations is deter-

mined by trading partner and type of issue, as well as the level of agreement within the Council (Da Conceição-Heldt 2021).

For several decades, the EP was hardly involved in trade policy. One of the key reasons for the EP's empowerment in EU trade policy was democratic legitimacy (Rosén 2017). In the past, the treaties appeared to build on the belief that 'external trade policy is best conducted without any parliamentary input or interference' (Krajewski 2005: 97). Most policy areas where Qualified Majority Voting (QMV) is applied, also entails legislative power for the EP (Rittberger 2005). Trade, however, has been a laggard, and during the treaty reform process leading up to the Lisbon Treaty the challenge by Members of the EP (MEPs) was finally successful. Supported by the Commission, the EP managed to convince key actors that extending the EP's trade powers was reasonable because there were no valid arguments for exempting trade from the general rule of linking QMV and EU legislative influence (Rosén 2017; 2016). It has been argued that because of the empowerment of the EP in EU trade policy, the Commission has to cater to more principals and that the cohesiveness within these bodies affects the Commission's discretion (Da Conceição-Heldt 2021). Others emphasize how the EP's role has contributed to tighten the constraints on the Commission (Gastinger and Adriaensen 2018).

Another debate triggered by the EP entering the realm of trade, is whether and how it will change Union policy. This connects to the discussion about the purpose of EU trade policy. EU Trade Commissioners are generally determined supporters of multilateral cooperation. Pascal Lamy, who was Trade Commissioner between 1999 and 2004 before he left to become Director of the World Trade Organization (WTO), became known for his concept of 'managed globalization', where the goal was to increase members of multilateral organizations to achieve a common set of rules that would govern global trade (Meunier and Jacoby 2010). This entailed a moratorium on bilateral deal, which Lamy saw as a threat to multilateral cooperation (Orbie and Kerremans 2013). In the mid-2000s, it became clear that this strategy had to be adjusted. First, promoting the principle of multilateralism stood in stark opposition to the defence of key economic interests – especially agricultural subsidies – which member states wanted, and other WTO-members criticized. Secondly, the EU was not alone in wanting to manage globalization on its own terms (Sbragia 2010). As the US was concluding subsequent bilateral deals, combined with negotiations in the WTO Doha Round reaching a standstill, the EU changed its tactics. In 2006, Trade Commissioner Peter Mandelson, launched 'Global Europe'. This new strategy had a stronger focus on bilateral and regional agreements with emerging markets to secure new market access. In its wake, a range of new negotiations were initiated. However, the tension between the multilateral and bilateral approaches to trade policy did not disappear, as described below.

## MAIN DEVELOPMENTS

There are two special aspects of EU trade policy that have developed over time: the scope of the trade policy to fall under the EU's competence, and the actors involved in the decision-making process. The European Coal and Steel Community did not have external competence. With the establishment of the Customs Union, imports from third countries and external tariffs became a common matter, which meant that the EU's market had acquired an external dimension (Damro 2012). Trade policy has been the exclusive competence of the EU

since the EEC, but as described above, the scope of the EU's competence has been subject to continuous debate. The initial CCP was focused on trade in goods, but in correspondence with the development of the international trade agenda, new areas have been included, sometimes with considerable difficulty.

Because the European Court of Justice had declared services shared competence, the ensuing problems had to be solved through treaty reform. One attempt was made in the Amsterdam Treaty, which included a provision saying that future expansion of exclusive competence could be decided through a unanimous vote in the Council. Due to the rapid expansion on trade in services as well as the imminent enlargement, it became clear that such a case-by-case approach was not sustainable and in the Nice Treaty, both services and intellectual property were made EU exclusive competence with the use of QMV as the general rule (Meunier and Nicolaïdis 2011: 279–280). Nevertheless, there were several exceptions in areas that were previously subject to unanimity as well in areas such as health and educational services, culture, and transport. A distinction was also drawn between intellectual property with commercial aspects and intellectual property with other aspects, which was shared competence (Niemann 2012). It was not until the Lisbon Treaty, which entered into force in 2009, that trade policy became consolidated by 'entrenching the principle of exclusive Community competence (Meunier and Nicolaïdis 2011: 281). It also entailed an extension of exclusive competences and QMV to cover all areas of trade: goods, services, intellectual property as well as Foreign Direct Investment (FDI). the intention was that this would settle the issue on shared competences, but problems would soon reappear, leading the Commission to turn to the Court again.

At that point, another institutional actor had entered the scene. As described above, the Lisbon Treaty gave the EP a whole new role. First, trade policy was now to be implemented through regulations subject to the OLP, where the EP's legislative power is on par with the Council. Secondly, a corollary to the introduction of OLP is that the EP's consent to trade agreements is necessary when they have legislative implications (Article 227(7), TFEU). Thirdly, the Commission must report regularly to the EP about developments of international trade negotiations. Some have argued that reaching a common position in the EU might become even more difficult after the EP's empowerment, because the Commission must cater to even more principals (da Conceição-Heldt and Meunier 2014). As shown below, among the contemporary challenges has not only been the EP weighing in, but also national as well as some regional parliaments (Roederer-Rynning and Kallestrup 2017).

## CONTEMPORARY CHALLENGES

In July 2012, the EP rejected the Anti-Counterfeiting Trade Agreement (ACTA). This was the first time the EP had used its powers to veto an international trade agreement. A main argument against extending the powers of the EP was that it would politicize trade policy, thus making it even more difficult to manage (Niemann 2011). ACTA mobilized large protests among civil society and the public at large, which MEPs reacted to (Dür and Mateo 2014). The controversies surrounding ACTA were only the beginning of several years of mobilization against EU free trade agreements, but two in particular: Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, and the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US.

TTIP would have merged two of the strongest economies on the globe, creating an enormous bilateral free trade area (Young 2016). Proponents of TTIP claimed that it would lead to increased exports and job growth. Opponents countered that it was more likely to threaten standards and therefore put jobs at risk. According to Trade Commissioner Cecilia Malmström (2014–2019), TTIP led to an unprecedented debate, however, it was put on ice in 2016, following the election of Donald Trump as President of the US. Nevertheless, the politicization of TTIP spilled over to CETA, which was not yet signed when the TTIP-talks were taking place. One comprehensive criticism, triggered by the TTIP-talks especially, was the lack of transparency and democratic accountability of the EU's executive – the European Commission, but also the Council and the member state governments. While the EU used to conduct its trade negotiations safely behind closed doors, this faced massive criticism from parliamentarians at both European and national levels, as well as civil society and NGOs. As described below, it caused the Commission to reform its procedures for informing and involving both parliamentarians and the public.

Another main controversy, for both TTIP and CETA, was the procedure for settling disputes between investor and states, the so-called Investor-to-State Dispute Settlement mechanism (ISDS). Among the criticisms were that investment tribunals were secretive and undermined that ability of national governments to regulate (St John 2018). At one point, Trade Commissioner Malmström called ISDS, 'the most toxic acronym in Europe' (Ames 2015). The EP had expressed concerns about ISDS several times earlier, but its protests intensified considerably in the context of TTIP. In 2015, the EP asked to replace ISDS with a new system that would be more transparent, with independent judges, and respecting the jurisdiction of EU courts. Adhering to the criticism of ISDS – from a broad range of actors – the Commission suggested a new Investment Court System (ICS).

While the controversies surrounding investor disputes quieted, new ones arose. Although the intention of the Lisbon Treaty was to make the ratification of trade agreements easier, the broad mandates of the new agreements also covered policies that were on the list of shared competences (De Bièvre 2018). This meant that national and, depending on the rules of each individual member states, also regional ratification was necessary. In October 2016, all eyes were turned towards Belgium, when the Walloon region refused to allow the federal government to sign CETA. Eventually, the regional authorities agreed to accept the signature, but the episode made clear how ambitious trade agreements that are also mixed agreements become vulnerable during the ratification stage. At the time of writing, CETA is provisionally applied, pending national ratification. Only when this process is finalized can the areas of the agreement that fall under shared competences be implemented.

Politicisation of trade agreements, accusations of a lack of transparency, and problems of ratification have posed problems to the EU's trade policy, but these are not the only new challenges the Union has to deal with. Another set of difficulties facing the EU are geoeconomic developments and the possible erosion of support for multilateral institutions, such as the WTO. The EU has traditionally been an ardent multilateralist, advocating comprehensive trade deals with respect to both participants and policies. Although the EU changed its policy on bilateral agreements in 2006, it did not exclude the devotion to multilateral solutions. Article 21(h) of the Treaty on the European Union for example, which describes the general principles of EU external action, states that the Union shall: 'promote an international system based on stronger multilateral cooperation and good global governance'.

However, the framework conditions governing international trade policy have increasingly become more unpredictable. There has been little progress in the Doha Round of the WTO since the Nairobi Ministerial Conference in December 2015. Many of the challenges in the negotiations are consequences of new ideas and interests promoted by rising powers like Brazil, China, and India, and with this considerable disagreement between member states about the way forward, major negotiations have ground to a halt. Within the WTO, the US used to be one of the EU's key allies. Despite occasional differences, there was agreement on the importance of the foundations of the liberal international order (Sbragia 2010). Although it can be argued that the US was never a firm multilateralist, the election of Donald Trump seems to represent a move away from the cooperative approach, working through international institutions, which has characterized shifting American administrations since the Second World War (Irwin 2017: 689). Although he has been replaced by a new President, there is still uncertainty surrounding the American commitment to WTO. What is more, the American withdrawal from multilateral solutions by the Trump administration, and the seemingly hesitant rapprochement from President Joe Biden, takes place at the same time as China's foreign economic policy is becoming more assertive.

## NEW APPROACHES

The challenges describe above have spurred new developments in EU trade policy, both in terms of the procedures for policy-making, but also for the policy itself. While most negotiations go by almost unnoticed, TTIP and CETA caused considerable controversy. They also elicited a response from the EU executive and changed the rules of the game. TTIP forced a renewal of this traditional policy of secrecy for both parliamentarians and the public. First a larger group of members from the EP's International Trade Committee (INTA), and later all MEPs, gained access to classified information. This included restricted documents, which *inter alia* comprise information on the negotiation positions of the US (Rosén 2018). National parliaments became increasingly involved too, and access to documents increased for most member state parliaments (Meissner and Rosén 2021). Following extensive criticism, the Commission also made negotiation directives public and late in 2014 issued a set of suggestions to increase the transparency of the negotiations 'in order to win public trust and support for the TTIP' (Commission 2014: 1). The Commission's communication also increased massively, with publication of fact sheets and summaries of the results of each negotiating round (Rosén 2018). The new approach was summed up in the updated trade strategy issued by the Commission in 2015, 'Trade for All', where making trade policy more transparent was one of the main pillars. Although this meant a considerable change to the former approach, criticism has continued, one of the arguments being that the level of openness has not progressed enough (Gheyle and de Ville 2017).

Another concession that the EP took part in forcing was the change in the investment dispute settlement practice. Following the criticism of the ISDS that was central to the conflict surrounding TTIP, the Commission suggested an alternative mechanism for dispute settlement, the ICS. Although the negotiations on CETA had already been concluded, the new system was incorporated into the agreement, replacing the original ISDS. The new system is permanent, with a possibility for appeal and aspires to a higher level of transparency, aiming to counter the criticism of the *ad hoc* tribunals of ISDS, with members appointed by the parties involved and

therefore lacking legitimacy. The ambition, however, is to establish a full-fledged multilateral investment court.

The issues of investments and investment disputes were also subject to a debate about competence. The Commission chose to declare CETA a mixed agreement, i.e., an agreement covering policies that are shared competence, and therefore require ratification in each of the member states (Jančić 2017). However, following differences of opinion on the scope of the EU's competences in the context of the EU's trade agreement with Singapore, which was concluded in 2014, the Commission asked the Court for an opinion whether and when the EU had competence to sign and conclude the agreement alone (Commission 2015). The Court ruled that the EU's competence does not include portfolio investments or investment dispute settlements. Being shared competences, these matters are subject to national ratification procedures. Consequently, the Commission decided to split the Singapore Agreement, and separate the part covering investment, which would then be subject to national ratification (Peffenköver and Christiaensen 2021: 80).

As described above, the challenges the EU is currently facing are not limited to procedural matters. Changes in the external context have greatly affected the substantive side of the EU's approach to trade. As the representative of all EU member states at the WTO, the Union has promoted multilateral solutions. However, the world has gone from being dominated by a superpower to a situation where several countries are fighting for, and over, power. New powers bring with them new ambitions, whether it is Russian nationalism or China's ambitions for global influence. As a result, the international liberal order has come under pressure. Several of the emerging states are questioning the legitimacy of Western leadership and the role of international society (Hurrell 2006). Coinciding with a seeming withdrawal of American support for multilateralist institutions as well as disputes over tariffs, this means that the EU must manoeuvre a more unpredictable playing field where it cannot rely on old allies.

One response has been to propose ways to strengthen the WTO through reform. The Commission's suggested strategy includes restoring the dispute settlement mechanism and to modernize the ruleset of the WTO, to improve the day-to-day work of the organization but also to allow for more flexible negotiations, paving the way for plurilateral agreements (Commission 2021a). In other words, the EU's ambition is to regenerate the WTO, but also to allow for agreements that might not include all members of the organization. At the same time, there is a growing acknowledgement of a simultaneous need to protect its own interests. In the Commission's newest trade policy strategy from 2021, 'Trade Policy Review - An Open, Sustainable and Assertive Trade Policy', where it launched the concept 'Open Strategic Autonomy'. This is held out as a 'compass for EU trade policy at a time of economic transformation and geopolitical instability' (Commission 2021b) and entails that the EU will cooperate multilaterally wherever it can and act autonomously wherever it must (Dombrovskis 2021). This new approach was reflected in then Commission President Jean-Claude Juncker's State of the Union-address in 2017: 'Let me say once and for all: we are not naïve free traders.'

One concrete example of policy-making going in this direction is the EU's initiative for a screening mechanism of Foreign Direct Investments (FDI), launched in 2019. Although a relatively small part of the total FDI to the EU, over the last decade Chinese FDI has soared (Chan and Meunier 2021). This development has prompted several member states to change their position on an over-arching EU policy on investment screening, paving the way for the new instrument which has been on and off the table since the entry into force of the Lisbon Treaty (ibid.; Basedow 2017). The EU is also currently developing other new instruments to

protect its interests, examples being a new regulation on access to the EU's internal market in public procurement, a proposal for a new regulation on foreign subsidies as well as a proposal for an anti-coercion instrument. Although the new screening mechanism is mainly a system for information sharing, and the other policies are still in the making, together they reflect a growing concern about potential vulnerabilities and a move towards sheltering European interests. If not entirely new, the recent emphasis on unilateral defence is an added element to the EU's trade policy.

Another expression of the EU's changing tack in trade policy is its growing acknowledgement not only of the need to protect its own interests, but to use its economic power to promote them. One illustration of how the EU is using its economic powers more assertively in its external relations, is its changes to sanctions policies and practice. For example, EU sanctions following Russia's attack on the Ukraine span a range of policy areas from energy and transport to trade and finance. In the area of trade, current sanctions include import bans on Russian coal and certain steel products as well as export bans on luxury goods and specific technology.

The EU has a long history of imposing sanctions. In the Common Foreign and Security Policy (CFSP), they have increased over time and are also increasingly referring to EU security, compensating, some argue, for the lack of military capacities to respond to international crises (Giumelli et al. 2020). EU sanctions have tended to move away from targeted restrictions towards broader commercial and financial measures, which appears to contradict of the EU's free trade regime (Meissner 2022). At the same time, the potential of economic sanctions as a tool in foreign and security policy is gaining new focus, especially from the Commission, which has described sanctions as 'playing a critical role in upholding the EU's values and in projecting its influence internationally' (Olsen 2022: 9).

While most studies of EU sanctions have concentrated on the CFSP, EU sanctions can both be derived from, and employed in, many different policy areas. Authors argue that globalization is one factor that has changed sanction policies (Fürrutter 2019). Following a broader understanding of sanctions, two key tools within the area of trade that can be employed in sanctioning third countries are found in the Generalised Scheme of Preferences (GSP) and international trade agreements (Meissner and Portela 2022). Within the GSP scheme, the EU has since the mid-1990s had the opportunity to sanction third countries by suspending tariff preferences if they violate fundamental norms. Withdrawal of trade privileges such as removal of import duties can be considered a strong trade sanction and has been applied in only very few cases.

Since 1995, all the EU's international trade agreements have included a human rights clause. In addition, all recent trade agreements include a chapter on trade and sustainable development that encompass labour and environmental standards. Both are accompanied by conditionality clauses that can trigger sanctions in cases where rights or standards are being breached. Researchers underline the inconsistency in issuing sanctions, however, pointing to several instances where similar violations have triggered differing reactions (cf. Fürrutter 2019). Some argue that the variation can be ascribed to security interests, others highlight trade interdependence, but also characteristics of the third country's development performance has been shown to affect the EU's sanctions policy (Meissner 2021). In a study of military and economic interventions between 1989–2008, Kreutz (2015) found that the EU to be 'most attentive to human rights violations in non-EU European states, followed by countries in sub-Saharan Africa, while it has been least active in Asia and the Americas'. Nevertheless, he finds that human rights violations have been a key driver behind many EU economic sanc-

tions. Analysing sanctions in force in 2019, Meissner (2022) added further nuance to these findings, demonstrating how not only the gravity of a country's human rights violation, but also whether or not the US has imposed sanctions, is central to understand the pattern of EU economic sanctions.

## CONCLUSION

EU trade policy has changed considerably since its inception in 1957, both in terms of content as well as the way in which trade policy is made. The areas of trade covered by the current CCP are vastly different to those in the late 1950s. Not only trade in goods, but services, intellectual property and foreign direct investments are now to a large extent the exclusive competence of the EU. This development has been spearheaded by the Commission, which has retained its powerful role as chief negotiator and rule-maker, despite considerable opposition over the years from several member states. By making all areas of trade exclusive competence, the Lisbon Treaty was supposed to settle the score on the EU's competences, but new problems have arisen, also because new actors have claimed a stake.

