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The EU Political System After the 2019 European Elections

Edited by
Olivier Costa · Steven Van Hecke

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PREFACE

This edited volume is the result of a collaboration between the Department of European political and governance studies of the College of Europe and KU Leuven, specifically political scientists affiliated to LINES (Leuven International and European Studies) and the KU Leuven Public Governance Institute. It benefited from the financial support of the College of Europe.

This book features the work of 34 of the best specialists from two leading academic institutes in EU affairs.

The first versions of these chapters were presented and discussed by the authors—who have acted as peers—during an online workshop in January 2020. Subsequent versions of the chapters were reviewed by the editors.

As editors, we would like to thank our colleagues for their contribution to this edited volume and their collaboration during the review and editing process.

A special word of thanks goes to Fredrik Mesdag for his assistance in all the stages of this publication. Thanks also to Katya Long for helping with the editing process as well as to Toine Paulissen for his helping hand when the manuscript was almost but not yet ready.

We wish to thank Palgrave for their trust and patience and especially Ambra Finotello and Shreenidhi Natarajan for helping us finally turn this project into a book.

We do hope all these efforts will be appreciated by our readers and rewarded by a large reading audience.

Paris, France
Leuven, Belgium

Olivier Costa
Steven Van Hecke

CONTENTS

1	Introduction—Assessing the EU’s Double Challenge	1
	Olivier Costa and Steven Van Hecke	
Part I Politics		
2	EU Citizen Participation ‘in the Union’s Democratic Life’: A Policy and Legal Analysis	23
	Alberto Alemanno	
3	Higher Turnout at the Expense of Representativeness? The 2019 European Elections Against the Backdrop of a Socio-Economically Biased Voter Turnout	45
	Michael Kaeding and Stefan Haußner	
4	Unpacking Legislative Turnover in the 2019 European Parliament Elections	63
	Isabelle De Coninck	
5	The Life and Death of the <i>Spitzenkandidaten</i> : What Role is Left for European Political Parties?	83
	Steven Van Hecke, Wouter Wolfs, and Toine Paulissen	
6	The Political Regime of the EU Through the Prism of the Confirmation of the von der Leyen Commission by the European Parliament	101
	Olivier Costa	

- 7 **Dealing with Fragmentation: The New Political Equilibrium and Coalition Dynamics in the European Parliament During the 9th Legislature** 121
Nathalie Brack, Olivier Costa, and Awenig Marié

Part II Institutions

- 8 **‘They Are No Different, They Are Much the Same...?’ Post-2019 Inter-Institutional Dynamics in the European Union** 151
Martin Westlake
- 9 **The von der Leyen Commission: An Early Assessment** 169
Hussein Kassim
- 10 **A “Geopolitical Commission”: Reaching a Point of Inflexion?** 195
Dimitri Lorenzani and Manuel Szapiro
- 11 **Balancing the Unbalanced? An Ongoing Rivalry Between European Parliament and European Council** 215
Andrea Sabatini and Wolfgang Wessels
- 12 **The European Parliament’s Practice in Scrutinizing the Commission’s Delegated Acts Before and After the 2019 EP Elections** 239
Sabina Lange and Michael Kaeding
- 13 **The Empowerment of the General Secretariat of the Council: A Growing Challenge for Rotating Presidencies?** 261
Oriane Gilloz
- 14 **The European Parliament Under COVID-19: Institutional Adaptation in Times of Pandemics** 285
Ariadna Ripoll Servent and Alfredo De Feo

Part III Policies

- 15 **Fighting Fires from Crisis to Crisis: The Evolution of Central Banking in Europe** 309
Michele Chang, Gabriel Glöckler, and Laura Pierret

16	The EU Budget and Recovery Plan: A Chance for EU Ambition?	335
	Anne Vitrey and Frederik Mesdag	
17	Riding the Green Wave? Green Electoral Success and the European Green Deal	361
	Katja Biedenkopf, Ellen Vanderschueren, and Franziska Petri	
18	How Covid-19 Hit Brussels and Beyond: The EU's Crisis Management Tested by a Pandemic	381
	Steven Van Hecke, Toine Paulissen, and Britt Vande Walle	
19	The Evolution of Enhanced Cooperation in the EU: From EnCo to PeSCo (2009–2019)	401
	Antonio Missiroli and Luigi Lonardo	
20	The End of Enlargement? The EU's Struggle with the Western Balkans and Eastern Partnership Countries	433
	Teona Lavrelashvili and Steven Van Hecke	
21	From the Gulf of Aden to the Mediterranean Sea: The Institutionalisation of EU-NATO Maritime Relations	455
	Lorenzo Giuglietti	
22	The EU's Embrace of Geopolitics: Insights from the EU-China Relationship	479
	Steven Langendonk and Edith Drieskens	
Part IV Conclusion		
23	Conclusion: The European Union Between Resistance, Resilience, and Reinvention	503
	Olivier Costa	
	Index	517

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LIST OF FIGURES

Chapter 2

Fig. 1	The right to petition before the European Parliament 1958–2020	31
Fig. 2	Number of complaints lodged before the European Ombudsman 2015–2019	31
Fig. 3	Requests for access to documents 2015–2019	32

Chapter 3

Fig. 1	Voter turnout in European elections 2019 across Member States (<i>Source</i> Haußner and Kaeding [2020a, p. 329])	47
Fig. 2	2019 European election voter turnout in comparison to 2014 (<i>Source</i> Haußner and Kaeding [2020b, p. 330])	48
Fig. 3	Matching employment status with voter turnout in the 2019 European elections across Europe (<i>Source</i> own compilation)	54
Fig. 4	Scatterplots of unemployment and voter turnout across European capital cities and election-type (<i>Source</i> Haußner & Kaeding, 2020a)	55
Fig. 5	Scatterplots of unemployment and turnout across six German cities and election-type (<i>Source</i> Haußner and Kaeding [2020b, p. 334])	57

Chapter 4

Fig. 1	Legislative turnover in the EP since 1984 (<i>Source</i> European Parliament)	66
Fig. 2	Legislative turnover from a newcomers' perspective: inter- and intra-party turnover (<i>Source</i> own calculations)	73
Fig. 3	Unpacking legislative turnover: non-candidacy and defeat (2009, 2014, 2019) (<i>Note</i> These graphs illustrate the fate of the outgoing MEPs that had served a full legislature to replicate the results found by Sigalas and Tiemann [2012]. <i>Source</i> 2009: Sigalas and Tiemann [2012], 2014 and 2019: own calculations)	75
Fig. 4	Elite recirculation, candidacy, and re-election rates across the Union (2019) (<i>Source</i> own calculation based on outgoing incumbents, 2019 ballot lists, and election results)	76
Fig. 5	Voter choices and relegation drive electoral defeat of relisted incumbents (<i>Source</i> own calculations—Inner circle 'party size' relegation benchmark at seats won in 2014 [based on election results collected from the European Parliament website]; outer circle 'seat projection' relegation benchmark based on polling results 2019 elections [based on PollWatch forecast data])	78

Chapter 7

Fig. 1	Share of seats held by the EPP/S&D groups from 1999 to today	124
Fig. 2	Share of seats held by all political families in the EP from 1999 to today	124
Fig. 3	The evolution of the effective number of political families in the EP from 1999 to today	126
Fig. 4	The evolution of the EPP-S&D Rice index from 2004 to today	131
Fig. 5	The evolution of the EPP-S&D Rice index from 2004 to today, by type of procedure and type of vote	132
Fig. 6	The evolution of the winning rates of the Liberals (ALDE and Renew) and the Greens-EFA groups from 2004 to today, by type of procedure and type of vote	136
Fig. 7	The evolution of the frequency of the different vote options for the Liberals (ALDE and Renew) and the Greens-EFA groups from 2004 to today	138

Fig. 8	The evolution of the winning rate of the ECR group from 2009 to today, by type of procedure and type of vote	140
Fig. 9	The winning rate of the ENF group (8th term) and the ID group (9th term), by type of procedure and type of vote	142
Fig. 10	The frequency of votes where the ENF group (8th term) and the ID group (9th term) were influential, by type of procedure and type of vote	143

Chapter 9

Fig. 1	College structures after presidentialisation: the Barroso, Juncker and von der Leyen Commissions	178
--------	--	-----

Chapter 14

Fig. 1	Overview of debates and votes March II—October II 2020 part-sessions (<i>Source</i> European Parliament [2020b])	291
--------	---	-----

Chapter 15

Fig. 1	Euro area annual growth rates and inflation rates 2008–2019	310
Fig. 2	2008–2019 end-of-year main refinancing rate	311
Fig. 3	Annual growth rates 2015–2019	328
Fig. 4	Annual inflation rate 2015–2019	328

Chapter 16

Graph 1	Proposal for the 2021–2027 MFF compared with the 2014–2020 MFF (commitments, 2018 prices, including the EDF) (<i>Source</i> EPRS, PE 625.148, July 2018)	340
Graph 2	2021–2027 MFF Commission proposal—Repartition by heading (<i>Source</i> EPRS, PE 625.148, July 2018)	341
Graph 3	Reinforcement of Rome/Bratislava priorities (<i>Source</i> European Commission)	342
Graph 4	Coronavirus crisis: EU economic response (<i>Source</i> European Commission)	344
Graph 5	Budget for recovery and resilience (<i>Source</i> European Commission)	346

Chapter 17

- Fig. 1 Green Electoral Results, 1989–2019. Authors’ own
 visualization based on data from the European Parliament
 (2019) 365
- Fig. 2 Eurobarometer data on the question: What do you
 think are the two most important issues facing your
 country (2005–2009)/the EU (2010–2020)? (*Source*
 Eurobarometer [2005–2020]. Retrieved on 30 July, 2021
 from <https://europa.eu/eurobarometer/surveys>) 367

LIST OF TABLES

Chapter 3

Table 1	Descriptive statistics of selected EU-capitals	52
Table 2	Linear regression model to compare social inequality between elections	56

Chapter 7

Table 1	Result of the regression models predicting the EPP/S&D Rice index	133
Table 2	Average majority size by type of procedure and type of vote	135
Table 3	Summary of the different possible vote outcomes for a political group	137

Chapter 8

Table 1	Number and share of S&D and EPP MEPs between 1979 and 2019	161
Table 2	Number of votes by political group 2019	162
Table 3	Overall voting figures in the European parliament on a sample series of ‘important’ resolutions	166
Table 4	Votes by political group in the EP post Brexit	167

Chapter 9

Table 1	Delivery of the von der Leyen Commission's six priorities: state of play at 31 June 2021	187
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Chapter 12

Table 1	Number of concluded legislative files including provisions for DA (2009–2020)	249
Table 2	DAs submitted to the Parliament and the Council (2009–2020)	249
Table 3	Number of (un-)successful vetoes over DAs by the EP (2009–December 2020)	250
Table 4	Committee-level votes rejecting the objection and withdrawn resolutions (December 2020)	251

Chapter 14

Table 1	Remote work in the EP (March–November 2020)	290
---------	---	-----

Chapter 16

Table 1	EUR 15 billion of top-ups for flagship programmes and areas	353
---------	--	-----

Chapter 20

Table 1	EU Enlargement (1952–2020)	434
Table 2	Overview of the integration milestones of WB countries to the EU (2014–2020)	437
Table 3	Overview of the integration milestones of EaP countries to the EU (2014–2020)	441



Introduction—Assessing the EU’s Double Challenge

Olivier Costa and Steven Van Hecke

*Les hommes n’acceptent le changement que dans la nécessité
et ils ne voient la nécessité que dans la crise.*

Jean Monnet, *Mémoires*, p. 129

The European Union (EU) has suffered from constant crises for the past 20 years. Recently is no exception, on the contrary. After the 2019 sequence—elections, the appointment of new leaders, and approval of

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an ambitious programme for 2019–2024 and even beyond—the EU seemed back on track. Moreover, the European Commission was seeking to restore the EU’s position as a geopolitical player. However, this goal immediately ran into trouble in 2020–2021 with the outbreak of the Covid-19 pandemic. This proved to be a serious stress test for the Commission’s ambitions for the EU—especially the so-called twin (green and digital) transitions—as well as for the politics, institutions, and policies of the Union overall.

1 EUROPE WENT TO THE POLLS

It all started with no great surprises. The outcome of the 2019 European Parliament (EP) elections were less spectacular than had been foreseen by some commentators: the nationalist tsunami did not happen; the two main political groups lost seats, but still play a central role in the EP; the promoters of the *Spitzenkandidaten* procedure were unable to impose it as they had done in 2014. However, for the first time since 1979, there was a major increase in voter turnout—which grew from 42.6% in 2014 to 51% in 2019. The Eurosceptic parties did well, but their results were mixed, depending on the member states, and the right-wing populist parties were unable to create a single parliamentary group, as some had intended. There has also been a strong and unforeseen increase in the vote for the Greens in several countries as well as at the EU level. But the main change brought about by the 2019 elections regards the overall political equilibrium in the EP and, as a consequence, at the inter-institutional level: the Socialists (PES) and Christian Democrats (EPP), who enjoyed a solid majority in the EP since 1952, have lost it. For the first time, they are mathematically constrained to cooperate with other groups in order to pass a text. They have always tried to find overlapping majorities, and have thus negotiated with other groups, even building a formal coalition with the Liberals (ALDE) which lasted from July 2014 to January 2017. But today, doing so is their only choice. The Socialists and the Christian Democrats have reactivated their cooperation with the Liberals, however, its nature and degree of stability are not yet entirely clear. The question remains open of whether this weakened the position of the European Parliament vis-à-vis the European Commission, the Council, and the European Council.

Since Europe went to the polls in 2019, various aspects of those elections have been discussed by academics (see, for instance, Keading et al., 2020). First of all, the results were thoroughly examined, often from a comparative perspective. In other words: is there more continuity or more change in the new Parliament? Brack (2020, p. 6), for instance, concludes, after analysing their electoral success, that “the influence of Eurosceptics is likely to remain limited”. From a broader perspective, “the 2019 elections still possessed many characteristics of second-order elections, but with signs of emerging first-orderness”, according to Wilhelm et al. (2020, p. 239). Furthermore, these authors were right to predict that “the 2019 EP elections have produced a Parliament that, in spite of increased fragmentation, is likely to decide matters in a broadly centrist pro-integrationist direction” (Ibid, p. 240), although obviously the Covid-19 crisis could not be foreseen. Indeed, as “in the absence of a major new crisis (or crises) before the 2024 EP elections, a further incremental evolution—rather than a revolution—of EU politics is most likely” (Ibid, p. 240), the question of continuity or change after the 2019 EP elections remains unanswered. The issue of EU leadership was very high on the agenda after the results of the 2019 elections became clear, but no one could predict how pervasive and challenging the pandemic would become. However, it did not change everything. Europe’s place in the world, the fight against climate change, and the governance of the EU’s economy –the three major issues the new EU leadership needed to deal with according to Demertzis et al. (2019)—have all been affected by Covid-19 but have certainly not lost much of their relevance. Quite the contrary in fact, as the crisis made post-election challenges even more acute.

2 THE COVID-19 PANDEMIC

Only a couple of weeks after the newly elected Parliament voted in favour of the European Commission which was finally able to begin its mandate on 1 December 2019, the Covid-19 crisis started to overshadow and dominate the EU’s new legislative term. In early 2020, the pandemic broke out and severely hit several EU member states, particularly Italy and Spain. Health is not strictly speaking an EU policy area, except for some

coordination between member states. Despite the fact that crisis management has been part of the DNA of European integration, the European Commission is not competent to play a leading role during a pandemic. At the same time, when a sudden crisis occurs, the EU is nonetheless held accountable with the national media and public opinion asking: “where is Europe?”. In other words, the EU, and particularly the Commission, was trapped between low leverage and high expectations. It was forced into a defensive position as “coronationalism”, rather than European interaction and coordination was, for the time being, characteristic of the EU’s management of the Covid-19 crisis.