The EP has become more assertive in the area trade, due to its empowerment in the Lisbon Treaty, so have national parliaments. Together with the recent politicization of large trade agreements, it has made negotiation and decision-making processes more unpredictable. While the Commission isolated the elements of the Singapore Agreement that were shared competence and subject to national ratification, it remains to be seen whether this is the appropriate strategy going forward. While there is little doubt that the voice of parliaments has strengthened, and procedures have been adapted to this new reality, it is less clear what difference they have made to EU trade policy more generally.

Over the last years, EU's trade policy has been subject to increasing external pressure. China's more assertive foreign economic policy, coupled with American hesitation to support multilateral solutions, as well as divisions within the WTO on how to move forward with negotiations means that the Union's position as a champion of multilateralism is being put to the test. In the words of Young and Peterson (2014: 9): 'the EU's role in shaping the multilateral rules governing trade and developing a network of bilateral and inter-regional agreements means that it has a significant impact on the rules shaping international trade'. The EU's response to American tariff threats were largely rule-based, and this approach is also reflected in its ambitions to enable the WTO to make rules in new areas. It is likely that the EU will continue to pursue multilateralism to try and develop a broader rule-regime that it depends on to manage future trade policy. Not only the EU's own existence depends on multilateral cooperation, but also because it is a way for the EU to build legitimacy as an international actor (Smith 2018: 609).

At the same time, the EU is devising more defensive measures. Is it possible to protect its own interests in a changing world, without becoming protectionist and undermining the WTO? That is perhaps what the new concept of 'open strategic autonomy' attempts to capture, but the question remains whether it is a strategy that can be implemented without adding fuel to the fire. Although rule-based multilateralism is likely to remain the EU's main strategy, to what extent this can be reconciled with a growing concern for own interests will be a balancing-act that also will depend on how the Union is able to reconcile pressure from within, as well as from the world surrounding it.

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## 25. Energy policy

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Energy was and continues to be one of the foundational policy areas of the European integration project. From supply security to the economic, social and environmental impacts of its production, distribution, and consumption, energy occupies the heights of national and European Union (EU) politics, often challenging solidarity among its Member States. Made of crucial public policy decisions, the EU's approach incorporates a wide range of policy tools from incentives, investments, and taxes to targets, and directives and regulations as legal instruments. Broadly stated, EU energy policy can be described as the collective pursuit of comprehensive energy security, which means in practical terms for its citizens and businesses affordable, stable, and environmentally sustainable supplies of electricity and fuel for their transport and heating needs. Questions and debates abound over the optimal mix of energy resources, what constitutes affordable access, and how best to secure supply reliably over time. Being the third largest consumer of energy worldwide behind China and the United States (US), the EU's high demand for and substantial dependence upon external suppliers for its fossil fuels leaves, its energy security as well as its economic prosperity vulnerable to forces outside its control.

The EU's approach to achieving energy security has evolved over time – from securing stable supplies as a means to fuel post-war reconstruction to building a liberalized internal energy market enhancing consumer choice to ushering in a new industrial revolution by 'decarbonizing' or 'greening' its economy. Albeit still incomplete, it has made substantial progress in implementing the internal energy market since introducing its third energy package; and the European Commission has been and continues to be entrepreneurial in driving this process (Maltby 2013). As a result, the EU undoubtedly becomes the global leader in terms of renewable energy and efforts to mitigate climate change.

However, due to substantial differences in national energy mixes, national interests, and competing external relationships, energy matters remain closely intertwined with those of national security creating a near constant stream of obstacles to solidarity. The EU has overcome many of these obstacles by indirectly affecting the energy policies of its Member States through environmental and internal market legislation (Schubert, Pollak, and Kreutler 2016). Its latest push to decarbonize its economy by 2050, fit with huge investment commitments, comes on the heels of notable progress in energy related research and development (e.g., battery storage, hydrogen). Yet until and unless the EU achieves its green economy transformation, energy matters will continue to play a significant role in the EU's external relations and continue to be a source of tension among Member States as well as among its trading partners. This notion was put to the test as recently as late February 2022, when Russia invaded Ukraine. While the Member States were united in their opposition to the Russian aggression on their Eastern border, resulting is a slew of sanctions, it took months to agree on import bans on Russian oil and once agreed left exceptions for the EU's most dependent members while existing gas supplies were left largely untouched. Nevertheless, the Russian aggression

awoke a new sense of urgency among the Member States regarding its dependence on Russian supplies of fossil fuels.

This chapter addresses the central importance energy security plays and the implications of its current agenda. It begins with a brief discussion of the most persistent dilemmas and competing perspectives in EU energy policy, including the difficulty of maintaining Member State solidarity in the face of traditional competing national interests, strategic dependence of external fossil fuel imports, the sensitive issue of nuclear power, and progress toward achieving an efficient internal energy market. This is followed by a brief review of three key historical stages that have driven the evolution of EU energy policies revealing an ongoing struggle to integrate national energy markets while navigating international politics and adapting to changing norms, how EU energy policy has evolved in tandem with march toward deeper integration, and how Europe through treaty reforms and Commission leadership made leaps, (some small, some grand) to become a global leader on matters of energy, forever linking energy and environmental politics. An examination of the main contemporary challenges, problems and developments, which follows, reveals a seismic shift in the EU's approach involving a massive overhaul of its economy, including electrification of its transport infrastructure, new job creation, and massive investments in new technologies that could become a game changer for the energy security of its citizens as well as solidarity among its Member States.

## OVERVIEW OF MAIN DILEMMAS, DEBATES AND PERSPECTIVES

When studying EU energy policy, it helps to remember that different policies may apply to the internal or external domains, while others are multidimensional (Schubert, Pollak, and Kreutler 2016, 16). For purposes of simplicity, one can say that the internal dimension refers to the internal energy market, related investments, and even national energy mixes. The external dimension, where consensus is particularly difficult to reach, almost exclusively focuses on reducing dependence on foreign suppliers. Russia's invasion of Ukraine and the EU's response exemplified this as well as the associated problem of solidarity as moves to impose strict embargoes on Russian oil were delayed and thinned and gas imports were left to flow due to the dependence and connected opposition by some of Member States. The multidimensional domain is then the combination of deeper market integration and reduced external dependence through the increased use of renewables and efficiency coalescing in the area of mitigating climate change. This latter domain often serves as a conduit for measures that aim to achieve comprehensive energy security, i.e., secure, stable supplies that are both environmentally sustainable and affordable for all Europeans.

Achieving comprehensive energy security, let alone ushering in a 'new industrial revolution' (European Commission 2007, 5), is a central theme that often enough impels States to view access to energy resources as vital to their national security. It is an overarching concern that plays out on multiple levels from the smallest towns to the halls of the EU supranational institutions. Therefore, as the EU progresses toward its goal of a decarbonized economy free, at least in theory, of external dependence on energy imports and particularly fossil fuel imports, it faces dilemmas both new and old.

Among the oldest, is the question of how to find common ground and maintain solidarity among Member States with vastly divergent interests, energy mixes, and historical

perspectives on the merits of sharing let alone transferring sovereignty over energy matters to Brussels. Closely connected is the dilemma of how to balance Member State agency to determine their energy mix and protect their national champions and energy related utilities with macro-level targets for shares of renewables, emissions, and prices. Despite progress on meeting the renewables share in the overall mix and reaching lofty targets for 2030, geographical variations were still significant in 2019 with Sweden, Finland, and Latvia over 40 per cent and 15 of the EU27 below 20 per cent (Eurostat 2021a), including two of its economic powerhouses Germany and France.

Added to these dilemmas is the question of how to complete the EU's single liberalized energy market (European Commission, 2022; IEA, 2022). For example, there was a wide range of prices for household electricity in the EU in the second half of 2020 (Eurostat 2021) Germany being more than twice as expensive (€30/kWh) as to the Netherlands (€0.13/kWh). While variation is normal, the average electricity price in the EU-27 was more than one and half times that of the US at just over 20 Eurocents per kilowatt hour (€20/kWh) compared to \$0.13/kWh respectively in September 2020 (United States Bureau of Labor Statistics 2021), and prices, which have been climbing in Europe in recent years, are expected to increase further as Europe struggles to free itself from Russian energy supplies. Increased use of renewables in the EU coupled with the plan to electrify the transport sector among others, is unlikely to change that trend anytime soon. Of course, economies of scale will eventually take hold and a greener European economy consuming great deal cheaper electricity may emerge. Until then, however, political pressure will build at the national level to fend off rising prices, possibly feeding existing anti-EU sentiment and providing ample cause to slow progress.

Then there is the issue of nuclear power – should it be used at all and if so to what extent and where? A special case in EU energy policy, nuclear power is usually excluded from the EU's broad energy portfolio (Nuttell 2010). Its output having peaked in 2004, nuclear power is clearly on the decline in Europe – its share of EU-27 electricity generation shrank by 16.3 per cent between 2006 and 2019. While nuclear power still generated a little more than a quarter of the EU-27's electricity in 2019, over half of it came from France. When one juxtaposes nuclear power's central importance to Paris with its complete absence from the energy mix elsewhere in the EU, including vocal opposition in many Member States, any EU-wide increase in nuclear energy to help support the electrification of its economy seems unlikely and at one point renewable alternatives may even price nuclear energy out of the market.

The most immediate and present danger to the EU remains its strategic dependence on external suppliers of fossil fuels, in particular Russia. The EU relied on foreign suppliers for more than half of the energy it consumed in 2018 and Russia accounted for almost a third of its demand for petroleum products, 42 per cent of all its solid fuel needs, and 40 per cent of its natural gas consumption (European Commission 2020b, 118). This began to change in a real way following Russia's invasion of Ukraine in early 2022. Germany, the largest of the Member States with a substantial dependence on Russia supplies of oil, gas, and coal moved quickly to reduce its dependence by the end of 2022 and put a halt to the opening of the second pipeline for Russian gas flowing through Nord Stream. Meanwhile, the EU collectively moved swiftly to adopt new storage legislation requiring the EU Member States to fill storage facilities to 80 per cent of capacity by November 2022, just prior to winter and to 90 per cent in future years and the Commission introduced RePowerEU, its plan to make Europe independent from Russian fossil fuels by 2030 by diversifying supplies, increasing savings, and accelerating the rollout of clean energy through further investments (European Commission,

2022a). It remains to be seen whether the EU's plans will work in time to prevent fragmentation among Member States over the economic hardships that come with high energy prices and unstable supplies. Indeed, EU history is replete with expensive failures to find alternatives, e.g., Nabucco, workable solutions that deliver the volumes necessary to change the EU-Russia energy relationship, e.g., TAP and TANAP, and overcome the complexities and interests of transit states such as Ukraine and those that wish to become energy hubs like Turkey, not to mention the enticement of acquiring abundant resources from the Middle East and the Arctic, which may contain as much as 25 per cent of the world's undiscovered fossil fuel resources (United States Geological Survey 2008).

Moreover, the EU's external dependence on energy supplies leaves it vulnerable to intricacies of global and regional politics. It appears to weaken solidarity, if not the resolve, of those most dependent such as Germany (Smale 2014) and the Eastern states while barely sparking interest of those in the West (e.g., France and Spain); and past attempts to coordinate external energy relations exposed these divisions (de Jong 2012) despite progress on exporting EU norms via the Energy Community established in 2005. Indeed, divisions arising from these very real gaps in national interest have at times, slowed progress toward prioritizing, let alone completing, the internal energy market and the pressure on governments, both externally and domestically, to guarantee reliable and inexpensive electricity and heating both to consumers and industry continues to proverbially hang over the heads of European politicians like a Damocles sword.

Meanwhile, there is often a wide gap between the interests of the EU's leading industries, which are bound to profitability, and those of its politicians, who are always subject to public opinion. The shift to a green economy will have real, long-term and expensive structural implications for the EU's leading, fossil-fuel-dependent, energy companies as well as the supply chains and industries that depend on them. The EU will have to sustainably commit large sums in subsidies and benefits far beyond its minimum five-year multiannual financial framework (art. 312 TFEU) to convince the private sector to invest, particularly in key infrastructure, e.g., interconnectors, as well. As recently as 2020, the Commission considered natural gas supplies, delivered via pipelines especially from Russia, as likely to play an important role for decades to come (European Commission 2020a). However, Russia's invasion of Ukraine and the EU's subsequent moves to diversify away from Russian supplies will further complicate and delay achieving those goals. Given the change in the relationship with Moscow, the EU will have to find new import avenues for its natural gas, and it is far from clear whether there is sufficient available and affordable supply any time soon. Unfortunately, until the EU arrives at a green economy it will have to maintain most of its existing import avenues to offset probable disruptions. It is also clear that energy suppliers, energy-intensive production and related jobs (Helm 2012), as well as the sectors that consume large quantities of fossil fuels, e.g., the transport sector, will undergo expensive transformations or be pushed out of the market to countries where environmental conditions and emissions controls are weaker. The EU's proposed Carbon Border Adjustment Mechanism (CBAM) may offset such losses but may also intensify existing tensions with its major trading partners. Some of the cost associated with this transformation is already priced into the market through the EU's Emission Trading System (ETS). The ETS is a market-based mechanism for carbon pricing where emissions are capped and emitters, who receive allowances, are allowed to buy (to avoid paying fines) and sell the right to emit (cap and trade) thereby keeping the market on target to reduce its emissions by allowing the price of doing so to fluctuate. The EU's ETS covers circa 40 per cent of EU

greenhouse gas emissions and around 10,000 manufacturing and power installations across the EU and EEA EFTA (EU + Iceland, Liechtenstein and Norway). However, as more sectors are included one can expect more costs to be transferred to the consumer, a process which will not come without debate and opposition. According to a 2019 Eurobarometer, not only do European citizens want to move away from fossil fuels toward renewables, they also want to see more competitive, i.e., lower, energy prices with 80 per cent of those surveyed wanting the EU either to prioritize investments in clean energy technologies or ensure that energy costs are as low as possible (European Commission 2019). Following the adage, something's got to give, the EU will have to figure out how to close the gap between the market dominant interests of its energy champions and the political lifespan of its politicians.

Given the EU's commitment to green its economy by 2050 and the investments, it will require to spark the transition as well as mitigate increases in costs and political backlash, The EU's old dilemmas are likely to be accentuated rather than mitigated in the medium term. For solidarity, if not energy security itself, time is a predator and patient investment its shield. Time matters because investments in energy infrastructure, whether fossil fuel based or renewable, are calculated in decades as opposed to years as the route from scientific breakthrough to market viability is long and fraught with risk (Lesage, Graaf, and Westphal 2010, 2). Obstacles have to be cleared and a great deal of cooperation achieved at home and abroad. Technologically, renewable energy in general (and particularly on a grand scale) still suffers from the problem of intermittency. To overcome this problem, one needs to choose locations where intermittency is least common, such as offshore for wind and dry areas for sun. As these are usually distant from major energy consumption areas, new energy infrastructure (e.g., long distance, high voltage lines, and smart grids) will be required to cushion against volatility. The EU's commitment to invest over 1 trillion Euros to green its economy marks a major step in establishing an economy of scale in the renewable materials and energy sectors. The long-term sustainability of those investments politically and economically will substantially affect the success of that project. Along the way, the member states can be expected to compete over what, where, when and how much to invest their limited resources.

## HISTORICAL DEVELOPMENTS, POLICIES AND CONFLICTS

EU energy policy has evolved through three stages. The first occurred from the 1950s through the late 1960s and focused on the basics of post-war reconstruction and securing stable supplies for national consumers. The second occurred from the early 1970s through the mid-1980s when international crises challenged supply stability leading to increased agreement on the need for an integrated internal energy market and the establishment of the Energy Charter. The third, which has been ongoing since the early 1990s has been marked by a flurry of legislation codifying energy solidarity in primary law, liberalizing gas and electricity markets (ownership unbundling), and linking environmental policies to those of energy.

*Stage I.* Throughout the 1950s and 1960s, the EU focused on the reconstruction of its infrastructure destroyed in World War II. Energy, regarded as a strategic good (Prontera 2009) was largely based on coal, which was cheap and abundant, but the infrastructure for transnational trade was rudimentary. The Treaty of Paris (1951) established the European Coal and Steel Community (ECSC). The ECSC, led by a High Authority that was the predecessor of European Commission set out to create a common market in order to secure cooperative

European reconstruction. Unfortunately, state resistance to sacrifice sovereignty challenged ECSC authority and lead instead to the creation of national energy champions (Schubert, Pollak, and Kreutler 2016). The 1956 Spaak Report identified energy as key area in need of supranational regulation leading to the Rome Treaties and the establishment of the European Atomic Energy Community (EURATOM). Nuclear power would remain a key, albeit somewhat separate component of Europe's energy strategy until the Chernobyl nuclear disaster struck in 1986 sending a cloud of radiation towards Europe causing a sharp turn against nuclear power.

*Stage 2.* From the late 1960s through the late 1970s, the dangerous depth of Europe's dependence on external energy supplies became evident. Despite the discovery of large oil and gas deposits in the North Sea and the 1968 stockpiling directive (Council of the European Communities 1968), the two oil crises of 1973 and 1979 suddenly sapped supplies exposing the urgent need for solidarity and a common energy market (e.g., European Commission 1968, 1972, 1973, Council of the European Communities 1977). In 1974, the Council of Ministers of the European Communities approved a 'new energy strategy' based, inter alia, on diversification of supply and environmental protection, setting targets for 1985 including reducing dependence on imported energy to 50 per cent (Council of the European Communities 1974). The Council also passed a regulation concerning the communication on the state of the Community's energy supplies, a directive regarding a Community procedure for information and consultation on the prices of crude oil and petroleum products, and a decision regarding Community procedures for exporting oil and petroleum products between Member States in the event of a supply crunch. The Commission further developed related proposals between 1981 and 1986 (European Commission 1981, 1981a; 1983, Council of the European Communities 1986) including proposing an energy tax (European Commission 1980, 1980a–1980c), but made little progress.

The most important achievement of this second phase was the Single European Act (SEA 1987), which allowed the European Community to pass relevant energy laws by relying on environmental law, a game changer in EU's pursuit of a common energy policy. A common energy market quickly became a focus of the European Community's plans to realize its internal market (European Commission 1988) and competition was an essential mechanism to secure the Community's energy supply, a notable shift from the national energy champions that dominated up to that point. As summarized in Schubert et al (2016, 106), 'Goods should move freely. Monopolies and state subsidies should be banned. Environmental and safety standards should be harmonized.' By focusing on the single market, the SEA granted the Commission the ability to use EU environmental laws to regulate energy companies permanently linking Europe's energy policies with those on the environment (European Commission 1990, 1992; Council of the European Communities 1990).