What has academic scholarship learnt so far about the EU’s management of the Covid-19 pandemic? It is different from previous crises as the EU has learnt from its recent past by showing an “adaptability to crisis” in “this permanent state of emergency” (Wolff & Ladi, 2020). In the area of health, however, a lot can still be improved. According to Forman and Mossialos (2021, p. 10), “the EU must learn from these experiences and take an increasingly central role in efforts to deal with cross-border threats to health”. The authors are also convinced that the Covid-19 crisis “demonstrated the importance of European strategy, coordination and solidarity in cross-border emergency responses” (Ibid, p. 10) According to Schmidt (2020), “incremental or even paradigmatic changes are occurring, most in the direction of deeper integration, with a reasonable amount of differentiation as well”. She concludes her analysis of institutional change and the governance of the pandemic: “Importantly, however, no definitive answers are forthcoming, because the Covid-19 crisis is continuing, and EU actors—intergovernmental, supranational, and parliamentary—are all working on ways to develop greater EU capacity even as national actors are seeking to improve their national capabilities in tandem with the EU”. Indeed, various policy domains must be considered as well as the different EU institutions and their decision-making. After all, Covid-19 was also a stress test for inter-institutional relations and the EU’s leadership capacities. Moreover, the leadership question also had an external dimension from the outset (Emiliani, 2020): what geopolitical role was the EU willing and able to play in this pandemic?

3 WHITHER EUROPEAN LEADERSHIP?

As the pandemic became a major economic and social crisis, the question of leadership was answered when the European Commission and the European Council stepped in. The first tried to protect its own successes, like keeping the borders open in the Schengen area and allowing the free flow of goods, especially medical equipment, within the Single Market. The Commission took a number of unprecedented initiatives to reallocate funding and ease market and budget rules while maintaining its ambitions with regard to climate change. The Green Deal was launched to make Europe the first continent to become climate neutral by 2050. Things only started to change after the Euro group agreed on 9 April 2020 to create so-called safety nets for countries, businesses, and employers for a total amount of €540bn. Despite severe tensions between member states, especially Italy (representing the South) and the Netherlands (representing the North), the EU showed its ability to make decisions. In the European Council they eventually were able to compromise on the Commission’s proposal of a Multiannual Financial Framework (MFF), the long-term EU budget for 2021–2027, along with its recovery plan, called “Next Generation EU”, worth €750bn. In November 2020, a final deal about the EU’s long-term budget and policy priorities was agreed upon between the European Parliament and the Council. Although the second wave of Covid-19 put the EU under severe pressure once again, it seemed at least that some lessons had been learnt. In early 2021, however, the EU and especially the European Commission were once more heavily criticized over the way in which the common vaccination strategy unfolded. Later on, during the third and the fourth waves, critics were less focused on the EU as its ambitious stimulus package aiming to restore resilience in the economy and society put to use in various recovery plans in the member states.

The way in which the EU managed the Covid-19 pandemic was not only critical for its own policies and institutional balance: it also challenged the Union from an outsider’s perspective. Its leadership capacities have been tested in a world that is increasingly shaped by Sino-American antagonism (Gaub & Boswinkel, 2020). Perhaps the pandemic will prove to be the final wake-up call for the EU. Previous crises did not bring “about a paradigm shift. Rather, in the overwhelming majority of policy areas, recent multiple crises acted as an accelerator of pre-crisis trends (...)” (Coman et al., 2020, p. 25). The area of foreign, security, and

defence policies might be the exception that proves the rule, thanks to Covid-19. At least it has turned vague wishes into a concrete strategy that is now waiting to be put into practice of EU leadership.¹

4 A DOUBLE CHALLENGE

Unlike many recent publications, this book aims to take stock and assess both *the impact of the May 2019 European elections and the Covid-19 pandemic on the EU's politics, institutions and policies*. Special attention will be paid to their impact on the different political forces as well as on the Union's institutional balance, its priorities and the reform of its budget and policies. Indeed, there were many uncertainties about the future relations between the Parliament, the European Council, and the new Commission. And analyses were quite divided regarding the capacity of the von der Leyen Commission to implement an ambitious programme, especially in the context of an unfolding pandemic. The objective of this book is to study the electoral sequence of 2019—parliamentary elections, appointment of EU institutions leaders and members, investiture of the Commission, and new legislative programme—and to determine its influence on the main institutional and political challenges faced by the 2019–2024 legislature. In other words, it deals with the question of *who holds EU's leadership after the 2019 elections*. At the same time, it looks at the effect of the Covid-19 crisis on the EU's various institutions, its main policy areas, and on how the Union has handled the pandemic.

This volume's 21 Chapters address EU politics, institutions, and policies. All are focused on the most recent developments on the topic. They also all deal with common questionings such as the tension between *stability and change*, between *cooperation and conflict* in inter-institutional relations, and between *expectations and delivery*, as well as with the central challenges for the years to come: *the politicization of the EU and its capacity to act*.

¹ The so-called Strategic Compass “sets out a common strategic vision over the next decade and makes best use of the entire EU toolbox, including civilian and military policies, tools and instruments” (European Council Conclusions of 16 December 2021, p. 3. <https://data.consilium.europa.eu/doc/document/ST-22-2021-INIT/en/pdf>). See also https://ec.europa.eu/headquarters/headquarters-homepage/89047/towards-strategic-compass_en (Retrieved on 19 December 2021). A final version of the Strategic Compass is expected to be adopted early 2022.

Recently, many EU actors have claimed their will to develop a more political approach to European integration and EU action—as Jean-Claude Juncker had already done in 2014. Several elements also lead one to consider that the political—meaning “partisan”—logic is more present than ever: it has been key to the composition of the College of Commissioners and the appointments of the main EU leaders, with a systematic attempt to reach a balance between the 3 main parties (EPP, PES, ALDE). Moreover, for the first time ever, the members of the European Council delegated the negotiations on the composition of the Commission to a sub-group of 6 members—two per European party. Also, despite important tensions within the EP during the sequence of hearings, the von der Leyen Commission benefited from the very broad support from the members of the three main parliamentary groups (EPP, S&D, Renew), thus confirming the existence of a kind of informal coalition among them. The various chapters of the book will address the following questions: *is the von der Leyen Commission really political or is it just another rhetorical claim?* Is the cooperation between the EPP, PES, and ALDE just a matter of resource allocation or will it impact the functioning and action of the EU political system? How will the logic of politics interact with the other ones at play within the EU institutions—bureaucracy, neo-corporatism, expertise, diplomacy—and what is therefore to be expected in the near future?

This volume also discusses the capacity of the EU to conduct and steer change. As said previously, since the early 2000s, the EU has struggled with a continuous series of crises. The institutions have managed to overcome them, but they have worked under pressure, in a way that is quite disorganized, with a tendency to agree on the lowest common denominator, and only when a solution was truly necessary. In this context, the European Council has imposed itself as a central actor since its institutionalization in 2009. However, while it has been quite efficient in managing the financial crisis and Brexit, it has also occasionally proven to be slow and with a limited capacity to agree on ambitious positions. This has been the case for instance in the area of foreign affairs (because of the rule of unanimity), or for tackling challenges—such as a health crisis—for which member states are responsible in the first place. The empowerment of the European Council has eroded the leadership of the Commission and, thus, the overall capacity of the EU to develop and implement a plan or a quick response to a crisis situation. The new President of the Commission, Ursula von der Leyen, announced her will to develop an ambitious

legislative programme and to make the Commission “geo-political”.² The European Council, in its “New Strategic Agenda” (June 2019), also strongly called for the EU to have the capacity to organize change and to act as a global leader.³ This concept has been defined quite clearly, by the President as well as by other actors, but what it means in reality remains to be seen. The way the EU has handled the Covid-19 pandemic is at least a mixed picture, from an embarrassing “mask diplomacy” set up by the Chinese government over “leaving no country behind” (access to a vaccine) to reputational costs as Europe is once again the epicentre of the pandemic with the fourth wave in the autumn of 2021.