*Stage 3.* EU energy policy began to mature in the early 1990s and has been developing rapidly ever since. Introduced its first energy package through the two Directives 96/92/EC for electricity and 98/30/EC for gas in the 1990s, the Commission initiated the unbundling of production and distribution and tried to consolidate common rules from its suppliers by establishing the European Energy Charter in 1991. Its second energy package introduced in the early 2000s gave consumers freedom to choose their suppliers and established national regulatory agencies (specifically, through two Directives 2003/54/EC for electricity and 2003/55/EC for gas, and one Regulation, (EC) No 1228/2003). Meanwhile, the Commission published several papers calling for Union-wide energy policy (European Commission 1995, 1995a), reduced

energy consumption through energy efficiency (European Commission 2000a), and security of supply (European Commission 2000). Meanwhile, two energy supply crises involving Russia between 2006 and 2009 exposed the problems of not having a fully integrated internal gas market resulting in further legislation ‘to safeguard security of electricity supply and infrastructure investment’ (EP/Council 2005). While the EU would implement direction switching for gas supplies within its distribution network, Member State independence drove the development of the Nord Stream pipelines bypassing Ukraine and directly challenging EU solidarity.

Finally, following the failure to ratify a constitution, the EU Member States agreed on a major reform of its founding treaties. The resulting Lisbon Treaty (2007) codified energy solidarity as part of EU primary law. The Commission followed up almost immediately with its third energy package, adopted in 2009, further enhancing competition by, *inter alia*, integrating Europe’s gas (Directive 2009/73/EC) and electricity (Directives 2009/72/EC) markets, establishing the European Networks for Transmission System Operators for electricity (ENTSO-E) and gas (ENTSO-G), both of which became operational in 2009, and establishing the European Union Agency for the Cooperation of Energy Regulators (ACER) in 2011 (Regulation (EC) No 713/2009). A fourth energy package in 2019 overhauled the EU’S energy framework strengthening the role of the Commission and updating previous packages to support the EU’s path toward the greening of its economy.

In sum, EU energy policy has evolved in tandem with deeper integration with the focus shifting from reconstruction to liberalization taking initial steps in the 1990s and significant leaps in the first decade of the 21st century. These steps strengthened the Commission’s regulatory toolbox, permanently linked energy and environmental policies, and allowed it to establish ambitious goals and targets. It had become one of world’s leading bodies on matters of energy and environmental policy laying the foundation for Europe’s next great leap, the Energy Union. However, one major obstacle remained. Member States continued to retain control of their own energy mixes.

## MAIN CONTEMPORARY CHALLENGES

There is little doubt that the EU is a leader in matters of energy and climate policy. Its latest set of policies such as the European Green Deal, its goal to make Europe climate neutral by 2050 and RePowerEU, its plan to free the EU from dependence on Russian fossil fuels by 2030, each comes with a substantial investment plan that could be a game changer. However, as with its Energy Union strategy, the devil is in the details and policies often fall short on implementation. Take for example the goals of the European Green Deal: no net emission of greenhouse gases by 2050, economic growth decoupled from resource use, and no person and no place left behind. Or take the energy union strategy of 2015 (COM/2015/080): diversify Europe’s sources of energy, ensure energy security through solidarity and cooperation, eliminate technical and regulatory barriers to the free flow of energy, rely on energy efficiency to reduce energy imports, decarbonize its economy, and invest in breakthrough, low-carbon and clean energy technologies. In both cases, the goals are substantial and come with unforeseen, or at least, unacknowledged consequences.

Energy efficiency, for example, does not necessarily reduce energy demand. It may even increase it as the same expendable income can consume more of it as has been the case for

automobiles. While successfully converting the transport (if not also heating) sector to an electricity based one will clearly reduce overall CO<sub>2</sub> emissions, it is not as clear how and when the cost per kilometre or hour will be competitive with fossil fuels. Indeed, the investments required to meet the EU's goals will be enormous, filled with externalities and high politics, and implementation ultimately remains in the hands of individual Member States, which have demonstrated time and again that national interests reign supreme.

The failure of the Nabucco pipeline, the resurgence of cheap coal, the continued dependence on fossil fuel imports point to cases of incomplete projects, unmet goals, and unintended consequences. A good example of the latter is Germany's controversial, bilateral agreement with Russia to build two parallel gas pipelines directly from Russia to Germany under the Baltic Sea, known as Nordstream 1 and Nordstream 2. The pipelines, which bypassed all other possible EU Member transit States, not only deepened Germany's dependence on Russian gas supplies, it also reduced the political significance of Ukraine as a transit state and made the EU more vulnerable to external political pressure from Moscow. While Nordstream 1 was still delivering gas to Germany four months after Russia invaded Ukraine, Germany suspended certification of Nordstream 2 immediately after Russia officially recognized the Donetsk and Luhansk republics in Eastern Ukraine – the precursor to its invasion of the country.

Despite these examples, or perhaps in part because of them, there has been a seismic shift in the EU's approach to delivering long-term energy security for its citizens. The EU is clearly focused on greening its economy with its European Green Deal, the European Battery Alliance, and Fit for 55 packages; and major changes are in the pipeline for EU citizens and businesses. It includes changes to the EU's Emissions Trading System (EU ETS) that will raise carbon prices across the board, a Border Adjustment Mechanism that could increase tensions with the EU's energy trading partners, new standards that will usher in nothing short of a revolution in the passenger car market by electrifying the transport sector, and increased energy efficiency and better land use to reduce. The EU plans a massive overhaul of its entire economy, that foresees a migration from fossil to electric. If successful, the EU will reduce its long-term dependence on imported fossil fuels and change its relationship with Russia while creating a strong foundation for economic growth.

Yet the sheer scale of investments and behavioural change required will not be without its challenges. At an estimated cost of over a trillion Euros (European Commission 2021), much of it coming from existing budgeted funds (e.g., agriculture and infrastructure), the EU will still have to attract substantial private sector investment, significantly strengthen its regulators and phase-out coal from its overall energy mix, just to name a few areas (European Parliament 2020). Commitments from the European Investment Bank Group to support a trillion Euros of investments in climate action worldwide will certainly help as will the EU's linking post-COVID-19 recovery funds to green projects. Still, while solidarity about carbon neutrality appears strong – Poland being the only Member State that did not agree (European Council, 2019) – history has shown that Member States can be expected to compete over how and where funds should be spent. Broadly stated, solidarity over energy issues cannot be taken for granted.

Europe's contemporary difficulties with regard to solidarity on the energy front stem from long-standing and well-known intra-EU divisions regarding the role of its supranational institutions as well as geographically aligned differences over relations with external suppliers. The strengthening of ACER, which was part of the Commission's fourth energy package, took a small but important step in the direction of more supranational control and in tandem with

required national energy and climate plans (NECP) through 2030 should enhance individual Member State resilience in the face of energy disruptions. NECPs, originally introduced in 2018 under the Regulation on the governance of the energy union and climate action (EU/2018/1999), address key national plans to achieve EU targets on energy efficiency, use of renewables, reductions in greenhouse gas emissions, interconnections, and research and innovation.

Concurrently, the shift to a greener economy should reduce long-term demand for energy imports external partners, that is if the targets are met and the internal energy market is liberalized evenly throughout the EU, which so far has not been the case despite multiple rounds of legislation and increased cooperation on the regulatory front. Furthermore, there remains a gap to close between the concerns and interests of Europe's industrialists and its politicians. Europe's major pipeline projects as well as its projects of common interest (PCI) supporting key cross-border infrastructure projects that link the energy systems of EU countries, are seen by some as driven more by a political logic than a commercial one. Because greening EU's economy will take many years and substantially more and deeper cooperation than has occurred to date, one has to ask: how will the EU bridge the gap until it gets there? Will the Just Transition Mechanism help create enough new jobs and industries to offset losses due to decarbonization?

Finally, what will be the long-term effect of the EU's strategic transition away from fossil fuels on its external energy suppliers. As the EU accelerates its drive to free itself from its dependence on Russian fossil fuel supplies in the wake of its invasion of Ukraine, one has to ask what is in store for EU-Russian relations in the coming decades. Moscow's war in Ukraine will eventually end. So too will Member State solidarity be put to a test over energy security with some refusing to move forward without cheap Russian supplies and calls for normalcy, if not the status-quo-ante. Meanwhile, the political and economic fallout from the conflict will likely extend far beyond the energy sector and, if a new sort of new cold war takes hold, the areas of EU-Russian cooperation and the scope of trade between the two is likely to shrink for some extended period of time. Indeed, EU-Russian relations will look very different in the post-Ukraine, post-fossil world the EU is seeking to construct and those relations will likely rest on the minimal terms of energy relations.

## APPROACHES IN SUPPORT OF NEW SOLUTIONS OR REFORMS

Having evolved from a focus on post-war reconstruction and the building of national energy champions to the use of environmental legislation and a focus on building a liberalized internal market, the EU now has shifted its focus squarely on a building a decarbonized, post-fossil fuel economy. This new approach, summed up by but not limited to the European Green Deal, not only aims to meet the environmental targets set out by the Paris Agreement, it also lays the foundation to a new, green economy that will demand less energy from fossil fuel resources and, as result, reduce demand for foreign imports, relieving the European Union from one of the most significant pressures it has faced both in terms of energy security for its citizens as well as solidarity among its Member States.

Greening the economy at virtually every level – from requiring the use of new building materials and agricultural processes to the installation of new infrastructure to foster the electrification of EU's transport and energy generation and transmission sectors – constitutes not

only an economic transition, but one on a massive scale. To achieve this grand transition, the Commission has proposed and introduced a comprehensive set of policies, matching targets, and earmarked large sums of money aimed at expediting the transition and triggering private investment. It is doing this through a mix of traditional carrots (e.g., financial incentives) and sticks (e.g., increased carbon costs) packaged in a series of legislative packages and programmes that touch virtually every aspect of EU policy. While the tools themselves are not new per se, the packaging of them together and the financial commitments behind them constitutes a substantial upgrade to previous approaches, which were far more constrained in scope.

The electrification of EU's economy, a centrepiece to the European Green Deal, stands out as the most significant change in the approach on the energy front, the impact of which that should not be underestimated. It includes eliminating the sale of new petroleum powered automobiles by 2035, increasing the share of renewables in the overall energy mix to 40 per cent by 2030, installing a network of electric- and hydrogen-fuel charging stations across Europe, tightening the Emissions Trading System and extending it to cover vital components of the construction and transportation sectors, which previously had received ample exemptions. As one of the cornerstones of the EU's renewable strategy is the addition of large quantities of offshore renewable energy (COM (2020) 741), the Commission moved to strengthen the regulation on Trans-European Energy Networks (TEN-E) to bolster governance on one hand, and to front-load investments with the goal of securing job growth on the other. This is particularly relevant for the closely connected plans to construct electricity highways to carry off-shore generated power over long distances to inland storage facilities.

The EU's huge planned investments in generating, transporting and storing renewable energy is only the tip of the iceberg. Its Clean Energy for All Europeans package (eight laws adopted between 2018 and 2019) will make buildings more energy efficient (EU 2018/844) by requiring new and more eco-friendly materials, emergency responsiveness more robust (EU 2018/1999) by requiring Member States to draw up NECPs through to 2030 and strengthen governance bodies like ACER. Further advancement is expected from large investments in research funding through its Horizon Europe program (the successor of the Horizon 2020 programme) including a heightened focus on developing and commercializing Hydrogen (European Commission 2020) as a means to store energy generated from renewables. Virtually every major EU programme will focus its efforts and resources on this on primary goal of greening the economy. From linking its 2021-2027 long-term budget (European Union 2021) to the UN's sustainable development goal #7, Affordable and Clean Energy to earmarking supplemental funds from its post-COVID-19 reconstruction program, NextGenerationEU, the EU plans to direct circa a third of its annual funding to finance *the* European Green Deal.

Europe's New Green Deal is also a jobs deal. The Commission claims 35 million buildings could be renovated creating 160,000 new jobs in related construction projects by 2030. Yet many of these changes could significantly increase costs for consumers and small businesses. For example, the EU will require that until 2030 Member States implement the annual renovation of 3 per cent of total floor area of all public buildings and annually increase by 1.1 percentage point the renewable share of all heating and cooling. The EU is working to establish multiple mechanisms to address and mitigate some of the social costs associated with its major transformation. Among these are the Just Transition Fund (JTF), one pillar of the Just Transition Mechanism (JTM), a new Social Climate Fund, as part of the EU's Fit for 55 plan, proposing €70 billion to help vulnerable households and micro-enterprises pay for required

investments in energy efficiency as well as the refurbishment or installation of new heating and cooling systems.

Regardless of the political perspective, for the first time in its history, the EU is spending in the billions, fiscally attacking a major problem in the way one would expect of a large and united traditional great power – throwing large volumes of money at multiple economic sectors across a wide physical and economic geography in partnership with the private sector in order to spark a fundamental transformation in a relatively short time span. That is a clear and distinct innovation in European politics, strategic thinking, and implementation; a new approach that could push European solidarity closer than any other single act in recent history or irreparably tear it apart.

This new approach extends to the external dimension as well by introducing measures to avoid otherwise predicable ‘Carbon Leakage’ (simply pushing the emission problem off shore), including an internationally controversial Carbon Border Adjustment Mechanism (CBAM). The proposed CBAM is a tariff on carbon-intensive imports (e.g., cement, iron, steel, aluminium, and fertilizer) from countries with less stringent environmental standards (e.g., major trading partners Russia and Turkey). It would, if implemented ensure that imported products EU are charged the same for their CO<sub>2</sub> emissions as EU products are through the EU ETS. This may create tensions with EU trading partners and the EU will likely have to defend itself well on the international stage. The Commission will have to make a convincing argument at the WTO that its new rules fall under the ‘General Exceptions’ allowed for health and environmental reasons (art XX, WTO). Regardless of the outcome of the CBAM, the EU’s internal efforts to green its economy will carry long-term implications for the external dimension of EU energy policy, if not the EU’s overall external dimension and its position as an actor on the international stage.

For the Green Deal to last long enough to allow the transformation to take hold, the EU will have to address the needs of some of its more powerful and/or populous neighbours from Russia to the East, Turkey to the Southeast, and the North African States to the South. The Commission stepped up its diplomacy with International Organizations announcing new Energy Compacts in 2021 with the International Energy Agency (IEA) and the International Renewable Energy Agency (IRENA) in September 2021 (United Nations, 2022). While low risk and voluntary in nature, the EU’s efforts to support the greening of economies beyond its borders may be indicative of future international efforts. Other issues such as how to deal with powerful regional players like Russia in a post-carbon world will require a significant uptick in EU diplomacy in the decades to come.

## CONCLUSION

This chapter presents the central importance of energy security to the EU. It shows how EU Energy policy evolves in tandem with its march toward deeper integration (from reconstruction to liberalization to ushering in a new green industrial revolution) and indicates how the Commission became a global leader on matters of energy, forever linked to climate change and environmental policy. However, it also demonstrates that while progress has been made in establishing a single internal energy, little has changed with regard to its strategic dependence of external fossil fuel imports and substantial differences remain between Member States over matters such as national energy mixes and competing external relationships all but guarantee

a near constant stream of pressure on EU solidarity. Indeed, energy security is almost synonymous with national security and, therefore, very much a political commodity. Reliably available and cheap, it raises living standards and reduces the costs of every aspect of citizens' lives from construction and production to food and mobility. Intermittent or volatile, it quickly becomes expensive and very political, with ripple effects across the economy.

The EU's latest approach to resolve these enduring dilemmas is to green its economy via nothing less than a near complete overhaul of its economy including massive investments in new technologies and infrastructure that could become a game changer for the long-term energy security of its citizens. These steps, including the electrification of its transport sector and the energy efficient refurbishment of public buildings, both of which will require new labour, marks a seismic shift in Brussels' approach to energy policy that come with long-term and expensive structural implications lasting decades and costing far more than the circa 1 trillion Euros committed in its 2021–2027 multiannual financial framework. Indeed, the Commission's current goal to establish a post-carbon economy aims to change the underlying forces that effect energy supply and demand in Europe and are, thus, likely to test the limits of economic viability, Member State solidarity, and international cooperation, if not policy endurance itself.

Indubitably, changing the technological foundations of a carbon-based economy will take a long time, probably beyond 2050, and fossil fuels will continue to occupy a central position in EU and Member State energy policies well into the 2030s. Still, there seems little alternative to the EU's latest approach given the known negative climate effects of fossil fuel use and the geopolitical risks of external dependence. In fact, if successful, this migration from a fossil to electric economy will permanently reduce the EU's strategic dependence on imported fossil fuels, relieving it from one of the most significant pressures it has faced both in terms of energy security for its citizens as well as solidarity among its Member States. It will usher in a new era of relationships with its most important trading partners, most notably Russia, but equally so with neighbours along its perimeter, each of which either directly supplies or transits energy to the EU. While dependence on off-shore wind farms and distant transmission lines may leave Europe vulnerable to externally caused deliberate disruption, the fact that it would no longer be dependent on foreign energy supplies, will make it freer to act as a cohesive actor on the international stage. Indeed, for the first time in its history, the EU is acting in a manner one would expect of a great power – investing in science, infrastructure, and jobs at levels similar to the US and China and proposing to protect those investments through tariffs. That marks fundamental change in European strategic thinking.

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## 26. Environmental policy

*Viviane Gravey*

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This chapter reviews EU environmental policy, a policy domain which the EU unexpectedly entered in the early 1970s and has been increasingly active in ever since. It opens by considering four perspectives useful for evaluating the success of EU environmental policy: impact on the EU polity, centrality to EU politics, emergence of a strong body of policies and their impact in practice. It continues by reflecting on the paradoxical rise of EU environmental action, sketching its travails from its humble beginnings as a hidden, ad-hoc policy to a central component of the EU's identity both externally and internally. It then discusses key current challenges EU environmental action faces: the European Green Deal puts the environment front and centre, which raises issues of credibility both in and outside Brussels. It finishes by suggesting some way forward to address these credibility challenges: centring social justice in environmental action and ensuring all EU external policies align with its environmental agenda.

### PERSPECTIVES ON EU ENVIRONMENTAL ACTION

EU environmental policy started in the early 1970s, with the Paris Summit gathering Heads of State and Governments in December 1972. This first Summit focused on environmental matters followed from the UN Conference on the Human Environment the same year (Knill and Liefferink 2021). As we near 50 years since the EU first waded into environmental matters, it is now time to reflect on the success, and limitations, of half a century of EU environmental policy. As with many such evaluations, it is a matter of perspective. Whether the EU has been successful depends on whether we focus on polity and the inclusion of environmental action in the EU legal framework, politics and the changing political divisions underpinning it, *policies*, that is, the EU environmental *acquis* now spanning every environmental issue from water quality to ecosystems and the fight against climate change, and finally whether we step away from Brussels and consider its impact in *practice* on the environment in Europe and around the world.

#### **Polity**

The Treaty of Rome does not mention the environment. The mainstreaming of environmental action at EU level took decades – and such developments were, sometimes still are, bitterly contested (from the UK ‘hit lists’ against major EU green rules in the early 1990s (Golub 1996) to current Polish reticence to EU climate action (Biedenkopf 2021). Yet, just as students of regulatory politics argued that the EU is an almost perfect example of ‘regulatory state’ (Majone 1996), today the EU ticks most of the boxes of an ‘environmental state’. Duit et al. define it thus:

An environmental state has specialised administrative, regulatory, financial, and knowledge structures that mark out a distinctive sphere of governmental activity, while the environment and what governments should do about it has become an issue of ongoing political controversy (Duit, Feindt and Meadowcroft 2016: 6).

The EU has a specialised administrative and regulatory structure: DG ENV (set up as a five-person team as part of DG Industry in 1973, which had 448 staff in 2019) and, since 2009 DG CLIMA (189 staff in 2019), which focuses on climate action (Bürgin, 2021). It has knowledge structures both through the European Environment Agency and through EU research funding such as Horizon 2020. It has long struggled to adopt environmental taxes (which, together with planning, are rare areas of environmental action which still require unanimity) but this does not mean it cannot spend or collect funds on an environmental basis: see, for example, agri-environmental schemes under the Common Agricultural Policy (Feindt, 2010), and the recent proposal for a Carbon Border Adjustment Mechanism as part of the European Green Deal (EGD) (European Commission 2019). For the EU to be considered an Environmental ‘State’ further requires the environment becoming an ‘an issue of ongoing political controversy’ at EU level (Duit et al 2016: 6). Whether to act on the environment, and at what level of ambition, has been a central element of EU debates since (at least) the late 1990s (Gravey and Jordan, 2016). Indeed, the fact that in the EU too, decision-makers are not always keen on more environmental action may be seen as another way in which the EU is becoming a ‘normal’ political system (Kreppel 2012) where ecology goes up and down (Downs 1972). From a polity angle, EU environmental action has been a resounding success.

## Politics

To understand the ongoing controversy on environmental matters at EU level we need to remember that EU environmental action, as in the US context, federal environmental programmes, can be criticised and supported both due to their policy focus, and the level of governance which created them (Gravey and Jordan 2019; Layzer 2012) (see Table 26.1 below). This can make for strange bedfellows – with the Commission under Barroso and Juncker striving for an EU ‘big on big’ and ‘small on small’ matters – with environmental action seen as a ‘small’ issue whose repatriation or dismantling would be a price worth paying for saving the European project (Emerson 2014), aligning in many ways with current demands from the Polish government, or those of the Cameron government in its renegotiation of UK terms of membership ahead of the 2016 referendum (Biedenkopf 2021; Gravey and Jordan 2021).

Current EU environmental politics are fraught with debates on how the costs of transition to a climate neutral EU will be shared. Other bitter, recurring debates, cutting across political groups and member states include the environmental impact of EU trade agreements (e.g., CETA, TTIP), the environmental impact of agriculture, forestry or fisheries, and whether environmental rules stifle EU businesses (especially SMEs). If we consider a politic success as being frequently debated at the highest levels, then EU environmental policy increasingly fits this (Rosamond and Dupont 2021). If success requires political consensus, then it gets more complicated and differs between specific sectors of environmental policy.

Table 26.1 Typology of attitudes to EU environmental action

	Critics of Environmental Action	Proponents of Greater Environmental Action
<b>Europhile</b>	Environmental action prevents decision-makers from focusing on more important priorities. Businesses complain about unnecessary regulatory burdens: environmental citizens. Environmental objectives should be halted, reduced to garner greater societal/business support. EU should focus on the EU's identity as a global actor. where it has proper 'European added value'.	EU Environmental action offers a new positive narrative (after peace) for the European Project, which speaks directly to EU citizens. Environmental objectives should be mainstreamed in other policies and be central to the EU's identity as a global actor.
<b>Euroscptics</b>	Environmental action is example of over-reach, impinging on member states' sovereignty and another example of how out of touch eurocrats are with common Europeans.	EU Environmental action is more effective at another level of governance (local, national, competence should be repatriated, allowing for policies better tailored to local needs.

Source: Adapted from A. Gravey and V Jordan (2021) 'New policy dynamics in more uncertain times?' in Jordan and Gravey (eds), *Environmental Policy in the EU: Actors, Institutions and Processes* (4th edn) London: Routledge, p. 340.

## Policies

The EU recently adopted its Eighth Environmental Action Programme (EAP). Looking back on five decades of EAPs shows how far the EU environmental *acquis* has come. The green *acquis* now comprises close to 200 legal instruments from air quality to chemicals and noise pollution (Gravey and Jordan 2021). Whereas the first EAP focused on narrow, technical actions (addressing water, air pollution) the priority objectives of the new Eighth EAP propose profound system change:

The 8th EAP shall have the long-term priority objective that by 2050 at the latest, people live well, within the planetary boundaries in a well-being economy where nothing is wasted, growth is regenerative, climate neutrality in the Union has been achieved and inequalities have been significantly reduced. A healthy environment underpins the well-being of all people and is an environment in which biodiversity is conserved, ecosystems thrive, and nature is protected and restored, leading to increased resilience to climate change, weather- and climate-related disasters and other environmental risks. The Union sets the pace for ensuring the prosperity of present and future generations globally, guided by intergenerational responsibility. (Article 2.1 Decision (EU) 2022/591)

Policies thus appears one of the clearest signs of EU environmental success – yet this assumes that what is agreed in Brussels is actually implemented on the ground (whereas non or partial implementation keeps on plaguing EU environmental rules, as discussed below) and that they are sufficient to halt, or even reverse, environmental harm.

## And in Practice

Yet in practice, EU environmental action, for all its successes (on acid rains, on bathing water, on the protection of migratory birds, etc.) is still failing to reach many of its objectives, as the recent State and Outlook of the European Environment report from the European Environment Agency shows (European Environmental Agency, 2019). This is in part due to the challenge

(discussed below) of non, or partial implementation of EU rules: regulatory changes in Brussels are not always followed by changes in practice across the EU (Zhelyazkova and Thomann 2021). But this is also due to the very nature of environmental action: as our understanding of environmental challenges grows, so does our realisation that more needs to be done. This means that EU rules, even when met, are often not enough to tackle the issue:

The EU has committed to a range of long-term sustainability goals with the overall aim of ‘living well, within the limits of our planet’. Achieving these goals will not be possible without a rapid and fundamental shift in the character and ambition of Europe’s responses. (European Environmental Agency 2019: 9)

## THE PARADOXICAL DEVELOPMENT OF EU ENVIRONMENTAL POLICY

In order to understand whether Europe is ready for such a fundamental shift, we must first understand how it developed as an environmental actor. The development of EU environmental policy is a perfect illustration of the non-linear, often surprising if not paradoxical nature of the European integration process. Its ‘journey to centre stage’ (Haigh 2015) started from humble beginnings and remains to this day precarious. Unforeseen in the founding treaties in the 1950s (environmental policy was not then recognised as a standard competence for governments around the world), EU environmental policy started without any explicit legal basis (Knill and Liefferink 2021). It developed in the shadow of the EU’s (then EEC) spur to establish the internal market from the 1970s onward, with key pieces of environmental legislation such as the Bathing Water Directive (1976), the Birds Directive (1979) or the Seveso Directive (1982) more or less loosely justified as necessary to create a ‘level playing field’ between the Member States (Knill and Liefferink 2021). This exemplifies the first paradox of EU environmental action: while in later years environmental rules would be decried as creating unnecessary administrative and regulatory burdens for companies (or ‘red tape’) (Gravey and Jordan 2019), EU environmental action started as a tool to foster and hasten economic integration.

As such its early developments exemplify the EU’s ‘creeping competences’ (Pollack 1994) and ‘integration by stealth’ (Majone 2014, 1218) whereby EU supranational institutions attempt to increase the scope of their competences beyond what is formally included in the Treaty, fostering spill-over. Yet once the EU Treaties were revised, environmental policy swiftly stepped out of the shadows. Out of the many Treaty changes of the 1980s and 1990s two stand out for the environment. First, the decision to include a new Environmental Title (and thus formal EU competence for environmental policymaking) with the Single European Act of 1986. Second, the choice to make environmental policy one of the first policy areas to test the new co-decision procedure granting greater legislative powers to the European Parliament in the 1992 Maastricht Treaty. Environmental policy became central to the day-to-day work of the European institutions – in the 1999–2004 Parliament, ENVI files represented up to 30 per cent of all co-decision files (Gravey and Jordan 2021) – and to how the EU was perceived by its citizens leading to what Lenschow and Sprungk called the ‘myth of a green Europe’ (2010). This brings us to the second paradox of EU environmental action: a policy which began as an afterthought, developed by stealth has become central to the EU’s image both towards its citizens and as an international actor (Biedenkopf and Groen 2021; Manners and Murray 2016).

That myth would be sorely tested in the 2000s and 2010s. The EU's green star lost some of its varnish, as the European Commission under both Barroso (2006–2014) and Juncker (2014–2019) responded to the failure of the 2008 Climate negotiations in Copenhagen, the Global Financial Crisis and the ensuing Eurozone crisis, by focusing on a narrower set of policy priorities, which did not include further environmental action, except in the field of climate change (and even there, with reduced ambition) (Burns, Tobin and Sewerin, 2019; Čavoški 2015). While the very consensual nature of the EU policy-making system made it extremely difficult to dismantle environmental policy outright (Gravey and Jordan 2016; 2019), the central role of the European Commission made it comparatively easy to turn off the tap for new environmental policy developments (Steinebach and Knill 2017). This led to a third paradoxical moment in EU environmental policy history: 'the increasing legal and institutional anchoring of EU environmental policy has coincided with the slowing down of its political dynamics' (Knill and Liefferink 2021: 25).

Recent years saw a tentative return to high environmental ambition. First, with Brexit. The EU negotiations with the UK brought into sharp relief the continued role of EU environmental policy in underpinning the EU internal market 'level playing field' (Burns et al. 2019). Even if the final UK-EU agreements do not make strong provisions for non-regression, the practical use of environmental standards for trade is once more high on the EU's agenda (Gravey and Jordan 2021). Secondly, the environment is becoming central to the von der Leyen Commission. While previous EU grand strategies such as the Lisbon Strategy or the Europe 2020 strategy paid only lip service to the environment, the European Green Deal is first and foremost an environmental strategy – putting climate, and environmental action, at the heart of the European integration process like never before (Dobbs, Gravey and Petetin 2021).

## MAIN CONTEMPORARY CHALLENGES

The European Green Deal, announced in December 2019 as the main objective of the new von der Leyen Commission marks an apparent return to environmental ambition at EU level (Dupont, Oberthür and von Homeyer, 2020) – and could herald the 'fundamental shift' needed (European Environmental Agency, 2019). Yet delivering on this ambition will require the EU to properly address the challenges which have long plagued EU environmental action – and the new challenges specific to the Green Deal and to the depth of system change required to tackle the twin biodiversity and climate crises. These can be summarised as challenges in achieving credibility in and outside Brussels.

### **Credibility in Brussels**

The European Green Deal (EGD), which sees the EU 'striving to become the first climate-neutral continent' (European Commission 2021a) has 'a significant potential to make EU climate policy transformational' (Dupont et al. 2020: 1101). Dupont et al. (2020) argue this potential rests on three planks: first, the ambitious climate targets themselves (climate neutrality by 2050), second, a 'green oath' to 'do no harm' whereby 'all EU actions and policies should pull together to help the EU achieve a successful and just transition towards a sustainable future' (European Commission 2019: 19), third, a pledge to achieve a just transition leaving no Europeans behind. Delivering credibly on the first two planks requires confronting

old challenges for EU environmental action: resistance to environmental policy integration (Dupont and Jordan 2021) and potential for backdoor dismantling (Burns and Tobin 2020) or watering down through endless extensions.

Environmental Policy Integration, i.e., the principle that environmental aims should be integrated in the decision-making of other policy areas, has been an objective in the EU Treaties since 1986 making it ‘very much a specialism of the EU’ (Dupont and Jordan 2021: 203). But the principle has long lacked teeth, with key EU policies such as the Common Agricultural Policy (CAP) failing to diminish their negative environmental impacts (Alons 2017; Gravey and Buzogány 2021). As the rolling out of the EGD coincided with a new reform of the CAP, the strength of the EU’s commitment to its ‘green oath’ to ‘do no harm’ (European Commission, 2019: 19) could be readily tested and found wanting. The new CAP delegates wide powers to the Member States which will each have to produce national implementation plans. This risk further undermines the farming level playing field with widely different levels of environmental ambition. While the Commission would have the opportunity to ask member states to go back to the drawing board if their national plans failed to meet EGD objectives (Dobbs et al. 2021), the Commissioner for Agriculture Janusz Wojciechowski argued such a move would be ‘unthinkable’ and that the Commission would try gentle persuasion instead (Foote 2021).

A second critical challenge in Brussels is ensuring strong EGD rules are adopted – and retain their strength after adoption. Research on policy dismantling at EU level, i.e., ‘the cutting, diminution or removal of existing policy’ (Jordan, Bauer and Green-Pedersen 2013: 795) has found the EU terrain unsupportive of outright dismantling of existing directives and regulation through the legislative process (Gravey and Jordan 2016; Gravey and Moore 2019). Yet if direct, open legislative dismantling is difficult, the centralisation of legislative initiative power within the Commission makes policy expansion utterly dependent on the Commission accepting to table proposals (Gravey and Jordan 2019; Steinebach and Knill 2017). Whether support for the EGD and delivering on subsequent steps of the EGD, through evaluating and revising existing policy, will survive a change of Commission after the 2024 elections is far from certain. Another source of uncertainty is in the more hidden form of dismantling found by Pollex and Lenschow (2020) and Burns and Tobin (2020): dismantling through comitology, via the adoption of delegated acts which facilitate extensions and exceptions, or through Commission’s decisions to favour industry self-regulation over stricter regulation. This means that the strength of policy developments such as the European Climate Law (2021/1119) cannot fully be judged yet. Much depends on implementation decisions, and in the Climate Law case as with the CAP, on how the Commission, deals with unambitious national plans.

### **Credibility outside Brussels**

Beyond Brussels a very old challenge remains: that ‘even rules’ leads to ‘uneven practices’ (Versluis 2007) with the uneven implementation by member states of EU environmental law. This has long been the Achille’s heel of EU law, especially so for environmental action; 19 per cent of current open infringement cases concern environmental law (as of October 2021), and after years of steady decline, this is rising (451 open environmental infringement cases for DG ENV at the end of 2020, up from 337 in 2019 and back to 2009 levels) (European Commission, 2021b).

This is indeed an old challenge – born, in part due to the uncertainties inherent to environmental action and the depth of changes needed, yet also to member states not taking their European commitments seriously. Thus, reflecting on the establishment of EU environmental policy, Knill and Liefferink argue that ‘some of the member states were not fully aware of what they were signing up to during EU negotiations (...)’. Individual member states also had false notions about the binding legal character of European directives’ (Knill and Liefferink 2021: 20). The Court of Justice only gained power to fine member states for non-implementation in the 1992 Maastricht Treaty, and the fines then took a few years to manifest in practice. By the early 2000s member states like France and the UK were waking up to the risk of heavy fines (Keller 2007). The Barroso II and Juncker Commission changed tactics in implementation, opting to work early on with member states through the PILOT system and to reduce infringement numbers, relying increasingly on national courts and interest groups instead (Hofmann 2018). Yet this failed to account for the very different levels of legal and financial capacity of environmental groups across all member states (Hofmann 2018).

A more recent challenge, made even more critical by the EGD is the acceptability and legitimacy of EU environmental action for EU citizens (Hofmann 2021). Past backlashes against green taxes (such as the *bonnets rouges* in France in 2013) illustrate the imperative need for major changes set out in the EGD to go hand in hand with a ‘just transition’, ‘ensuring that no one is left behind’ (European Commission 2019: 4). As the EU tentatively puts its weight behind environmental ambition, the cost and popularity (or lack thereof) of environmental policies will contribute to shape EU citizens attitudes towards European integration. This makes the challenge of combining deep transformative change with social acceptability not only an environmental, but also a European challenge.

## SOLUTIONS TO THE EU’S ENVIRONMENTAL CHALLENGES

The von der Leyen Commission is putting the environment at the centre of the EU project like never before. As EU rules are difficult to dismantle (Gravey and Jordan 2016) and EGD changes are so encompassing, future EU Commissions will have to deal with the legacy of this few years of regulatory environmental ambition – irrespective of their own policy preferences. This means European institutions from now on will have to deal with the consequences of making environmental action core to the European project. This, arguably, is a claim of moral authority from the EU (presenting itself not just an economic project but as an environmental one) – which exposes it to criticisms of hypocrisy and greenwashing.

If the EU is indeed, as set out in its proposed Eighth EAP, going to lead and ‘set the pace’ for such profound system change globally, it needs to defend itself against such criticisms. It can do so in two different ways.