The second objective of this volume is to assess the reality of that wished-for turn: *will the EU institutions be able to organize and steer change, or will they still focus on the management of routine and urgent matters imposed by external constraints?* Will they be capable to act, rather than only react? From this perspective as well, a mixed picture appears. On the one hand, the chapters of this book show that the EU institutions and their policy-making enjoy a rather high degree of resilience. Internal and external shocks do not fundamentally undermine the EU’s capacity to act. On the other hand, it is clear that the EU—compared for instance to the USA and China—is relatively slow in reacting and adopting its policies to new challenges and upcoming competitors. In any case, the analysis presented in different chapters here is essential to be able to answer this volume’s timely question: is someone back in the driver’s seat and, if so, who is it?

5 PRESENTATION OF THE CONTENT OF THE BOOK

The book is structured in three parts, dealing respectively with politics, institutions, and policies.

The objective of the first part is to propose a general assessment of the recent political sequence, namely: the 2019 campaign and European elections; the second use of the so-called *Spitzenkandidaten* procedure; the appointment of the new Commission; the new political equilibria within

² European Commission (2019). *A Union That Strives for More: My Agenda for Europe. Political Guidelines for the Next European Commission 2019–2024*. Brussels: European Commission.

³ European Council (2019). *A New Strategic Agenda 2019–2024*. Brussels: European Council.

the European Parliament; and the novel attempts to directly involve citizens in the EU’s governance.

Alberto Alemanno opens this part with his chapter on citizen participation. He addresses this issue with a very broad view, underlining the fact that EU democracy is based on a paradox: the treaties claim that participation should be a central source of EU legitimacy, but it is in reality very limited in the current functioning of the system. Alemanno proposes to evaluate the state of EU participatory democracy more than a decade after its inclusion in the Lisbon treaty, by looking at both its normative and practical aspects. He discusses the evolution of its place in the EU political system, proposes a general assessment of the mechanisms actually available to citizens and explains how it has become an element that is central to the EU regime. He then adopts a more critical stance to show that citizen participation in the EU is characterized by unequal access and limited representativeness which leads to a very uncertain influence. Alemanno explains, in a more normative approach, how the potential of citizen participation could be unleashed. He also considers the impact that the Conference on the Future of Europe may have on the issue of citizen participation at the EU level over the long run.

Michael Kaeding and Stefan Haussner consider the issue of turnout in the 2019 European elections. One of that key political event’s main surprises was the spectacular 8% increase in turnout, following its constant decline between 1979 and 2009, and stabilization in 2014. If this surge in participation is *a priori* good news for the EU political system, one can wonder how socially distorted it is, as the European ballot has been perceived as an “elite” election since 1979. According to Herbert Tingsten, a lower voter turnout is a more distorted one. So, one can assume that the 2019 European elections have a better social balance than the previous ones. This chapter analyses the social imbalance in European elections and compares it with national main elections, using election statistics and various socio-economic indicators at the level of urban neighbourhoods.

Isabelle De Coninck analyses another crucial aspect of the 2019 EU elections: turnover. Indeed, with 60% newcomers, the level of legislative turnover in the 9th elected EP experiences is at an all-time high. Since 1979, European elections have been characterized by turnover rates of around 50%, which is high compared to national legislatures and has consequences for the visibility of the assembly. It also has to work with a large number of new members, whose experience of EU affairs is often

limited. This chapter explores in detail the process of “regeneration” of the EP. We know that only 40% of MEPs were re-elected in May 2019, yet this does not tell us much about the underlying drivers of this renewal. The chapter provides a descriptive and detailed account of the legislative turnover brought about by the 2019 elections, with attention paid to how and to what extent member states, European political groups, and parliamentary committees are affected by elite renewal.

Steven Van Hecke, Wouter Wolfs, and Toine Paulissen revisit the *Spitzenkandidaten* procedure and the role played in it by European parties. In 2014 it represented a major change in the appointment process of the Commission—notably its President—and triggered a fundamental shift in the balance of power and the relations between the main EU institutions. It also gave European parties a central role in the overall functioning of the EU regime. In the run-up to the 2019 EP elections, the main parties nominated their candidates to become president of the European Commission, as they had done previously in 2014. Although this so-called *Spitzenkandidaten* system was claimed to have played a significant role during the campaign, ultimately none of the candidates became Commission President. In the political battle to decide who would hold the EU’s executive top job, the European Council was able to overrule the newly elected Parliament. As a form of compensation for the EP, Commission President von der Leyen promised to strengthen the EU’s parliamentary democracy. The question is, however, what this means, and what role European political families, the true supporters of the *Spitzenkandidaten*, will play in the future.

Olivier Costa focuses on another aspect of the appointment of the new Commission in 2019, namely the selection and approval of its members by the EP. This process was quite conflictual and messy, as MEPs rejected 3 candidates among the 26 proposed. The sequence highlighted the tensions that exist between various visions of the EU and the deep disagreement among actors on the EP’s role in this procedure. Some national leaders were expecting the assembly to approve what had been negotiated within the European Council with the elected President of the Commission. However, despite the failure of the *Spitzenkandidaten* process, or because of it, most MEPs intended to exert true control over the commissioners-designate. This tension peaked with the rejection of French commissioner-designate Sylvie Goulard and the strong reaction of the French authorities. The chapter assesses this sequence through the lenses of three central theories of European integration and shows that

the true nature of the EU political system remains fundamentally hybrid, and a topic of political and scientific disputes.

To conclude this first part devoted to EU politics, Nathalie Brack, Olivier Costa, and Awenig Marié examine how the EP elected in 2019 has been dealing with growing political fragmentation, by looking at the political equilibrium and coalition dynamics during the early days of the 9th legislature. The decline of the Christian-democrat and socialist parties in many member states, the good results of the Greens and the Liberals combined with the relative success of Eurosceptics, all led to the political reconfiguration of the EP after May 2019. The authors show that the two largest political families (EPP and S&D) were constrained to cooperate even more since, for the first time in the history of the EP, they do not hold an absolute majority on their own. The impact of this new trend on the role of smaller political groups is then examined: are they more often involved in the “grand coalition” than before or is the EP struggling to find the required majorities? This question is studied with an analysis of roll-call votes at the plenary level, and the authors observe different types of ballots—legislative or non-legislative, on parts of texts or final votes.

The second part of the book focuses on institutions. The EU political system is still one of a kind, managing a subtle balance between at least 3 logics. The first is the initial “Community method”, which gives a central role to the Commission, which remains a very peculiar organ, to stakeholders and to experts. The second logic is a “parliamentary” one, reflecting both the fact that the EP has been consistently reinforced since the 1980s, enjoying today a central position in the EU political system, and the fact that the Commission has undergone a process of politicization, becoming now a kind of governmental body. The third logic is the “intergovernmental” one, which has emerged since the Compromise of Luxembourg (in 1966), has been revitalized with the institutionalization of the European Council (2019), and has been central to the management of the many crises that have since hit the EU. This means that the relations between the main EU institutions constantly evolve, depending on the context and on the initiatives and strategies developed by actors, and can lead to differing interpretations. The contrasting results of the 2019 EU elections (more fragmentation but more participation), the complex investiture of the Commission, and the Covid-19 crisis have affected the overall dynamics of the EU regime. This section’s 7 Chapters propose an exhaustive review of those issues.

In his contribution, Martin Westlake challenges the assumption that the May 2019 European elections and their results brought about a radical change in inter-institutional dynamics, particularly with regard to issues such as the weakening of the centrist bloc in the EP, the so-called “failure” of the “*Spitzenkandidaten*” procedure, and the “sharing” of the Commission’s legislative power of initiative. To do so, he takes a longer-term view to show how such seemingly radical changes are in fact the latest developments in a series of cumulative trends. Westlake also argues that other distinctive features remained: the search for maximum consensus in the European Council and the Council; the quest for large majorities in the EP; and the legitimization concerns within the Commission. In sum, he argues that, although the inter-institutional dynamics of the EU are changing and have been impacted by the 2019 elections, they remain fundamentally the same in many respects.