First, internally by prioritising a just transition alongside purposeful implementation of environmental law. Too many European citizens feel the EU does not work for them. The backlash against the EU’s handling of the Eurozone crisis (especially its actions towards Greece) means that a key indicator for whether the EU will be successful in tackling climate change will be a question of social justice. Here, the solidarity mechanisms already deployed in regional funds (both within and between member states) can provide a good basis to start, and so does the European recovery plan. Ensuring that citizens do not suffer unduly from states meeting their environmental commitments should go hand in hand with continuing to

chip away at the implementation gap. There, work on *customisation* of EU law (Thomann and Zhelyazkova 2017) offers new avenues, by demonstrating how flexibility in transposition and allowing states to customise EU rules to their own specific needs can increase application in practice.

Second, the EU's credibility and moral authority need to be bolstered externally. This means reviewing the external environmental impacts of key EU policies (e.g., fisheries agreement with third countries) to ensure not only limited carbon leakage but also ensuring the EU economy does not benefit from biodiversity loss outside its borders. As the EU pushes for other countries to uphold their pledges under the 2015 Paris Agreement, the EU has a duty to be exemplar in its dealing with international environmental organisations. With regard to the climate negotiation process this means making sure that EU members all contribute development funding (through and in parallel to the EU) in line with commitments. Beyond climate, the way the EU engages with the UN Aarhus Convention is a black spot on its environmental credentials. The EU has long dragged its feet on meeting its commitments on access to environmental information, and especially environmental justice (Hofmann 2018; Vanhala 2016). Changing this would go a long way towards reassuring other states that there are not one set of rules for them and one for the EU – with the added benefit of strengthening pathways for bottom-up pressure on member states to implement EU environmental law.

## CONCLUSION

After hitting the doldrums in the mid-2000s and 2010s, EU environmental policy appears to be moving swiftly again. But credibility issues remain, both inside and outside Brussels. With the environment set to play a central role in the EU's identity in the coming decades as the EU pushes for climate neutrality by 2050 it needs to ensure local buy-in, and implementation across the EU – and be properly supportive of environmental ambition globally. To do so, this chapter has suggested two set of solutions. First, the EU needs to ensure that internally its commitments lead to change and impacts in practice – this means avoiding backdoor dismantling, and addressing the implementation gap. The EU should centre social justice and just transition to ensure popular support for environmental action, as well as foster practices of customising EU law. Second, the EU needs to be exemplar externally. This means, in addition to delivering on its own internal policy agenda, supporting developing countries in meeting their own climate targets, limiting the negative external impacts of its policies and finally delivering on its commitments to the Aarhus Convention.

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## 27. Migration and asylum policy

*Sandra Lavenex*

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EU migration and asylum have advanced from a peripheral field of intergovernmental cooperation to a core concern of the European Union (EU). The Treaty of Lisbon lists the development of a common asylum and immigration policy within an 'Area of Freedom, Security and Justice' second in the list of the EU's general objectives (Art. 3 TFEU), right after the promotion of peace and well-being, and before the functioning of the single market. In contrast to economic integration, however, which has been at the core of the European integration project since its inception, asylum and immigration policies touch on many issues that are deeply entrenched in domestic political and judicial systems and have strong affinities to questions of state sovereignty and national identity.

Cooperation in migration and asylum matters showcases the dilemmas involved in the EU's transition from a primarily economic regulatory polity to a political Union. On the one hand, this cooperation has progressively shifted towards shared EU competence with supranational decision-making procedures, a set of legally binding directives and regulations, and the jurisprudence of the Court of Justice of the EU. On the other hand, member states have shown great reluctance to engage with these supranational competences. The crisis of the Common European Asylum System (CEAS) that started in 2015 and ongoing antagonisms between the member states have exposed the limits of political unification. These limits are reflected in an unprecedented contestation and increasingly open violation of the protective aspects of the EU asylum *acquis* by several member states, and the protracted failure to agree on a reform of the basic rules for member states' cooperation on the matter. In the shadow of the highly politicized EU asylum policy, EU policy on economic migration has never really taken off and is limited to a number of directives on the procedures for admitting very specific types of migrants such as seasonal or highly skilled workers, students and researchers, and intra-corporate transferees working in multinational corporations. Rather than progressing on common rules for admitting asylum-seekers and migrants, member states have focused on the fight against unsolicited migration by securitizing the common external borders and enlisting third countries of origin and transit for migrants and refugees in this cooperation.

This chapter starts with a short review of the emergence and institutionalization of asylum and migration cooperation in the EU treaties before discussing the main policy developments and their limits.

### THE COMMUNITARIZATION OF ASYLUM AND MIGRATION COOPERATION

The dynamics of this new area of European integration reside both within and outside the EU and its member states (Lavenex 2020). One important internal motor has been the spill-over from the achievement of freedom of movement in the single market. The decision in the 1985 Schengen Agreement to extend to France and Germany the open borders that had existed since

1948 between the Benelux countries of Belgium, the Netherlands, and Luxembourg spurred concern about safeguarding internal security and prompted closer cooperation on questions relating to cross-border phenomena such as immigration, organized crime, and drug trafficking. The surge of asylum-seekers in the 1980s which followed the closure of legal channels for economic immigration, the phenomena of organized crime and terrorism, and the end of the Cold War, which opened the EU's previously closed eastern border, generated external pressures for closer cooperation.

In 1990, two important international treaties set the guidelines for future European cooperation. The Schengen Implementing Convention (SIC) devised 'compensatory measures' for the removal of border controls, establishing common rules on asylum, a common visa regime, illegal immigration, cross-border police competences, and a common computerized system for the exchange of personal data (Schengen Information System (SIS)). The Dublin Convention on Asylum, concluded among all EU member states, incorporated the asylum rules of the SIC, including the responsibility of the state in which an asylum-seeker first enters the EU for the examination of an asylum claim. Cooperation among the five initial Schengen states was to turn into a motor for and 'laboratory' of integration and had an influential impact on the subsequent communitarization of cooperation (Monar 2001).

Asylum and migration were included as part of Justice and Home Affairs in the 'third pillar' of the Maastricht Treaty as 'matters of common interest'. Concerns about the efficacy and democratic accountability of intergovernmental procedures under the 'third pillar' and the prospect of eastern enlargement motivated substantial changes in the Treaty of Amsterdam. A new Title IV transferred migration and other related policies to the first pillar, specifying a number of measures to be adopted within five years (ex-Art. 62.3 TEC). Among these measures were the adoption of minimum standards on asylum procedures, refugee status, and the reception of asylum-seekers that were seen as necessary for putting the Dublin rules of responsibility allocation into practice. A transition clause according to which supranational decision-making procedures would apply only after adoption of these measures (including co-decision with the EP and qualified majority voting) and limitations on the powers of the CJEU symbolized member states' hesitation towards communitarization. At the same time, the Schengen *acquis* was integrated into the treaties, which underlines member states' support for the abolition of internal border controls and the concurrent strengthening of external borders and fight against irregular migration enshrined in the 1990 SIC. While the Treaty of Nice dealt primarily with the question of how to accommodate the entry of new member states, JHA remained largely unchanged until the Treaty of Lisbon which abolished the last exceptions to the Community method of supranational decision-making and to the powers of the CJEU.

This deepening of EU competences over JHA has not been uncontroversial. National sensitivities have circumscribed the extent to which these new competences have translated into supranational policies, and several member states have opted out of the Treaty of Amsterdam's provisions. Denmark, for example, is a Schengen member and participates in the free movement area, but it is free to adopt relevant EU provisions as international law rather than EU law (thereby avoiding its direct effect and CJEU jurisdiction). Ireland and the UK opted out from Schengen and retained internal frontier controls, but had adhered, on a selective basis, and subject to unanimous agreement by 'insiders', to a number of asylum and migration directives and the SIS. The variable geometry of the AFSJ is further enhanced by the participation of four non-EU countries Norway, Iceland, and Liechtenstein as members of the European Economic

Area and Switzerland are fully associated with the Schengen and Dublin Conventions by way of an international agreement (Adler-Nissen 2009; Wichmann 2009).

Although not foreseen by the treaties, the European Council has occupied a growing importance through multi-annual strategic programming. This underlines the continuity of intergovernmental dynamics with the member states' heads of state or government getting increasingly involved in EU asylum and migration matters. The ground was laid with the first European Council focused specifically on JHA, held under the Finnish Council Presidency in Tampere in 1999, and the subsequent programmes adopted at the 2004 The Hague and 2009 Stockholm European Councils. After the end of the Stockholm Programme (2014), the European Council went over to the adoption of 'strategic guidelines for legislative and operational planning within the area of freedom, security and justice'. Rather than promoting internal communitarization, these guidelines put the emphasis on the external dimension of EU policies, privileging non-legally binding cooperation mechanisms with third countries.

Another important institutional feature in this field of European integration is the role of decentralised agencies and in particular of the external borders agency, Frontex. Officially named the European Border and Coast Guard Agency Frontex has seen a steady increase of its tasks, budget and staff. Established in Warsaw in 2005, Frontex's primary tasks were coordination and risk analysis. A first important extension of its mandate occurred in 2007 with the creation of Rapid Border Intervention Teams (RABITs) as a means of providing swift operational assistance for a limited period to a requesting member state facing a situation of 'urgent and exceptional pressure' at external borders. The 2016 reform was even more significant in terms of resources and competences such as the power to initiate EU repatriation flights for irregular migrants, and more responsibilities countering organized crime, trafficking and smuggling of human beings, including a far-reaching mandate to cooperate with third countries. The Commission's proposal to grant Frontex a more supranational right to intervene in the control of a member state's borders in case of crisis even without the latter's permission did not gain the support of the Council. However, operational capabilities were once again boosted in 2019 with the decision to grant Frontex an additional staff of 10,000 border guards by 2027. This organizational expansion has been backed by a steep rise in the agency's budget. Frontex is supported by the European Border Surveillance System (Eurosur) which uses drones, reconnaissance aircraft, offshore sensors, and satellite remote sensing to track irregular migration in the Mediterranean.

The fact that Frontex approaches border management from a pre-eminently security-oriented perspective raised concerns early on. Gradually, the Agency has endorsed a Fundamental Rights Strategy and a Code of Conduct. Furthermore, the EU institutions agreed to amend the Frontex Regulation so as to include the requirement to protect fundamental rights. Changes were also introduced to nominate a Fundamental Rights Officer and create a Consultative Forum on Fundamental Rights. The amended rules added obligations to provide training on fundamental rights, to respect the principle of non-refoulement which prohibits the return of refugees to places where their life or physical well-being would be threatened, and to terminate or suspend joint operations or pilot projects in the event of serious or persistent breaches of fundamental rights or international protection obligations. Human rights organizations including the Council of Europe and the European Ombudsman have however found these reforms to be insufficient. The latest reform proposals thus also provide measures to strengthen the internal fundamental rights capacity of Frontex, including the creation of a Deputy Fundamental Rights Officer position, fundamental rights monitors, additional roles for fundamental rights

staff in different aspects of Frontex's work, and a code of conduct. The complaint's mechanism established by the 2016 Regulation is further strengthened, including through the inclusion of responsibility for omissions as well as actions, and through follow-up required from member states when their personnel are subject to complaints. Yet, the fundamental tension between the mandate to fight irregular immigration and the safeguarding of human rights, including allowing access to an asylum procedure, is likely to persist (Mungianu 2016). This tension became very salient in 2020 when investigative journalists proved that Frontex was complicit in illegal pushbacks at EU external borders, thereby violating the principle of non-refoulement which is the core norm of the international refugee regime, also enshrined in the European Charter of Human Rights and the EU Asylum Procedures Directive (Der Spiegel 2020).

In the field of asylum too an agency has been created in 2009 with the European Asylum Support Office (EASO). Its main tasks are the collection and exchange of information on countries of origin and asylum proceedings in the member states as well as capacity-building with national authorities and, increasingly, in third countries. The hope is thereby not only to assist countries in implementing EU asylum directives or, for third countries, international refugee standards, but also to promote the approximation of recognition practices.

With these new EU bodies, the number of joint databases has also proliferated. Databases constitute the core coordination instrument between domestic law-enforcement and immigration authorities and are meant to boost their surveillance capacities over mobile undesired individuals in the common territory. Over time, a sophisticated surveillance system has been devised for the control of the external border. The first generation of databases includes the Visa Information System (VIS), storing personal information (including biometrics) on every visa application; Eurodac, containing fingerprints and personal data of asylum-seekers, refugees, or irregular entries; and the SIS and its successor SIS II, containing information on persons who may have been involved in a serious crime or reside irregularly in the EU. These were supplemented by the Entry/Exit System registering all movements in and out of the Schengen area, including fingerprinting, and the Registered Traveller Programme, which facilitates the movement of frequent (business) travellers and thereby establishes a complex system of pre- and post-border screening procedures targeting all foreign visitors to the EU.

## EU RULES ON ASYLUM AND IMMIGRATION

Legislative developments on asylum and immigration have been driven by internal developments, such as the quest to compensate for the abolition of internal border controls, and by external shocks, such as immigration pressure. Notwithstanding the gradual introduction of supranational decision-making competences, member states have remained hesitant to adopting supranational legislation and have preferred to work towards common objectives through operational and practical integration, as well as cooperation with third countries on the transit routes of migrants and refugees.

The sense of crisis over immigration and concurrent national reactions in 2015/16 have exposed the limits of the Common European Asylum System and of a migration policy focused primarily on the reduction of unsolicited immigration. Yet, attempts to overcome existing deficits through stronger harmonization and supranational burden-sharing mechanisms have failed. Regarding economic migration from non-EU countries, the EU has a more limited mandate than regarding irregular migration or asylum—as the treaties exclude the

possibility for the EU to determine volumes of admission of third-country nationals (Art. 79(5) TEU). Coupled with a lack of political will on the part of the member states, this explains why only a very few steps have been taken regarding the admission of third-country nationals for the purpose of work.

EU policy-making for asylum and immigration issues has developed in stages. A first set of directives was adopted under the intergovernmental decision-making procedures during the transition phase provided for in the Treaty of Amsterdam. Reflecting the lowest common denominator among the member states and providing for a wide scope of discretion in implementation, these directives were later recast under the Treaty of Lisbon. From the outset of cooperation in the mid-1980s, the emphasis has been on the fight against irregular immigration, rather than on which legal immigrants to accept or how to cooperate on asylum (Lavenex and Wallace 2005).

Agreement on which forms of immigration to classify as legal has proved particularly controversial. The first directives have focused on the rights of third-country nationals already resident in a member state: Council Directive 2003/109/EC on the status of third-country nationals who are long-term residents in a member state of the EU, and Council Directive 2003/86/EC on the right to family reunification. In a 2008 Report (Commission 2008), the Commission attested that the latter directive, given its open wording, had had very little impact on member states' policies. The Stockholm Programme's claim to recast the directive has not materialized, and the Commission has issued non-binding guidelines for implementation instead.

Cooperation on legal immigration for work has been even more controversial. A 2001 Commission proposal on the admission of immigrants for the purpose of work and self-employment found no support in the Council (Commission 2001). Instead, the Commission has embarked on a sectoral approach, advancing more limited directives targeting specific, less controversial groups of economic migrants, such as highly skilled professionals, researchers and scientists, seasonal workers, and intra-corporate transfers. The 2009 Blue Card Directive confirms the reluctance of the member states to tie their hands to European immigration rules. Alluding to the US 'Green Card', the Blue Card was originally designed as a means to attract highly skilled migrants from third countries to the EU. In the end, however, the major benefit this instrument would have brought to potentially interested candidates, the automatic extension of free movement rights, was not retained. As a consequence, very few persons have made use of this new legal instrument to enter the EU, and national immigration schemes prevail. Recognizing these limitations, the Commission put forward a proposal for a revised Blue Card Directive in 2016 which has been blocked in the Council ever since (Minderhoud 2021).

Arguably, the EU has a stronger mandate in asylum policy. Successively, several directives have been adopted to create common rules on asylum in the member states. The collapse of the Greek asylum system in 2011 and of the EU-wide CEAS in 2015, as well as enduring controversies among frontline countries such as Greece, Hungary, and Italy and other member states, have forcefully exposed the limits of this cooperation. However, calls to fundamentally revise the Dublin system of responsibility allocation have failed (Smeets and Beach 2021).

The cornerstone of EU asylum policy is the system of exclusive responsibility for the examination of asylum claims based on the Dublin Regulation of 2013, establishing the criteria and mechanisms for determining the member state responsible for examining an asylum application. This instrument replaces the Dublin Convention and the earlier Dublin Regulation of 2003, and its implementation is linked to the Eurodac database. Its main rule, the allocation

of responsibility primarily to the first member state an asylum-seeker enters when reaching the EU, is maintained.

The mutual recognition of asylum determination outcomes implied by the system of responsibility allocation necessitated minimum standards on reception conditions, the definition of the term ‘refugee’, and asylum procedures. Corresponding ‘Phase I’ directives were adopted only after significant delays, and they are riddled with delicate compromises and open questions. The asylum directives were recast between 2011 and 2013; however, analyses attest to only a few improvements compared to ‘Phase I’ legislation (Trauner and Ripoll Servent 2015).

In 2011, the Dublin system collapsed when the European Court of Human Rights and the CJEU, considering the overburdening of Greece as a country of first entry and its failure to comply with refugee law obligations, declared transfer under the Dublin Regulation from other member states to Greece in breach of fundamental human rights. The war in Syria that started in 2011 soon turned into the world’s largest humanitarian catastrophe since World War II, according to the UN. While affecting primarily neighbouring countries such as Lebanon, Jordan, and Turkey, in 2015 refugee displacements reached Europe. It soon became apparent that EU instruments developed in the framework of the CEAS were inadequate to deal with large refugee inflows, and that most member states were unwilling, and sometimes unable, to fulfil their commitments under EU rules. The core of the CEAS, the Dublin and Schengen regulations, proved unsuited to channel the inflows. Visa obligations and strict border control enforcement at the Union’s external borders precluded safe and regular access to EU territory, forcing refugees to take perilous routes through the Mediterranean. The Dublin rules that determine the responsibility of the first country of entry for processing asylum-seekers exacerbated distributional conflicts among member states and led to the total collapse of the Greek asylum system – a system which the European Court of Human Rights and the CJEU had already judged dysfunctional in 2011. The lack of solidarity also persisted regarding the Central Mediterranean migration route. Italy was compelled to discontinue its search-and-rescue operation ‘Mare Nostrum’ in October 2014, after member states refused to share the costs. Frontex’s operation ‘Triton’, which stepped in with a much more limited budget and mandate, proved insufficient and aggravated the situation. In consequence, and encouraged by Germany’s decision to suspend Dublin transfers for Syrians, Greece and Italy reverted to a policy of ‘waving through’ migrants without registering them. Apart from burdening countries further up the route, in particular Hungary, this prompted first Germany, then Austria, Slovenia, Hungary, Malta, France, Norway, Denmark, Sweden, and Belgium to re-introduce controls at their internal borders and hence to suspend one of the EU’s major integration achievements: the internal system of free circulation (Lavenex 2018; Niemann and Zaun 2018).