Hussein Kassim proposes a first assessment of the von der Leyen Commission. He explains that the President was under pressure from the start, as she had very difficult files to manage, such as the negotiation of the Multiannual Financial Framework, and was then confronted with a new set of challenges with the outbreak of the Covid-19 pandemic. The chapter examines von der Leyen’s conception of the role, her organization of the College, and her leadership style, and compares her Presidency with previous ones. Further, Kassim reflects on the sources of presidential power in the Commission. Since Ursula von der Leyen was not a *Spitzenkandidat* and, unlike her predecessors as far back as Jacques Delors, had not held prime ministerial office, her Presidency is instructive about the extent to which presidential power has been embedded in the office following the concentration of power under Barroso and Juncker.

Dimitri Lorenzani and Manuel Szapiro also analyse the von der Leyen Commission, but from a different angle, exploring the “geopolitical Commission” narrative. The term was used by the President-elect when presenting her College to the EP for its consent vote in July 2019. The chapter argues that such a narrative was functional to a “legitimacy by power” approach, linking the Commission’s authority to its effective delivery of global leverage. The authors challenge the idea that the Commission has so far failed to deliver on its ambition. They assess it in terms of “open strategic autonomy” and show a positive track record of delivery—starting with the Commission’s front-runner role in the global vaccine race and recovery strategy. They also note an increased awareness

of the need for more assertiveness and coherence between domestic and external EU policy agendas.

Andrea Sabatini and Wolfgang Wessels focus on the relations between the EP and the European Council, an issue that has attracted only limited attention from scholars, but that is of growing interest to understand the overall dynamics of the EU political system. Their objective is not to determine the respective influence of the two institutions, but to analyse the relationship and interaction of the two principal sources of legitimacy of the EU’s constitutional system. The chapter hypothesizes that the 2019/2020 developments represent a critical juncture leading to a new stage in the relations between the two institutions, characterized by a more cooperative agreement. To confirm that, Sabatini and Wessels analyse cases of treaty-based procedures over the past decade—such as the elections of the President of the Commission—and examine the relative roles of both institutions in the Covid-19 pandemic and the economic crisis it triggered.

Sabina Lange and Michael Kaeding turn to another crucial, even if apparently technical, aspect of EU institutional dynamics: the EP’s use of the legislative veto over the Commission’s rule-making powers in the case of delegated acts (DAs). They analyse the way the EP has objected to the Commission’s DA in quantitative terms, before and after the last EU elections. They look more specifically at how the partisan political logic of the EP’s practice is reflected in its use of the veto. To do so, they use an original data set of legislative vetoes of Commission acts by both European legislators (Council and EP) from December 2009 to December 2020. The authors show that the number of formal decisions to overrule the Commission’s regulatory policies is very low, and that the inter-institutional practices established as part of the consolidation of the Treaty of Lisbon favour cross-party, Committee-based action.

Oriane Gilloz focuses on the Council of the EU to analyse the positional configurations of actors within the institution. Her objective is to understand the consequences of cumulative institutional and political changes in the EU on the Presidency and the General Secretariat of the Council. The aim is to grasp the adjustments between the administrative sphere (the Secretariat) and the political one (the Council). More specifically, she wants to understand the role played by the Secretariat and its evolution over time. She shows that national administrations have progressively lost their grip on the “presidential routine”, thus creating new windows of opportunities for the Secretariat. As a result, today the

latter holds an influence over the Presidency that is significant and goes well beyond its traditional coordinating and supportive roles. However, Gilloz does not detect any bureaucratic ascendancy over the political sphere.

Ariadna Ripoll Servent and Alfredo de Feo analyse the impact of Covid-19 on the EP. The assembly faced one of the most serious crises in its history, both in terms of its internal organization and of its place and role within the EU political system. Indeed, the European Council and the Commission quickly affirmed their leadership in the management of the crisis, leaving little room for the EP. Concretely, the pandemic has forced the EP to organize very quickly a process of digitalization and remote participation and has tested its institutional resilience and its capacity to ensure a working democracy. The chapter discusses how Covid-19 affected internal procedures and the role of different actors, drawing on an online survey and in-depth interviews. It aims at describing the main processes of institutional adaptation and examines to what extent they reflect radical or rather incremental changes. The authors also analyse how these changes have been perceived by different categories of EP actors and which of them might survive the pandemic.

The third and last part of the book is devoted to the evolutions of EU policies. The von der Leyen Commission was soon faced with crucial issues, such as the MFF, and announced an ambitious programme, with two main objectives: a “geopolitical Commission” and the “Green Deal”. Very soon, the EU institutions were also confronted with the pandemic, and its sanitary and socio-economic consequences. It has challenged them, as managing such a crisis did not fall in their field of competence and they were not prepared for remote work. However, the Covid-19 crisis has also been an opportunity to negotiate an ambitious budget for the EU and to set up a large-scale recovery plan. The last 8 Chapters of the book consider various EU policies and give us a good overview of the main developments and trends within EU policy-making, at both the internal and external levels.

First, Michele Chang, Laura Pierret, and Gabriel Glöckler consider the evolution of Central Banking in Europe. In 2019, in parallel to the election of a new EP and the appointment of new heads and members of the EU executive organs (Commission, European Council, High Representative), the European Central Bank (ECB) got a new President, Christine Lagarde. It was the end of a difficult era for Mario Draghi, as the financial crisis left a legacy of central banks as “the only game in town” amid

rising scepticism over the legitimacy and accountability of their expanded scope of action. Unexpectedly, the Covid-19 pandemic reinforced the role of the ECB as a firefighter, in contrast to its image as an institution focused on price stability. This chapter examines the evolution of central banking in Europe, by looking at the ideational shifts that allowed for a more expansive interpretation of the role of the ECB, by analysing its response to the Covid-19 crisis, and by comparing it to those of the Bank of England and of the US Federal Reserve.

Anne Vitrey and Frederik Mesdag focus on the EU budget and the Covid-19 Recovery Plan. After the 2019 elections, the negotiation of the new Multiannual Financial Framework (MFF), for the 2021–2027 period, was at the top of the agenda of all EU institutions. In addition, the Covid-19 crisis created an unprecedented shock with severe consequences for European societies and economies. The EU budget suddenly found itself at the heart of EU action. The Commission's response to the pandemic, the *Next Generation EU*, represented an unexpected opportunity to match the needs for recovery with the objectives of the Commission's Strategic Agenda. The EU aimed at complementing actions undertaken at the national level with massive support, in a kind of uneven budgetary “Big Bang”. This chapter is a comprehensive overview of the evolution of the 2021–2027 MFF negotiations and the subsequent addition of the EU recovery plan. It also looks at institutional positioning during the process and outlines the progressive reform of EU financing and own resources.

Ellen Vanderschueren, Franziska Petri, and Katja Biedenkopf consider another major topic of the von der Leyen presidency: the European Green Deal. They analyse it in connection with the “Green wave” proclaimed by the media in the wake of the 2019 European elections. If this wave did not sweep over the top EU positions, it has left its mark on EU policy priorities as Ursula von der Leyen needed a broad majority within the EP. This chapter examines the impact of voters' increased support for Green parties on EU politics and policies. The authors examine the electoral evolution of European Green parties over time at the EU level. Then they explain how other European political parties also embraced environmental topics in view of the 2019 elections. They consider the Greens/EFA's potential influence over the von der Leyen Commission's priorities, with a focus on the European Green Deal.

Steven Van Hecke, Toine Paulissen, and Britt Vande Walle analyse how the EU institutions were affected by the Covid-19 crisis and how they developed a strategy for crisis management. These institutions faced

numerous crises in the past decade, but this period of uncertainty was to end after the 2019 elections, with the von der Leyen Commission which wanted to prepare the EU for geopolitical policy-making. However, the Covid-19 pandemic triggered one of the biggest crises—organizational, sanitary, social, economic, budgetary—ever to hit the Union. After initial hesitation and criticism, the EU’s institutions showed strong resilience and, by the strategic use of various tools, combined short-term crisis management with mid-term policy-making and long-term strategies. The chapter analyses this mobilization by looking at the different EU institutions and analysing how they behaved.

Antonio Missiroli and Luigi Lonardo focus on the external relations of the EU, and more specifically on the evolution of the debate over enhanced cooperation since the 1990s. They recall first of all the initial drive towards differentiation in the speed and scope of integration. They then show how different amendments to the treaties have tried to frame “enhanced cooperation” proper as an enabling provision. Finally, they explore the few specific cases so far in which those provisions have been used in practice, and end with the most recent configuration, notably the Permanent Structured Cooperation (PeSCo). This chapter tries to explain to what extent practical “enhanced cooperation” may have ended up being used as a legal tool to address very specific decision-making or legislation problems rather than as a new mode of integration for an ever-wider Union.

Teona Lavrelashvili and Steven Van Hecke question the possible end of EU enlargement. They recall that this issue did not play a major role in the 2014–2019 Juncker Commission or in the 2019 electoral campaign. However, there is a feeling that the EU needs to do something about the Western Balkans, given the growing influence of Russia, China, Turkey, and other foreign actors in the region. Moreover, the ambition of the von der Leyen Commission to be “geopolitical” raises expectations about future accessions, as well as about deepening relations with countries that have no clear enlargement perspective but still aspire to EU membership. Recently, special attention has been paid to the countries of the Western Balkans and Eastern Partnership but the strategy remains unclear, as some member states do not seem ready to agree to a new enlargement of the EU. This chapter reflects upon this issue, notably by comparing the Juncker Commission’s track record with the start of the von der Leyen Commission. It also analyses how the Covid-19 pandemic has impacted the EU’s enlargement and neighbourhood policies.

Lorenzo Giuglietti explores another aspect of the EU external action, namely its relations with NATO. This has become a crucial issue, in times of reflection on how the EU should ensure its own security and affirm its sovereignty at the global level. Indeed, the new “geopolitical Commission” has been seeking to further adapt to the new international contingencies by fostering a stronger EU-NATO strategic partnership. Two Joint Declarations in 2016 and 2018 and a forthcoming one have consolidated this relation. However, they are mainly political agreements lacking key initiatives. In his chapter, the author seeks to unpack EU-NATO cooperation, evaluate the accomplishments achieved so far and the extent to which the “geopolitical” narrative has acted as a catalyst for further collaboration. The study focuses on the maritime field and addresses the intertwined relations between the Union and the Alliance from the Gulf of Aden to the Mediterranean. This chapter demonstrates that the degree of cooperation remains sub-optimal.

Steven Langendonck and Edith Drieskens address, in the last chapter of the book, another fundamental aspect of EU external action: the relationship with China. This is a very tangible way to study how the objective of a “geopolitical Commission” takes shape. Indeed, key EU policy-makers and EU-based observers regard the turn to geopolitics as a logical response to a world of power politics with China as its primary driver. But this seems less obvious to China and Chinese EU scholars, who consider that China is the primary target of the EU, because of its insecurity in the midst of US–China competition and of the preponderance of US influence over EU foreign policy. To overcome those divergent views, the chapter develops a singular causal analysis of how dynamics in the EU-China relationship between 2012 and early 2021 shaped the EU's embrace of a geopolitical discourse. It shows that EU-China tensions are inherent to the EU's evolution in the world.

The conclusion sums up the findings of the chapters and proposes a general assessment of the state of the EU today. The 21 Chapters focus on a large variety of cases and topics, adopt different points of views, approaches—even if they all address common questionings. They offer a quite systematic exploration of the state EU after the 2019 electoral sequence and after the Covid-19 crisis, but do not rely on a single analytical or conceptual framework. The aim of the conclusion is thus to synthesize their findings in order to provide a more general and systematic understanding of the evolutions and dynamics at play within the EU political system. The objective is to draw common lessons from the case

studies gathered in this volume and to answer two sets of questions. The first relates to the issue of leadership change: were the new leaders of the EU, appointed in 2019, more capable to handle the challenges of European integration, and especially the Covid-19 health and socio-economic crisis, than their predecessors? This implies examining the evolutions of leadership and how the Covid-19 crisis, as an intervening variable, has facilitated that change or led to the emergence of new forms of leadership. The conclusion also aims at evaluating to what extent EU politics, institutions, and policies were driven by continuity or change. In each case under study, was there better change or continuity, after the 2019 elections and after the Covid-19? How do change and path-dependency articulate in each case? To which extent has the Covid-19—and more recently the war in Ukraine—been a window of opportunity for promoters of change? Can we distinguish some general trends and dynamics?

Plus ça change, plus ça reste la même chose? Overall, the 21 Chapters of this book show that the EU is changing at a rapid pace. Beyond the new power constellation born from the 2019 European elections and the Covid-19 pandemic, there are many pressing issues in various policy areas that are waiting to be tackled. The institutions have demonstrated remarkable resilience, but its limits are clear, especially given the hybrid nature of the EU. Furthermore, in areas like climate change or foreign policy the stakes are very high and question the EU's leadership role, both internally vis-à-vis its member states and externally vis-à-vis the rest of the world and its power politics. The book makes clear how the EU has been dealing with these challenges and the significance of turning points like elections or a pandemic. As Jean Monnet wrote change is more easily accepted in times of crisis. But it most certainly needs leadership to make it happen.

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PART I

Politics



EU Citizen Participation ‘in the Union’s Democratic Life’: A Policy and Legal Analysis

Alberto Alemanno

1 INTRODUCTION

For more than two decades, there has been a widespread belief that the European Union is condemned to fail without greater and more effective involvement from its citizens. The COVID-19 pandemic may have further accelerated such a realization. Indeed, as time goes by, this prophecy is becoming self-fulfilling. Behind the health and financial crises caused by the coronavirus lies a deeper and overlooked democratic emergency that predates the pandemic. As the EU’s political influence over citizens’ lives has grown significantly, their expectations of influencing EU policy have also expanded. However, this demand remains largely unmatched by

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reality. The unexpected choice and *rocambolique* confirmation of Ursula von der Leyen by the European Parliament as EU Commission President has left many EU citizens with a bitter aftertaste. A record high number of EU voters turned out to vote in the EU elections after being assured their vote would matter.¹ And yet, their vote—that of more than 200 million EU citizens—had little direct impact on the political colour and direction of the new EU administration.

The long-awaited Conference on the Future of Europe (CoFoE) (von der Leyen, 2019)—which was promptly promised by von der Leyen herself to remedy this original sin (Alemanno, 2019; Alemanno & Seindorf, 2019)—exemplifies the limited commitment to, and imagination for, genuine participation in Europe. This initiative—which emerged as a top-down, ‘listening’ exercise based on shaky methodological foundations and an unclear *raison-d’être*, with limited political buy-in, sketchy blueprint, and duration—supposedly had the effect of centralizing and inevitably monopolizing all democratic reforms of the EU to come. These range from a new EU electoral system to the creation of a Health Union. More broadly, these reforms touched upon the question of what role citizens should play in EU democratic life and may ultimately require Treaty reform (Smismans, 2004, pp. 122–138). Yet few of these revealed achievable during the Conference’s limited time span and were merely hinted at through the process it unveiled.

Since the Lisbon Treaty, the Union no longer derives its democratic legitimacy solely from representative democracy—which remains its founding democratic principle—but also from participatory democracy (Article 10 TEU). Under the former, citizens take part in the political process through their elective representatives—the European Parliament and the governments in the Council—whereas under the latter, citizens participate directly via a multitude of channels (Besson & Utzinger, 2007; Schrauwen, 2008). As such, citizens—with their actions and omissions—are also entitled ‘to *participate* in the democratic life of the Union’² and form an additional source of legitimacy for the Union (Besson &

¹ The European Parliament’s Post-Election Eurobarometer in September 2019 unveiled a positive mutual dynamic, whereby a greater motivation and sense of empowerment among EU citizens helped increase voter turnout, which then in turn reinforces the sense of empowerment.