The divisions that emerged during the crisis of the CEAS have not been overcome and point to the limits of political unification in the EU. Member states have been unable to agree on solidarity mechanisms such as distribution keys that would provide assistance to countries at the port of entry to the EU and allocate refugees and asylum-seekers equitably within the Union. The attempt to decide such mechanisms by qualified majority in the Council has met hitherto unprecedented resistance from opposed member states, and some, in particular Hungary, have gone so far as to openly defy EU asylum legislation and jurisprudence. The only innovation to relieve pressure on frontline member states has been the introduction of ‘hotspots’, that is identification and registration centres for asylum-seekers administered with the help of EU agencies EASO and Frontex at the external borders. Rather than solving the problem pressure,

desperate reception conditions and the transformation of these centres into closed detention facilities such as documented e.g., for the so-called Moira camp in Greece have added up to the dysfunctionalities of the common European asylum policy (Loschi and Slominski 2022).

While member states have been unable or unwilling to reform their dysfunctional internal asylum policy, cooperation with countries of transit and origin of asylum-seekers has steadily gained in importance and stands in the focus of EU policy developments. This trend can be observed from the 1990s onwards starting with the EU's enlargement policies and the European Neighbourhood Policy launched in 2005 and has intensified over time (Lavenex 2006; 2022). Immigration now constitutes a key focus in EU external relations overall and in particular in its development and humanitarian cooperation with countries in Africa, the Middle East, and beyond. Starting with a narrower focus on the conclusion of readmission agreements, under which third countries agree to take back irregular migrants and cooperate on migration control, this agenda has constantly evolved. The first 'Global Approach to Migration' of 2005 introduced the instrument of Mobility Partnerships comprising cooperation on irregular migration, legal migration, and development. Cooperation on asylum was added in response to the Arab uprisings in the 2011 'Global Approach to Migration and Mobility'. The reforms adopted in the wake of the 2015/16 crisis, the 'European Agenda on Migration' (2015) the 'Partnership Framework Approach' (2016) and the proposed 'New Pact on Migration and Asylum' (2020), declare migration management as a top foreign policy priority, which will be pursued using all foreign policy instruments that the EU has at its disposal, including development, trade, security, and other foreign policies. Legally non-binding deals have been concluded with third countries committing to take back asylum-seekers transiting to the EU (such as with Turkey), or combining development and humanitarian aid with trade facilitation to encourage them to host refugees (such as with Jordan, Lebanon, and Eritrea). Especially the 2016 deal concluded with Turkey has been hailed as a model agreement by the EU, despite major shortcomings. The deal determines that all refugees and asylum-seekers entering Greece via Turkey will be taken back by the latter on the basis that it constitutes a 'safe third country' for these people – a classification that has been deeply contested by refugee lawyers. Apart from human rights concerns, two other considerations make the EU-Turkey deal highly problematic: first, it gives the authoritarian Turkish government leverage over the EU, allowing President Erdogan to threaten with the opening up of Turkish EU borders to hosted refugees. Indeed, the EU has made several concessions to Turkey: not only the official ones such as a 6 billion Euros aid package, the prospect of abolition of visa requirements, and progress in EU accession talks, but also a lenient attitude towards authoritarian tendencies in Turkey and its external policies. Secondly, the deal is problematic from a rule of law and democratic perspective. Former Commission President Juncker and other politicians repeatedly underlined the success of this European deal. In a 2018 ruling, the CJEU (Cases T-192/16, T-193/16, and T-257/16 *NF, NG and NM v. European Council*), however, rejected EU ownership of the deal – and declared that it had no jurisdiction over this informal arrangement (Hillary 2021). This argument also applies to subsequent informal deals such as those concluded with the western Balkan countries or Libya, which commit these countries to stem and pull back migrants heading towards the EU. Concluded by the member states on an intergovernmental basis outside the treaty framework, these deals not only elude judicial oversight by the CJEU but also sideline the European Parliament and thus democratic oversight (Carrera, Santos Vara and Strik 2019).

## CONCLUSION

European integration in asylum and immigration matters has started with intergovernmental cooperation for the safeguarding of internal security after the decision to abolish internal border controls with the first Schengen Agreement of 1985 and has gradually moved to a core shared competence with supranational powers for EU institutions. This institutional communitarization has however only partly translated into the development of common policies on asylum and immigration. Member states have remained particularly cautious regarding economic immigration and, apart from very limited exceptions, have refused vesting the EU with meaningful competences over legal pathways for the intake of third-country nationals for work. Cooperation on asylum has gone further and has been driven by the necessity to complement the Dublin system of responsibility allocation for the examination of asylum claims with common minimum standards for asylum procedures, reception conditions and the status of refugee. This system has however been dysfunctional from the start, putting disproportionate pressure on the countries of first entry of asylum-seekers. Coupled with an upsurge in the flows of refugees, this has led to a collapse of the common European asylum policy, the embrittlement of the Schengen system of open internal borders, and an unprecedented level of contestation among member states over common principles and laws. The depth of this contestation stems from the coincidence of external migration pressure and internal political pressure by the rise of political parties whose success draws on the combination of Euroscepticism with anti-immigrant positions. This combination has been interpreted as exposing a new type of societal cleavage in the EU which seriously circumscribes the scope for common EU policies in these sensitive fields (Hooghe and Marks 2018; Hutter, Grande, and Kriesi 2016). How divisive politicization based on this combination of anti-EU and anti-immigrant sentiments can be was demonstrated in the Brexit campaign. A central element in that campaign was the mobilization of fears over a loss of control over immigration due to both EU provisions on the internal free movement of people and an alleged failure of common policies regarding immigration by third-country nationals. This contestation thereby connected two hitherto disjointed areas of EU integration – internal ‘mobility’ of EU residents and external ‘immigration’ from third countries – turning intra- and extra-European migration into a common challenge for European integration. In conclusion, cooperation on asylum and immigration exposes the limits of transferring competences in sensitive fields combining conflicts of interests with conflicts of values regarding state sovereignty, national identity, human rights and the rule of law to an increasingly heterogeneous and internally contested European Union.

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## 28. Security and defence policy

*Jolyon Howorth*

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Since the end of the Cold War, the European Union (EU) has sought to confer upon itself a measure of viable and credible military capacity to deal with the management of security crises in the neighbourhood. This project is known as the *Common Security and Defence Policy* (CSDP) (Howorth 2014). In that endeavour, the EU has encountered a series of significant hurdles: institutional complexity; US incomprehension and resistance as well as the parallel existence of NATO; traditional member-state focus on *national* interests and *national* defence budgets; incompatible security cultures; defence-industrial commercial interests; the absence of any clear ‘grand strategy’. Furthermore, the majority of regional ‘crises’ identified as candidates for the EU’s involvement have revolved much more around civilian challenges such as policing, border control, rule of law missions, and security sector reform (overwhelmingly in the Balkans and Africa). Whenever a serious military crisis has erupted (Bosnia, Kosovo, Libya, ISIS), the EU has fallen back on NATO and/or the US as the guarantor of last resort.

In 2016, the EU faced two major, potentially existential, security challenges. Brexit involved the withdrawal of its biggest military power and hung a large question mark over future strategic relations with the UK. Months later, the election of President Donald Trump seemed to call into question the very bases of the Atlantic Alliance. At the same moment, through the publication of an updated ‘Global Strategy’ document (EEAS 2016), European leaders announced their aspiration to achieve ‘strategic autonomy’, an ambition that was neither defined nor programmed. Some began to speak openly of the need for a ‘European army’. These developments were robustly challenged both in Washington and in the more Atlanticist capitals of Europe – particularly Eastern Europe.

In parallel, two major external crises significantly raised the security stakes. To the East, challenges to the stability of the EU’s hinterland, following the 2014 Russian annexation of Crimea and growing Russian involvement in the secessionist struggle in Eastern Ukraine, posed once again the question of the EU’s dependence on the US for its collective security. To the South, the wholesale destabilization of the Sahel, following the implosion of Libya after NATO’s intervention in 2011, raised the threat from jihadist terrorism to unprecedented levels. More recently, the EU has been forced to grapple with what it has dubbed the ‘systemic challenge’ posed by an assertively rising China.

This chapter will rehearse the main debates within the EU over the strategic challenges faced by the bloc in a world of power transition and multipolarity; will assess the progress to date of CSDP; will explore the promise of new political, institutional and military developments since 2016; and will consider the emergence of new alternative combinations of actors that might offer a way out of what, to date, has been something of an impasse in Security and Defence Policy.

## HISTORICAL OVERVIEW

NATO was launched in 1949 as an *interim* measure of US support while the European states recovered from the exhaustion of World War Two (Trachtenberg 1999). When General Eisenhower took over as the Alliance's Supreme Commander in 1951, he expected all US troops to be repatriated within a decade. The onset of the Cold War and the inability of the Europeans to agree on the basics of security and defence policy ensured that US troops remained permanently deployed. France was the only state seriously to argue that Europe should seek to reduce – if not eliminate – its dependence on the US (Gordon 1993). At the same time, Washington complained bitterly about what it perceived as its excessive 'burden' in NATO.

As the Cold War ended, the rationale for continued American involvement in Europe's defences waned. US priorities were hitherto firmly fixed on Asia and the Middle East. The Balkan Wars of the 1990s demanded of the Europeans a far greater contribution to the stability of their continent. In 1994, a project for a *European Security and Defence Identity* from within NATO posited that a European force under European leadership could take on regional challenges by borrowing strategic military assets from the US. Political direction could be assured by the revitalised *Western European Union*, a hitherto dormant body that contained members of the EU who were also members of NATO. This arrangement proved unsatisfactory to all parties and, in 1999, it was replaced by the embryonic CSDP, which asserted that the EU should seek 'the capacity for autonomous action' in geostrategic and military terms (Howorth 2000).

By 2003, the EU had launched new institutions designed to allow political and military oversight of CSDP (Smith 2003). It had created the post of High Representative for Security and Defence Policy, a would-be EU Foreign Minister. It also drafted a 'Security Strategy' document and began to deploy troops in crisis-management missions in both the Balkans and Africa. By 2008, no fewer than 27 such missions were launched. Yet only five of these were overtly military in nature, the remainder being essentially 'civilian' operations (Pohl 2014). Between 2008 and 2011 only one further mission was launched. By 2013, CSDP appeared to be running out of steam. Its inability to act during the Arab Spring of 2011, its passivity over both Libya and Ukraine, its sub-contracting to France of the anti-jihadist campaign in the Sahel suggested it was already something of a spent force.

However, the events of 2016 outlined above seemed to instil the project with new dynamism. The quest for 'strategic autonomy' – at least at discursive level – was given a massive boost by Donald Trump's boorish approach to both NATO and the EU. A raft of new initiatives was launched. Cooperation with NATO was stepped up. Significantly, the inauguration of President Joe Biden, in January 2021, did not have the effect, predicted by many, of inducing the EU to lapse back into a state of dependency. Two major crises in summer 2021 – the chaotic US/NATO withdrawal from Afghanistan and the controversy over contracts for the construction of submarines for Australia – found Europeans as determined as ever to try to reduce their security dependency on the US.

The looming crisis in Ukraine in 2021–2022 severely highlighted the weaknesses of the EU as an international actor. Although the EU is recognized as an economic, commercial and regulatory giant, it has not succeeded in emerging as a significant military or security actor. Prior to the Russian invasion on 24 February 2022, the EU's member states failed to agree on virtually anything: relations with Russia, relations with Ukraine, responsibility for the crisis,

the supply of weapons to Ukraine – and even on appropriate sanctions. The crisis was managed in almost exclusively bilateral format between Washington and Moscow, with NATO playing a supporting role behind Joe Biden (Howorth 2022). However, once the invasion took place, the EU rapidly appeared to show a solid measure of consensus. High Representative Josep Borrell claimed on 1 March that ‘We have arguably advanced more in one week than we have over decades of debates’ (Borrell 2022). Commission President Ursula Von der Leyen argued that ‘with the speed of light’ the EU had become solidly united in its challenge to Russia (Von der Leyen 2022). Leading commentators spoke of a ‘revolution’ in Germany’s approach to security and defence (Major and Mölling, 2022). The EU did indeed adopt unprecedented measures: draconian sanctions, the cancellation of the Nordstream-2 gas pipeline, the transfer of lethal weapons to Ukraine, a major campaign against Russian disinformation, the closing of European airspace to Russian planes (European Council 2022). Few commentators, however, mentioned the inescapable reality that all this happened under the umbrella of the US military deterrent. The real takeaway was that it was NATO rather than the EU that was strengthened (Sczewczuk 2022). Washington is now more likely than ever to continue to call the shots on European security – at least for the foreseeable future.

## PRINCIPAL DILEMMAS AND DEBATES OVER CSDP

By far the biggest dilemma facing the embryonic CSDP was its relationship with NATO – and, by extension, with the US (Howorth and Keeler 2003). Many analysts believed, as the Cold War came to an end, that NATO would progressively fade into insignificance. Recent archival research has shown, on the contrary, that both the George H. W. Bush and the Bill Clinton administrations went to considerable lengths both to keep NATO in business (largely by expanding its reach) and explicitly to consign the Europeans to a subordinate role within the Alliance (Shiffrinson 2020). For decades, France and the UK had adopted diametrically opposite approaches to the question of European military capacity. London was concerned that if the Europeans demonstrated too much capacity to look after their own affairs, the US would withdraw from Europe. Paris, on the other hand, believed that Washington would take more seriously allies who took themselves seriously. This dilemma was shunted aside at the Franco-British summit of Saint Malo in December 1998 when UK Prime Minister Tony Blair and French President Jacques Chirac jointly declared their ambition to render Europe capable of ‘autonomous action’.

For France, this seemed the consecration of 50 years of effort to develop a viable European military force. For the UK, on the other hand, it was perceived as a crucial step to keep NATO relevant and the US on board. The initial US reaction to the launch of CSDP was one of suspicion and alarm. Were the Europeans attempting to develop a force to counterbalance the US (Posen 2006)? UK emissaries were dispatched across the Atlantic to ensure Washington that CSDP was in no way intended to weaken or undermine NATO. On the contrary, the UK message asserted, it was designed to strengthen NATO. And yet, by attempting to create an autonomous military force, by rationalizing and Europeanizing the EU armaments industry, and by embarking on military missions under an EU flag, the Europeans were clearly asserting themselves in unprecedented ways. The US issued stark conditionality: CSDP would only be tolerated if: (1) it did not lead to decoupling of the transatlantic partners; (2) it did not duplicate existing military capacity; and (3) it did not discriminate against European states (such as

Turkey and Norway) that were members of NATO but not of the EU. The debate between the two sides often seemed like the medieval controversy over the numbers of angels that could be accommodated on a pinhead.

It was only after the US began to become bogged down in Afghanistan and Iraq that Washington embraced the notion that European military capacity might not be a threat but an asset. However, by 2008, when this was first officially recognized, it had become clear that the problem with Europe's military capacity was not its burgeoning strength but its structural weakness. One of the most important aspects of that weakness was laid bare by another major dilemma. How would this embryonic European force relate to the existing national military forces of the individual EU member states, all of which were highly possessive of their respective armed forces? How would political oversight and control be exercised? Who would be in command? Who would pay for this force? Could an Italian soldier, a Lithuanian airman or a Portuguese midshipman be required to go off to war – and potentially to die – ‘for Europe’? The answer soon came when the EU decided to set up a rotating series of ‘battle groups’ – formations of around 1,500 troops intended to be rapidly deployed into combat areas as initial entry forces designed to hold the line until larger units can be deployed (Lindstrom 2008). The battlegroups (BG) are made up of troops either from one nation (France, the UK) or from a group of neighbouring countries (Scandinavian, Iberian, Central European). Two such BGs have been on six-month stand-by roster since 2005. Despite the availability of numerous crises that might have called for the deployment of a BG, no BG has ever been deployed.

The EU member states have established new institutional agencies to facilitate decision-making and military deployment. The High Representative for Foreign and Security Policy was mentioned earlier. All four incumbents have found their margin of manoeuvre strictly limited by the national capitals. The Political and Security Committee (PSC) comprises one ambassador from each member state and deliberates on potential overseas missions and their management. Although there is no doubt that a significant degree of socialization within this select group allows members to reach consensus on policy options (Cross 2011), there is equally no doubt that the options for which a green light is eventually given are never particularly challenging – and never opposed by a major member state. The *European Union Military Committee* (EUMC), made up of the Chiefs of Defence Staff of the member states – or their representatives – and the *European Union Military Staff* (EUMS), comprising some 200 officers from across the EU to support the EUMC meet regularly in Brussels and take responsibility for advising the European Council on all relevant military matters. These institutions are modelled on their equivalents in NATO. However, nobody has ever suggested that these arrangements come close to constituting the nucleus of a European Army.

Two further (related) debates and dilemmas have dominated discussion of CSDP. The first is the challenge of generating a trans-European strategic culture. All nation states have the history of their geography and EU member states have an immensely variegated national narrative. Some have been expansionist imperial powers. Others have struggled to protect themselves from their neighbours. Some have remained resolutely neutral while others have relied on allied protection. Some, for historical reasons, have developed a quasi-pacifistic DNA; others do not shy from military engagements. Knitting these various cultures into a coherent whole has been extraordinarily challenging. While there has undoubtedly been a gradual convergence towards a common way of thinking, the national reflexes have not disappeared (Biehl et al. 2013). Brexit resoundingly demonstrated that basic reality.