² Article 10(3) TEU (“Every citizen shall have the right to participate in the democratic life of the Union”).

Utzinger, 2007; Schrauwen, 2008, p. 55; Warleigh, 2007). This outcome, as crystalized by Article 10(3) TEU, originates in an earlier, twenty-year effort, initiated by the Maastricht Treaty, to define the democratic nature of the EU legal order, in particular its own specific democratic model. One of the answers to this two-decade quest for a more democratically legitimate Union has been to enhance citizen participation through their broader access to the EU (Habermas, 1994; Kohler-Koch, 2013a, 2013b; Smismans, 2008).³ The assumption being that citizen participation could make up for the inability of EU citizens to signify—under the current arrangements—their desire for change in the EU political agenda and, more broadly, close the gap between power and electoral accountability in the Union (Craig, 2012, pp. 295, 297–298; Moser, 2001, pp. 5–6).

While participatory practices have always existed in the history of the Union to legitimize EU policymaking (Mendes, 2011)⁴—the ‘Provisions on Democratic Principles’ of the Treaty of Lisbon (Articles 9–12 TEU)—by giving an ‘expression to the principle of democracy in the EU legal order’ (Lenaerts, 2013)—recognized, for the first time, participation as an autonomous, democratic principle on which the Union is founded. This is further empowered and operationalized by principles such as openness and transparency (Alemanno, 2014), as well as equality (Alemanno, 2020).

As a result, in constitutional terms, participation is no longer expected to play only an instrumental role—to ensure the delivery of EU regulatory functions through the collection of information—but it also carries an autonomous, non-instrumental meaning—to allow citizens⁵ to take part in—and possibly control—the process of governance to which they are subject. This entails having a say and possibly some form of control.

Ten years after the introduction of participatory democracy as one of the democratic foundations of the Union, this chapter attempts to shed some light on this complementary, often overlooked, source of democratic legitimacy for the Union. Section 2 briefly retraces the genesis and evolution of participatory democracy in the EU. Section 3 maps

³ On whether participation results in increased democratic legitimacy, see Acar Kutay (2015, pp. 803–818).

⁴ For a detailed, historical reconstruction of the EU participatory practices and rationale, see J. Mendes (2011).

⁵ On whether such a right of participation is limited to EU citizens, see Annette Schrauwen (2008).

out and systematizes the many participatory mechanisms available to EU citizens—from petitions to the EU Parliament, complaints to the European Ombudsman to European Citizens’ Initiatives (ECIs) and illustrates how participatory democracy has been elevated to become one of the foundations of democracy in the EU. Section 4 examines the realities of participation by unveiling how current practices are characterized by unequal access, limited representativeness, and ultimately the disparate influence of participants. Section 5 provides some concluding remarks on the untapped legitimating potential of EU citizen participation via multiple mechanisms and puts forward some recommendations on how to use this potential, particularly in light of the Conference on the Future of Europe.

2 THE GENESIS AND EVOLUTION OF EU CITIZEN PARTICIPATION

Historically, the EU has been vocal in its support for citizens’ involvement in its democratic life but has been nonetheless equivocal—politically and legally—as to how far it wishes to go towards that goal. Politically, Jan-Werner Mueller argued, it has a negative in-built bias against any expression of popular sovereignty, perceived as suspect and somehow foreign to the whole EU integration project (JP Mueller, 2016).⁶ Legally, it has been reticent to recognize any legally enforceable participation rights (Closa, 2007), and half-hearted in its follow-up to participatory input, such as ECIs and petitions (Alemanno, 2021).

After being a non-issue for several decades, the role citizens—and more broadly civil society—should play within the Union became central to EU political discourse back in the late 1990s. After the first European Social Policy Forum, the Commission Directorate for Employment, Social Affairs & Inclusion launched a ‘civil dialogue’ with the declared dual aim of linking the views of EU citizens to EU institutions, and of explaining European political discourse to the public (Commission of the European Communities, 1997). That same year, the 1997 Treaty of Amsterdam established for the first time an obligation for European institutions to

⁶ JP Mueller argues that insulation from popular pressures and, more broadly, a deep distrust of popular sovereignty, underlay not just the beginnings of European integration, but the political reconstruction of Western Europe after 1945 in general (Mueller, 2016).

adhere to the principles of democracy.⁷ The 2000 Commission White Paper on European Governance (hereinafter: White Paper) recognized citizen participation as one of the pillars of good governance well beyond social policies. Their participation throughout the entire policy cycle was highlighted as being key to ensuring the quality, relevance, and effectiveness of EU policymaking (Armstrong, 2002). Likewise, also in 2000, Declaration No. 23 on the future of the Union annexed to the Treaty of Nice expressed 'the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States'. As seen in the 20 years debate preceding the Lisbon Treaty and launched by the publication of the White Paper on Governance, the rationale for this insertion is to make up for citizens' inability to signify—under the current arrangements—their desire for change in the EU political agenda and, more broadly, to vote out those who pursue such an agenda.

And yet the concept of participation found in the White Paper, as epitomized by the dominant rhetoric of connecting citizens with the EU institutions, remains nebulous as it 'oscillates between output- and input-oriented conceptions of civil society and participation' (Kohler-Koch & Finke, 2007, pp. 209–210) and refers to—thus confusing them—both individual citizens and civil society organizations. Its focus on the participation of organized interests means the White Paper perceived participation instrumentally as a means to improve the efficiency and effectiveness of European policymaking, thus neglecting unorganized citizens. The draft Treaty establishing a Constitution for Europe recognized the principle of representative democracy as foundational (Article I-45) and introduced the principle of participatory democracy at the Treaty level for the first time (Article I-46).

The negative results of the French and Dutch referenda on the Constitutional Treaty meant that the 'real' challenge became—and continues to be—how to find channels of communication with individual citizens that direct and capable of operating both locally and transnationally. That was the goal of the 2005 'Plan D for Democracy, Dialogue and Debate', developed at the request of the European Council by Margot Wallström, the Commission's Vice-President and Commissioner for Communication (Commission of the European Communities, 2005). Plan D called for

⁷ Article 6(1) TEU as amended by the Amsterdam Treaty.

innovative citizen communication models by providing a framework and funding opportunities for a structured dialogue around European politics. In addition to being a ‘listening exercise’, it set out a ‘long-term plan to reinvigorate European democracy and help the emergence of a European public sphere, where citizens are given the information and the tools to actively participate in the decision-making process and gain ownership of the European project’. As such, Plan D played a key role in framing the subsequent developments by pioneering the first online tools allowing citizens to dialogue and debate with EU institutions, although on an ad hoc basis (Fisher-Hotzel, 2010). The ensuing participatory trend, largely driven by vast, influential academic literature (Abels, 2009; Armstrong, 2002; Blanke & Mangiameli, 2013; Cuesta-Lopez, 2010; de Schutter et al., 2001; Kohler-Koch & Rittberger, 2007; Smismans, 2006; von Bogdandy, 2012), has since then heavily influenced EU institutional reform. Participation has suddenly been assumed to result in increased democratic legitimacy, regardless of who participates and how or when they do. Against this backdrop, the Lisbon Treaty—amid the vicissitudes of the Constitutional Treaty—introduced a new Title II of the Treaty of the EU devoted to ‘Democratic Principles’ (Articles 9–12 TEU).⁸ These provisions establish participatory democracy as one of the EU’s normative bedrocks, making clear that representation can no longer be the sole source of EU legitimacy (Warleigh, 2007, p. 64). In line with the dominant theories of participatory democracy (Held, 2006), they contain explicit references to the role of EU citizens and civil society organizations in the governance of the Union. They also introduced, or merely institutionalized, several participatory devices allowing citizens to engage directly with the institutional apparatus.