The absence of a genuinely European strategic mindset has, inevitably, hampered European attempts to develop a ‘grand strategy’ – defined as the calculated relationship between means and large ends. What, precisely, does the EU consider to be its realistically achievable objectives in the Southern and Eastern neighbourhoods – requiring precisely what means? While Northern and Eastern member states have tended to focus primarily on the supposed threat from Russia, those with a Mediterranean coastline have been far more focused on North and Sub-Saharan Africa. Such differences are not irreconcilable within the broad ambit of the EU and all member states are conscious that both neighbourhoods require attention. But member states remain seriously divided over the optimum strategy with regard to Russia, as they do over the most appropriate approach to countering jihadism in the Sahel. It was to try to narrow the gaps between member state approaches that the *Global Strategy* document of 2016 was devised (EEAS 2016). But that document is widely seen as a discursive attempt to conceal the differences between member states by the application of critical concepts such as ‘resilience’ and ‘strategic autonomy’.

## MAIN CONTEMPORARY CHALLENGES

Beyond the policy dilemmas and debates outlined above, there are two main challenges currently facing Europe in the field of security and defence. To the East, an increasingly assertive Russia poses a challenge of a different order from that posed by the former Soviet Union. Whereas Soviet communism appeared to call into question the entire liberal order on which Western Europe – and its US ally – was based (individual freedoms, democracy, open markets, the rule of law), Russian nationalism as exemplified by Vladimir Putin focuses on perpetuating and consolidating Moscow’s influence over the entire borderland between the EU and Russia. Western discourse since the end of the Cold War has suggested that concepts like ‘spheres of influence’ or ‘zero sum games’ are a relic of the past, which has been transcended by post-modern notions of ‘a rules-based international order’ or simply ‘the international community’. The response from Moscow – and, increasingly, from Beijing – has been: ‘whose rules?’ and ‘which community?’ (Diesen 2015).

In the immediate aftermath of the fall of the Berlin Wall in 1989, discussions were held between Western leaders and the Russian president Mikhail Gorbachev. A key issue was the future of NATO. Assurances were given to the Russians, in the context of German unification, that NATO would not be expanded ‘by one inch’ to the East. German unification was accepted by Moscow on that understanding (Sarotte 2014). However, in 1999, NATO welcomed into its ranks four former members of the now defunct Soviet bloc (Poland, Hungary, the Czech Republic and Slovakia). The incorporation of those new member states took place while NATO was engaged in a protracted bombing mission over a key Russian ally, Serbia. In 2004, NATO membership was extended to two further ex-members of that bloc, Bulgaria and Romania, as well as to three former countries of the USSR itself – Estonia, Latvia and Lithuania. NATO had not only expanded up to the Soviet border. It had actually encroached into former Soviet territory. Russia, not surprisingly, sees NATO as a major threat to its security and territorial integrity (Goldgeier and Shiffrinson 2020). This has created a new, symbiotic, confrontational dynamic. In the words of one eminent Eastern European and Russian expert, ‘NATO exists to protect against the threat generated by its existence’ (Sakwa 2016).

Until the late 2000s, Russia was not particularly concerned about the growth of the EU. Russia's leaders understood the reality of nation states and focused their diplomacy on the main capitals of Europe. The EU as such was not seen as particularly threatening. It was only when Brussels launched its Eastern Partnership in the wake of the 2008 Russian invasion of Georgia, making overtures to six countries of the former USSR (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) that the Kremlin began to feel threatened not just by NATO but also by the EU. Although there has been no serious talk of offering EU membership to these Eastern countries, their acceptance of the EU's proffered Deep and Comprehensive Free Trade Agreement would have the effect of delinking them from Moscow's orbit. The struggle over Ukraine has become a tug-of-war (literally) over the future of vast expanses in Eastern Europe (Marples 2021).

In the context of calls for 'strategic autonomy', a lively debate erupted in 2021 over the EU's capacity to defend itself against a hypothetical Russian attack without active US military backing. The debate was sparked by a 2019 study from the *International Institute for Strategic Studies* (IISS) which strongly argued that the cost to Europe of any attempt to manage its security without the US would be prohibitive. In late 2020, the prominent US restraint scholar Barry Posen, responding directly to the IISS study, demonstrated, in force structure (rather than operational) terms how the EU could in fact deter a Russian threat without recourse to US assets (Posen 2021). Posen's article generated an outpouring of pro- and counterarguments. The jury remains out over the vital issue of Europe's capacity to secure its own collective defence.

The second main challenge currently threatening the EU is that posed by international jihadist terrorism, primarily located in North Africa and the Sahel, but also across the Middle East and into Afghanistan. Prior to the Arab Spring of 2011, the EU had concluded a number of arrangements with the autocratic leaders of North Africa, whereby, in exchange for limited trade agreements and development funds, they would agree to hunt down jihadists and stem the flow of trans-Mediterranean migration (Bicci 2011). The 2011 turmoil across the whole of North Africa was a major wake-up call for the EU, which watched helplessly as the authoritarian dominoes fell (Perthes 2011). NATO's brief military intervention in Libya posed yet another challenge to the EU as a security actor. Barack Obama's preference for the US to 'lead from behind' forced France and the UK to spearhead an ostensible allied effort conducted by fewer than half of NATO's member states (Howorth 2014a). The lack of any serious follow-up in Libya after the death of 'Supreme Guide' Muammar Gaddafi in October led to the destabilization of the entire Sahel, affecting an area from Nigeria to Syria. It also unlocked the floodgates of uncontrolled migration across the Mediterranean.

In 2013, when Bamako, the capital of Mali, faced capture by al-Qaeda inspired insurgents, France took it upon itself to deploy military force to the area, chasing the insurgents deep into the Northern deserts (Chivvis 2016). Eight years later, with dozens of French troops killed and over 1,000 wounded, President Macron decided to put an end to Operation Barkhane which had been run in conjunction with five African states, logistic support from the US and inputs from a handful of EU states. The focus henceforth was to be on promoting 'governance' in a part of the world where the term itself requires serious parsing (Lebovich 2021). Meanwhile, the 2014 emergence, in Iraq and Syria, of the *Islamic State* posed a very real threat to Europe as thousands of its citizens flocked to Syrian city of Raqqa to join the insurgency. The following year, France was the target of repeated Islamist atrocities, considerably raising the stakes for the overall security of the EU (Kelso 2019). The Taliban victory in Afghanistan in August

2021 raised even further the twin threats of jihadist terrorism and uncontrolled migration. EU statements and declaratory policy are no substitute for a strategy. At the time of writing, faced with mounting turbulence on its Southern and South-Eastern borders, the EU seemed both highly vulnerable and geo-strategically disoriented.

## NEW INITIATIVES AND POTENTIAL SOLUTIONS

In the past few years, the EU has launched three promising initiatives in an effort to deliver on its stated ambition of strategic autonomy. In June 2017, the *European Defence Fund* was launched to much media acclaim. The involvement of the European Commission in offering funding for both research in innovative defence products and technologies, and the development and acquisition of key defence capabilities was widely perceived as a major CSDP breakthrough. Yet the sums involved (€25 million for R&T in 2017, compared with the €8.8 billion the EU-28 spent on this activity in 2014; and €500 million for development and acquisition, compared with a 2014 spend of €38 billion) while not insignificant, were nevertheless modest – especially in the context of the overall annual EU defence expenditure of over €200 billion. The EDF has a budget of €8 billion for the budgetary period 2021–2027 for defence research and for cooperative projects. This is the first-time defence has been included in the EU budget – but the Commission’s initial proposal for a €13 billion fund was severely cut down by the member states. Moreover, Brexit could mean as much as a €12 billion annual ‘hole’ in the EU budget, and most of the Commission’s seed-money is conditional on the member states raising 80 per cent of matching funds from their own resources. While Brussels officials routinely showcase the EDF as a major step forward (Breton 2020), detached observers were more sceptical (Valasek 2017).

The decision of the European Council in June 2017 to set in motion the process known as Permanent Structured Cooperation (PESCO) was seen by many as the major breakthrough for the CSDP (Biscop 2017). What PESCO promises is that ‘those member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another’ (Lisbon Treaty Art. 42(6)) should be allowed to join forces to implement the operational requirements of CSDP. In the event, however, under heavy German pressure, 25 out of 27 EU member states signed up to 20 binding commitments, including to increase defence budgets, harmonize capability requirements, undertake multinational capability projects, and make available strategically deployable formations. The overall aim of what really amounts to an integrative agenda, is to create a comprehensive full-spectrum force package. PESCO has to date focused mostly on capability projects, now 47 in total. However, few of these projects concern the priority European capability shortfalls, notably in the area of ‘strategic enablers’. Meanwhile, key future platforms, such as the next generation combat aircraft and main battle tank, have been kept out of the PESCO framework. Little progress has been made on the other commitments. A strategic review of PESCO in the fall of 2020 did not affect any change of course. If PESCO is used only as a platform for cooperative capability projects, however, in order to equip what remain fully national armed forces without any actual permanent cooperation between them, its added value risks remaining limited (Biscop 2020).

The third current initiative is the Strategic Compass. This is a two-year process set to conclude under the French EU Council Presidency in spring 2022. It reflects the EU’s current aspiration towards greater geo-strategic heft. It aims to serve three purposes: First, to draw

up the EU's first common threat analysis. Second, to agree on clear and achievable strategic objectives to strengthen the EU as an actor in security and defence. And third, to offer political guidance for future military planning processes (Mölling and Schütz 2020). It is intended to transcend the gulf between rhetoric and reality in the EU's approach to grand strategy, and to help foster a shared strategic culture. It is organized around four 'baskets': crisis management, resilience, capability development and partnerships. However, as commentators have noted (Novaky 2021) a compass is only useful if it can tell us where North is. It is only relevant if North (a clear strategic North) is the direction in which the EU wishes to head. It is this latter question that has complicated the work of designing the compass. There are at least three major challenges facing the designers.

The first is to square the circle between the ambition of strategic autonomy and the need to work in cooperation with NATO and the US. The EU needs to state very clearly its level of ambition: does it intend, eventually, to engage in high intensity military combat to underwrite collective defence? Or does it intend permanently to limit itself to lower-level crisis management operations? This has major implications for the type of weapons systems it will require. The second is to ensure that the Compass is compatible with national defence planning processes. National buy-in is indispensable if it is to engineer genuine cooperation and synergies. Finally, the EU cannot ignore major non-EU partners such as Norway and particularly the UK, whose inputs to European security and defence remain crucial (Ungureanu 2021). At the time of writing, there were widespread fears among the policy-shaping community that the Compass, like many initiatives before it, would generate little more than just another policy paper, adding little to the EU's ability to provide for its own security.

## CONCLUSION

There has been an element of circularity to the EU's attempts to generate a CSDP over the past quarter century. Beginning with a recognition of its relative weakness as a military actor in a neighbourhood that is rife with conflict – from the Arctic to the Black Sea and from the Bosphorus to the Atlantic – the EU initially sought capacity and strength from within NATO (ESDI). It soon realised that this left it dependent on US understanding and goodwill at a time when the US was embarking on its 'unipolar moment'. In a bold leap forward, the EU then asserted its desire for 'autonomous action' (Saint-Malo), leading to the launch of CSDP and experimentation with overseas military missions. Before long, however, such operations became less and less ambitious as the limits of EU capacity revealed themselves. The EU then embarked on the process of strategic review leading to the 2016 Global Strategy document and the ambition of 'strategic autonomy'. This was accompanied by the new initiatives we examined in the previous section. At the same time, it reasserted the need to operate in ever closer coordination with NATO, an organization that was undergoing its own *aggiornamento* under the dual traumas of the rhetorical onslaught of Donald Trump and the humiliation of defeat in Afghanistan.

The US under President Joe Biden prioritizes its strategic competition with China and urges its allies in both Europe and Asia to engage actively with this process. At the same time, Washington, through its handling of both the Afghan withdrawal and the Australian submarine contract, has treated its allies with undisguised disregard. The EU is therefore faced with a recurring dilemma. It aspires to autonomy, but fears abandonment. There is a way out of

this dilemma. As the US engages more and more seriously in its trial of strength with China, it is going to need the support of its allies more crucially than either during the Cold War or during its unipolar moment. This is therefore a time to explore a new transatlantic bargain. It is equally in the interests of the EU and of the US for the former to be able to ensure the stabilization of its neighbourhood, both East and South with minimal inputs from the latter. The solution lies in a rebalancing of leadership and responsibility within NATO. This should involve a conscious, time-limited, US empowerment of European capacity with the result that, over the next two decades, Europeans can step up as Americans step down – or aside. In other words, strategic autonomy by and via NATO rather than outside or in competition with NATO. In other words, a consensual strategic merger of CSDP and NATO (Howorth 2021). Such a proposal should be fully integrated into the work of the Strategic Compass. That was, after all, the original purpose of the North Atlantic Treaty.

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## 29. Foreign policy

*Ulrich Krotz, Lucas Schramm and Katharina Wolf*

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EU foreign policy is a qualitatively new and evolving form of cooperation between states. It is not simply a framework of collective security, nor a conventional military alliance or trading bloc, nor a new type of a 21st-century European concert of nations (Krotz and Maher 2011).<sup>1</sup> The concept of ‘EU foreign policy’ covers fields as diverse as security, trade, environment and energy, where the degree of integration of member states and the policy tools at the disposal of EU institutions vary significantly (cf. Keukeleire and Delreux 2014).

The distinctiveness of EU foreign policy is the product of complex historical processes and diverse political priorities at different levels of government, notably national, European, and international. This diversity is reflected in the respective treaty provisions: While security and defence policy are subject to an intergovernmental logic highlighting member states’ determination to retain sovereignty and act autonomously, external trade contains many supranational elements and makes the EU emerge as a unified entity.

European integration in the domain of ‘foreign policy’ has progressed slowly and tenuously. Despite early efforts to find a common approach with the establishment of ‘European Political Cooperation’ in the 1970s, the EU’s role in this area was only strengthened through the Maastricht Treaty of 1993 and in particular the Lisbon Treaty of 2009.

There are multiple reasons for this slow progression. First, no *single* EU foreign policy exists, but rather various areas and issues that together constitute the foreign policy – or indeed, the foreign *policies* – of the EU. Second, member states have different views on where and how the EU should act in foreign relations spheres. As a result, they have equipped the EU institutional framework with a variety of competences and tools in the various areas of foreign policy.

And yet, with European integration steadily progressing in many ‘internal’ policy fields with an ‘external’ dimension (such as the domains of environmental and energy policy) and in view of an increasingly volatile international order, foreign policy has become more important. With Russia’s attack on Ukraine, and the return of war to Europe, EU foreign policy across its various fields has taken new dynamics and very major importance. Often, it now unfolds in the limelight of public attention and press coverage.

With its variety of different actors, areas and tools involved, EU foreign policy has triggered remarkable – and growing – scholarly interest and has stimulated many academic debates. Bringing to the fore the many faces of European integration, and often marking the possibilities as well as the limits of the integration process, EU foreign policy offers an excellent possibility for the development and testing of key theoretical approaches and analytical tools (for recent overviews, see Hill et al. 2017; Jorgensen et al. 2015).

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In this chapter, we stress the many facets of EU foreign policy. We first provide an overview of its main perspectives, debates, and dilemmas. Next, we sketch important historical moments in its development. We then discuss key contemporary challenges and problems. We finish by discussing possible avenues for EU foreign policy and summarizing the insights gained.

## EU FOREIGN POLICY DOMAINS AND THEORIES

A great diversity of policy fields features under the banner of EU foreign policy. Essentially, however, EU foreign policy comprises four main areas: (i) the Common Foreign and Security Policy (CFSP); (ii) the Common Security and Defence Policy (CSDP); (iii) EU external action including trade, enlargement, association and cooperation, as well as development and humanitarian aid; and (iv) the external dimension of EU internal policies such as energy, environment and climate, as well as the Area of Freedom, Security, and Justice (AFSJ) (cf. Keukeleire and Delreux 2014).

The EU has emerged as a leading actor on a few of these foreign policy matters at the global level. For instance, with the aim to foster peace and strengthen international security, the EU has become the world's biggest humanitarian aid and development donor. It has launched more than 30 civilian missions and military operations since its first deployment to the Former Yugoslav Republic of Macedonia in 2003. What is more, as the largest commercial bloc in the world, the EU has negotiated numerous trade agreements with third countries, which it also regards as vehicles to promote democracy, the rule of law, human rights, and basic freedoms. Finally, the EU has become an important global advocate on environmental issues such as biodiversity, pollution, ocean acidification, and global warming.

Corresponding to the large number and heterogeneity of policy areas, the degree of EU 'actorhood' or 'actorness' (Gstöhl and Schunz 2021) varies across domains. Accordingly, numerous scholars coming from different strands of thought, including most prominently International Relations and European integration theories, have sought to explain the differences in the processes of EU foreign policymaking.

Building on the standard distinction between intergovernmentalism and supranationalism, one can position these domains along a spectrum of different competences and decision-making procedures. These alternative patterns of policymaking shape the outcomes of EU foreign policy. On one end of the spectrum is the simple coordination of policy among national governments, where member states are the key drivers behind EU foreign policy. The intergovernmentalist school of thought, represented by realist and liberal scholars, typically emphasizes the role played by member states in EU policymaking, seeing their sensitivities and preferences as determining EU foreign policy.

This is particularly the case in the spheres of security and defence. Historically, member states in these areas have transferred little authority, competences, and resources to the supranational level. After the Second World War and during the Cold War, the EU's predecessor organizations had conducted foreign policy either at the level of the member states or under the North Atlantic Treaty Organization (NATO) and closely tied to the 'American imperium' (Katzenstein 2005; Krotz et al. 2020). Following the same intergovernmental logic, member states have always been reluctant to agree to, or even to clearly define, specific EU competences in the spheres of security and defence.

Consequently, the European Council and the Council of the EU (notably the Foreign Affairs Council) remain the most important actors; decisions are made, by and large, unanimously. As a result, a unitary EU foreign policy is only possible if there is consensus among the member states. In fact, finding a common stance on contentious matters of security and defence has often proved cumbersome for the EU. For instance, disagreement among member states impeded collective action in the 2011 Libya crisis, during the 2013 civil war in Syria, and during the 2015 migration crisis. Instead, member states pursued their own foreign policies in line with their national preferences. More recently, EU member states disagreed but eventually reached consensus over a ban on the import of Russian oil as part of the EU's series of sanctions in response to Russia's military aggression against Ukraine.

Why is it so difficult for deeply integrated member states to build consensus on security-related matters? Some scholars would argue that these differences arise from contrasting 'cultures of national security' (Katzenstein 1996). Consider the divergent priorities of countries like 'pacifist' and 'reluctant' Germany (more so before Russia's invasion in Ukraine, to be sure), 'neutral' Austria and Sweden (with the former showing no strong desire to enter the Atlantic alliance, and the latter now keen to join NATO in light of Russia's war in Ukraine as soon as procedures allow), and 'interventionist' France and the United Kingdom (UK) (before Brexit). However, despite these differences, and in light of pressing global challenges, member states have more recently seen incentives to pool resources and delegate capacities also in the politically sensitive foreign policy fields. For instance, in response to a more unstable international environment and propelled by the many setbacks and uncertainties in EU-US relations during the four years of the Trump Administration, member states since 2016 have started new efforts to deepen defence cooperation. This happened via the launch of several EU defence initiatives such as the Coordinated Annual Review on Defence (CARD), the Permanent Structured Cooperation (PESCO), and the European Defence Fund (EDF).

An alternative paradigm is, therefore, supranationalism. While security and defence remain an area in which national interests play a predominant role, other areas of EU foreign policymaking adhere more closely to the 'Community method', with active involvement by the European Commission, the Council of the EU, the European Parliament, and the Court of Justice of the EU. Institutionalist and constructivist scholars typically highlight how Brussels-based institutions, their past decisions, and their socializing effects can influence policymaking largely independently from member states and their preferences. This is notably the case in areas of 'exclusive competences' where the EU can negotiate and adopt binding legislative acts. In this respect, institutionalist scholars often stress the common trade policy as an illustrative example (da Conceição-Heldt and Meunier 2015). Thus, even though a mandate from the Council is needed, the European Commission is solely responsible for negotiating trade agreements with third countries, some of which only require ratification by the European Parliament.

Why did member states delegate such a key foreign policy competence to the EU? Institutionalist scholars point out that the emergence of the EU as an international foreign policy actor was largely an unintended consequence of its increasingly important role as a trade power. In this respect, scholars highlight that the EU's expanding role in foreign policymaking enables it to act on issues on which some or even most member states did not previously have a formal position (Keukeleire and Delreux 2014: 325). This argument could also be used by neofunctionalists, who hold that functional spill-overs in some areas of inte-

gration were driving integration processes in other areas as well, highlighting the important entrepreneurial role of already established EU institutions and procedures.

We have contrasted two paradigms in EU foreign policymaking: intergovernmentalism and supranationalism. The actual picture is, however, more complex than this. Located between strict policy coordination and the Community method stand ‘shared competences’ in a number of EU internal policies with external implications, such as environmental policy. Here, member states can act alone only to the extent that the EU has not exercised its competence. In other policy areas, such as development cooperation and humanitarian aid, EU action does not prevent member states from implementing national policies as well.

Even in areas of shared or exclusive EU competences, where supranational actors enjoy a formal freedom of action, the Union relies on the support and consent of the vast majority of member states, if not all of them. We see an example of the increased political sensitivity of EU trade relations in the lengthy and difficult ratification of a trade agreement with Canada (CETA), not least due to the opposition of a Belgian regional parliament, and the open resistance against a trade agreement (TTIP) with the United States (US) in the constituencies of several member states, ultimately leading to its failure (Crespy and Rone 2022).

Similarly, the EU will only be able to credibly follow up on its ambitions of global leadership in environmental matters, notably in the fight against climate change, to the extent that member states back the necessary policies ‘at home’ (Delbeke and Vis 2015). The EU’s ‘Green Deal’, which foresees massive cuts in greenhouse gas emissions and investments in renewable energies to achieve European climate neutrality by 2050, therefore has closely linked internal and external dimensions.

In sum, the differences in competences and the multiplicity of actors involved make EU foreign policy a very heterogeneous field and lead to the ‘structural complexity’ diagnosed in the EU foreign policy apparatus (Krotz 2009). In recent years, internal challenges such as disagreement over the allocation of competences between national and EU levels of government, as well as external events like shifts in the global political order, have again accelerated discussions about reforms of EU foreign policy. We will return to this topic further below.

## HISTORICAL BACKGROUND AND EVOLUTION

European integration started with an ambitious project. Mainly due to the success of the European Coal and Steel Community and, in particular, the European Economic Community, the fate of the European Defence Community (EDC) – the third proposed Community of the 1950s – tends to be forgotten or neglected in European integration scholarship. In 1952, following a proposal by the French government and with strong support from the US, six Western European countries signed the EDC Treaty establishing a European Army with supranational command structures and an external outlook to defend European territory in the emerging Cold War. The main motivation for France, the US, and the other participating or closely involved countries was to embed (West) Germany within supranational European structures. EU foreign policy, in its early stages, was thus mainly the result of the national foreign policy of France and the US (Dinan 2014, pp. 53–87).

However, reluctant to give up its national army, the French national assembly refused to ratify the treaty, and the EDC never entered into force. Instead, it was given up in favour of the Western European Union. Ever since then, European defence – and to a significant extent EU

foreign policy more broadly – was subject to the security umbrella provided by NATO under the leadership of the US. This stood in stark contrast to economic and trade-related affairs, both in legal and in substantive terms. As a customs union with common external tariffs for its member states, the EEC early on had competences in external trade policy and for the conclusion of association agreements with third states (Coppolaro 2020).

It was only in the 1970s that European foreign policy gained new momentum. Within the framework of the European Political Cooperation (EPC), established in 1970, the foreign affairs ministers of the member states discussed and coordinated European foreign policy (Allen et al. 1982). As a strictly intergovernmental forum, the EPC sought to create consensus among governments. Clearly, the final say in matters of ‘high politics’ (Hoffmann 1966) was left to the member states. Nevertheless, starting with a loose institutionalization and few financial and administrative resources, meetings within EPC became more frequent, and information sharing was enhanced.

EU foreign policy again picked up speed and gained further substance after the end of the Cold War, not least in the wake of the Yugoslav wars, EU-Eastern enlargement, and a resurgent Russia. Lacking or insufficient European diplomatic and military means could not prevent violence in the Balkans and the former Yugoslavia from erupting in the wake of bloody civil wars. As a consequence of this disaster, the Europeans laid the groundwork for civilian and military crisis operations in the framing of the European Security and Defence Policy (ESDP).

New legal bases in the Maastricht Treaty of 1993, the Amsterdam Treaty of 1999, and particularly in the Lisbon Treaty of 2009 strengthened the EU’s role in foreign policy and made it an essential part of the evolving 21st-century international order (Piris 2010). These treaty provisions both consolidated and formalized the sometimes informal practices resulting from the previous decades, and they determined new EU competences and room for action in the various areas of EU foreign policy. While one of the major innovations of the Maastricht Treaty was the establishment of the Common Foreign and Security Policy (CFSP), the Amsterdam Treaty led to the creation of the post of a Secretary General/High Representative of the CFSP.

The Lisbon Treaty, finally, formally abolished the distinction between, on the one hand, CFSP and CSDP and, on the other hand, the EU’s external action and external dimension of its internal policies; in practice, however, these former ‘pillars’ still differ greatly in terms of competences and policymaking methods. Further innovations of the Lisbon Treaty concern the creation of a High Representative of the Union for Foreign Affairs and Security/Vice-President of the European Commission (HR/VP), combining the former positions of the High Representative of the CFSP and the Commissioner for External Relations, and the creation of the European External Action Service (EEAS). The EEAS, the EU’s emerging diplomatic corps, notably consists of the approximately 140 Delegations that represent the EU worldwide.

## CONTEMPORARY CHALLENGES

The 21st century, and in particular the last decade, have brought a range of challenges and crises for EU foreign policy. Some of these challenges are directly linked to the integration process itself, while others are not. The most important *internal* challenge certainly has been the withdrawal of the UK from the EU. Not only has Brexit put an abrupt end to a process of

integration that was once regarded as unidirectional, leading to ever deeper integration and a rising number of member states, but also, the EU notably has lost one of its predominant member states in military and diplomatic affairs and, besides France, the only member state with a global security outlook, nuclear weapons, and a permanent seat in the United Nations Security Council. The EU must overcome the British retreat, and it may also need to adjust its foreign policy in light of Brexit.

Furthermore, the EU faces several *external* challenges. First, the EU's relations with Russia have been under strain for most of the last decade due to disputes over Russia's interference in countries of the former Soviet sphere, Russian disinformation campaigns, and malicious cyber activities against the EU. Yet, Russia's military aggression against Ukraine in February 2022 led EU-Russia relations to plummet to a new low. In the face of the Russian invasion, the EU has demonstrated unity and imposed an unprecedented package of sanctions against Russia. The restrictive measures adopted by the EU include an exclusion of Russian banks from the SWIFT system, a ban on the import of coal and oil from Russia, and the closure of the EU airspace for Russian airlines. At the same time, Russia's military aggression against Ukraine also drove European states to become more serious and ambitious about security and defence policy as the Versailles Declaration (European Council 2022) and the Strategic Compass (EEAS 2022) illustrate. However, with EU member states increasingly feeling the negative implications of the restrictive measures, most notably in the form of rising energy prices, this unity may become more difficult to maintain, as the lengthy discussions and disagreements about a (full) oil and gas embargo against Russia have already shown.

Other external challenges notably include a loss of EU influence – in demographic and economic terms – in relation to other global players, particularly China. Despite the EU's lasting economic weight in the global markets, Chinese economic power has increased considerably over the last decade and it now outperforms that of EU member states. Moreover, the Chinese government conducts an aggressive foreign and trade policy, seeking to acquire European companies and investing in key European industry branches, such as ports in Greece and road and digital infrastructures in Eastern Europe, while simultaneously shielding its own companies from European investments. Consequently, and despite signing an investment agreement in late 2020, the EU has described China as a 'systemic rival promoting alternative models of governance' (European Commission 2019). However, due to the massive investments coming to Europe and the large exports to the Chinese markets, the EU and its member states at times struggle to find common positions vis-à-vis China.

In addition, the EU has complex and unstable ties with some of its neighbours, particularly with Turkey and the Western Balkans. Even though it officially remains a candidate for membership, Turkey in recent years has been regressing with regard to the implementation of EU norms and principles such as human rights and the rule of law. These developments and the Turkish naval activities in the Eastern Mediterranean have spurred tensions between the two strategic partners. Yet, the EU remains dependent on Turkey and its 2016 'migration deal' to manage refugee movements originating from multiple conflicts in the destabilized Middle East. Finally, the EU faces challenging and uncertain enlargement processes in the Balkans. Negotiations with Albania, Montenegro, and North Macedonia are well advanced. However, member states disagree about the scope and timing, as well as the general desirability of further enlargement rounds.

Overall, disagreements persist regarding the allocation of competences between national and EU levels of government and the decision-making rules that should apply. At the heart of

this debate continues to be a trade-off between the EU's capacity to act fast and consistently, on the one hand, and the sovereignty of member states to pursue their own foreign policy agendas, on the other. Despite prominent setbacks in trade relations such as the delayed CETA or the dismissed TTIP, as well as the different agendas of member states, the EU's external action has expanded considerably in the last decades.

However, particularly in CFSP and CSDP – the fields of traditional 'high politics' – the EU has not developed a unitary foreign policy. For example, when conflict broke out in Mali in 2012, France, following a call for assistance by the Malian government, deployed a military operation to stop Islamist insurgents from taking control over the country. Other EU governments were hesitant to use military force but later agreed to launch an EU training mission (EUTM Mali) and a capacity-building mission (EUCAP Sahel Mali) to support the Malian armed forces and stabilize the country. With the security situation worsening again, the future of European and individual member states' training and military missions in Mali is very uncertain.

## MOVING AHEAD INTO THE 21ST CENTURY

EU policymakers regularly advocate to streamline foreign policy matters. Scholars, too, have called for a better coordination of EU foreign policy and an increase in its efficiency and transparency. Reform proposals concern both decision-making procedures and the administrative bodies involved. In this section, we refer to some of the most important actors and bodies, and we assess some recent innovations and concepts in EU foreign policy.

One important innovation in the sphere of EU foreign policy, introduced by the Treaty of Amsterdam (1999), has been the HR/VP. Its aim was to do greater justice to the weight the Union was devoting to foreign policy and to increase its visibility on the international stage. The planned European Constitutional Treaty, signed in 2004, even sought to introduce a 'Union Minister for Foreign Affairs', further increasing the EU's presence in international affairs and bringing it closer to a state-like polity. Despite the Constitution's failure, the ensuing Lisbon Treaty of 2009 *de facto* created such a position in the form of the HR/VP, merging the head of the CFSP with that of the European Commissioner for External Relations. It provided the new incumbent with a larger budget, more staff, and a coherent EU diplomatic corps. Member states thus stressed their basic willingness to give the EU a single voice in foreign policy.

However, the role of the HR/VP and its competences *vis-à-vis* other EU actors remains underspecified. For instance, the HR/VP regularly competes with the Presidents of the European Council and of the Commission for influence and visibility, as recently happened with regard to the conflicts in the Middle East, EU-US relations, and EU-Russia controversies. In some instances of foreign engagement, member states themselves continue to play the pivotal role. This was the case, for instance, during the 2014/15 crisis in Eastern Ukraine when France and Germany led negotiations toward a ceasefire agreement between Ukraine and Russia in the absence of formal involvement by the EU (Krotz and Maher 2016).

At other moments, the HR/VP has taken a more influential role in EU foreign policy. Its first incumbent, Javier Solana – a former Spanish foreign affairs minister and secretary general of NATO – gave much substance to the new position. Among other things, Solana in December 2003 released the European Security Strategy (Council of the EU 2003), setting out the EU's main foreign policy priorities and identifying the main threats to its security. In a similar vein,

Federica Mogherini, who served as HR/VP between 2014 and 2019, played a key role in the negotiations over the Iran nuclear deal and prepared the EU Global Strategy endowing the EU with an updated set of principles for its foreign and security activities.

The cases of Solana and Mogherini illustrate that the political weight, visibility, and potential influence that the EU's foreign affairs representative can exercise depends as much on the assigned legal competences as on member states' willingness to grant him or her sufficient room for action. The legal competences and, probably more importantly, the divergent interpretations of the HR/VP's role are apparent and may determine EU foreign policy reform discussions in the foreseeable future.

Similar ambiguities with regard to its role and responsibilities at times hamper the work of the EEAS. One possible solution to overcome this logic of competition over competences between member states and the EEAS could be to re-define the tasks of the EEAS in terms of an 'EU added value', putting a stronger focus on those activities that can be better achieved through joint EU action rather than by member states acting alone. The recent COVID-19 pandemic provides a few illustrative examples. For instance, the EU's institutions fulfil key roles in times of crisis when fast and coordinated action is needed. This became apparent when, at the beginning of the pandemic in spring 2020, the EEAS organized comprehensive repatriation flights for EU citizens from third countries via the EU Civil Protection Mechanism. Another example is the common EU approach to the procurement and distribution of Covid-19 vaccines which, after a difficult start, delivered vaccines to EU citizens in record time.

One important innovation in recent years in the sphere of EU foreign policy, and the CSDP in particular, has been the Permanent Structured Cooperation (PESCO). PESCO was first initiated in December 2017 and has raised cooperation on defence among the 25 participating EU member states to a new level. Building on respective provisions introduced by the Lisbon Treaty (Article 42.6, 46 and Protocol 10 in the Treaty on European Union), PESCO provides for a framework and process to foster and deepen defence cooperation among willing member states. PESCO member states have subscribed to 20 more binding commitments to plan, develop, invest in, and operate defence capabilities together, within the common EU framework, to arrive at a coherent full-spectrum force package and increase the effectiveness of defence spending. PESCO's approach to deeper cooperation, which requires member states to fulfil the 20 commitments while choosing the capability projects that they would like to take part in, provides a novel framework to drive integration forward while retaining decision-making power in the hands of member states. A similar approach to enhanced cooperation could potentially be applied to other areas of EU foreign policy and help in customizing cooperation to meet the priorities of individual member states where the preservation of national sovereignty remains a key concern.

Finally, a topic of ongoing discussions in EU policy fora is the EU's 'strategic sovereignty' (European Commission 2021). The COVID-19 pandemic revealed the EU's overreliance on external actors, particularly with regard to the production and supply of pharmaceuticals, medical equipment, raw materials, and a number of manufacturing products. This only fuelled longstanding debates on Europe's dependence on other regions. At the same time, it raises the question of how the EU should position itself in a world in which shifting global power centres have challenged some of its key norms and principles, such as multilateralism and a rules-based international system (Kissack 2010). As early as his Sorbonne speech in 2017, French President Emmanuel Macron advocated a sovereign Europe that was more powerful and less reliant on external actors – such as the US in terms of security and defence and China

for economic primary products. To reach this objective, Macron called on the EU to reinforce its ‘strategic sovereignty’ (Elysée 2017).

Similarly, the French and German governments stressed the importance of a sovereign Europe in the health sector when they proposed, in May 2020, an EU recovery fund to jointly tackle the pandemic’s economic consequences (The Federal Government 2020). One of the key challenges for European policymakers in the coming years will be to decrease Europe’s dependency and strengthen its autonomy and resilience in critical policy areas, while maintaining its leading role as an international player that promotes fair cooperation and forges strategic partnerships (Tocci 2020). In the face of a more volatile international environment, rising geopolitical competition, and challenges to the rules-based global system, this compromise between strategic sovereignty and openness to the world will be critical.

## CONCLUSION

In sum, what started in the 1970s as a loose forum for foreign political coordination among member-state governments has been strengthened considerably. Since then, the EU has developed into an influential foreign policy actor on the international stage. Its economic power and great influence in international trade-related issues are most notable in this regard.

However, the EU’s decision-making capacity continues to vary across the different domains of foreign policy. For instance, controversies persist in matters involving security and defence. At the same time, recent debates on the EU’s strategic sovereignty – including in military affairs – indicate that there is further room for the EU to streamline its activities in foreign policy.

Ultimately, to successfully master the major contemporary challenges the Union is facing, notably Russia’s war in Ukraine along with climate change and its relations with China, EU member states will need to act jointly. In response to and shaped by these various challenges, the EU, as much out of necessity as out of choice, will continue to evolve as a foreign policy actor for the foreseeable future.

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