3 THE TOOLBOX OF CITIZEN PARTICIPATION

Today, as a result of this ‘participatory turn’ (Saurugger, 2010), the European Union provides a wide array of opportunities for its citizens to participate and engage with—and potentially influence—EU

⁸ In the draft Treaty establishing a Constitution for Europe (TECE), presented to the European Council in Thessaloniki on 20 June 2003 this was originally titled ‘The Democratic Life of the Union’ (Closa, 2007).

decision-making.⁹ They range from the oldest instrument of participatory democracy—the right to petition¹⁰—to the most recent one, the European Citizens' Initiative (ECI), the first transnational instrument of participatory democracy which allows at least 7 EU citizens from 7 different Member States to gather one million signatures and put forth new policy initiatives in any field where the EU has the power to propose legislation (such as the environment, agriculture, energy, transportation or trade).

There is no taxonomy of these instruments and none has even been attempted. Using their common 'democratic participatory' rationale as a starting point, one can organize them according to their actual purpose. Thus, these participatory channels include not only *agenda-setting tools*, such as petitions to the European Parliament and ECIs, but also *input mechanisms* for policy formation, such as public consultations on new initiatives, as well as multiple *administrative actions*, such as requests for access to EU institutions documents or complaints to the European Ombudsman. There are also *ex post review channels*, such as Lighten the Load—within the REFIT Platform—that allows any stakeholder to put forth a suggestion on how an existing policy may be simplified and improved to be more effective and reduce the regulatory burden.¹¹

These participatory channels all share—regardless of their immediate aims and scattered origins—the fact that they allow citizens to play a role 'in the Union's democratic life' (Article 10[3] TEU) and do so beyond the electoral moment. These mechanisms normatively operationalize the principle of participatory democracy, allowing to pro-actively interact with—and hold accountable—the EU institutions and bodies. By opening the Union's doors, they give citizens a chance to 'publicly exchange their views in all areas of Union action'. Thus, citizens in an informational,

⁹ In normative theory, participatory democracy involves the multiplication of opportunities for citizens' participation beyond elections (Della Porta, 2012).

¹⁰ In *Schönberger*, where it recognized the right to petition as an 'instrument of participation of citizens to the European Union democratic life. It is one of the channels for direct dialogue between Union citizens and their representatives'. Case C-261/13 P, *Schönberger v. European Parliament*, ECLI:EU:C:2014:2423.

¹¹ Besides these formal mechanisms of participation, there exists more channels of communication that are available to EU citizens, such as letters and complaints that can be addressed to the EU institutions and bodies any time, and that have not been formalised under EU primary or secondary law.

agenda-setting, or oversight role carry the potential to enhance the legitimacy of the democratic life of the Union. Ultimately, the use of these instruments is based on an understanding that citizen participation might be a further avenue to realize the overarching value of ‘democracy’ as enshrined in Article 2 TEU.

As a result, participation, directly connected to democratic principles such as equality, openness, and transparency, has been elevated to become one of the foundations of democracy in the EU. The toolbox of EU participatory instruments breathes life into EU participatory democracy, which complements—at least in principle—representative democracy.¹² However, when examined more closely, the current access to, use and design of, and, ultimately, the interface of these participatory tools with representative democracy cast doubt on their actual legitimating potential.

4 THE REALITIES OF CITIZEN PARTICIPATION

A decade later, measuring these ambitions against the reality of participatory democracy, there has been no major Copernican revolution in how citizens participate in the Union’s democratic life beyond elections. Most of the channels of EU citizens’ participation mentioned above remain unknown,¹³ scattered, and underused by the average European citizen. Some figures speak volumes about the realities of participation in the Union.

EU avenues of participation are supposedly open and designed to reach a wide spectrum of respondents, who use them on a voluntary basis. The truth however is that participation levels remain low.

According to the 2019 audit conducted by the European Court of Auditors, the average involvement in the EU’s most popular participation tool—the Commission’s consultations—is of 500 responses (European Court of Auditors, 2019). Moreover, on average, just over a third of the sample of consultations examined in this study received more than 1,000 responses, while over a third received less than 75 (Ibid.).

¹² Since the Lisbon Treaty, the Union derives its democratic legitimacy not only from representative democracy—which remains its founding democratic principle (German Constitutional Court in its judgement of June 30, 2009, BVerfG, 2 be 2/08)—but also from participatory democracy (Kutay, 2015, p. 814).

¹³ Approximately 63% of EU citizens have little or no knowledge of their EU rights (Standard Eurobarometer 89, 2018).

Likewise, the number of petitions lodged before the European Parliament has decreased over the past decade (Alemanno, 2021) (Fig. 1).

The number of complaints lodged before the European Ombudsman has remained constant (Fig. 2).

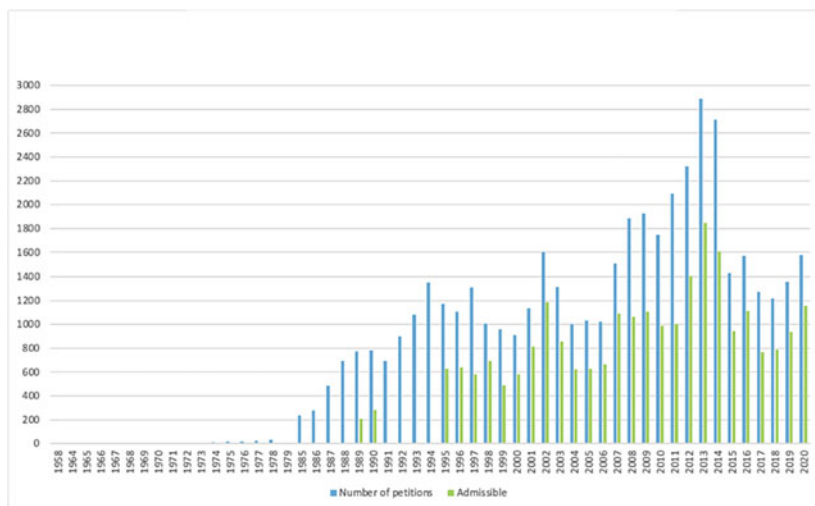


Fig. 1 The right to petition before the European Parliament 1958–2020

Number of complaints 2015-2019

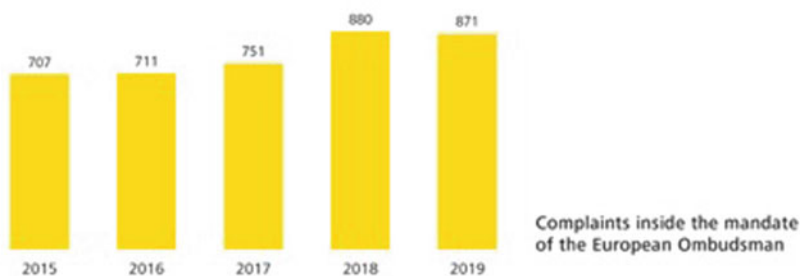


Fig. 2 Number of complaints lodged before the European Ombudsman 2015–2019

	2015	2016	2017	2018	2019
Applications registered	6,752	6,077	6,255	6,912	7,445

Fig. 3 Requests for access to documents 2015–2019

The same appears to be true for other avenues of participation, such as the requests for access to documents (Fig. 3):

Likewise, the number of ECIs introduced has remained constant since their inception in 2013, for a total of approximately 80 initiatives and 9 million signatures collected overall (out of the potential 450 million eligible signatories).

These low numbers are all the more surprising considering the fact that virtually all avenues of participation, including consultations and various forms of initiatives, complaints, and requests, have moved online since the early 2000s. In other words, although the advent of e-consultation has greatly facilitated the participation of individual members of the public and of interest groups, it did not necessarily increase the rate of participation or broaden the opportunity structure of the policy process (Quittkat, 2011).

Regarding their degree of representativeness (Kohler-Koch, 2010), there is no, or limited, socio-economic data on the citizens who participate in most of the institutional avenues of participation. However, some trends can be identified by examining their geographical provenance. Thus, the responses to consultations typically show a geographical imbalance, with a gradient of participation between the Member States in northern and western Europe and those in the south and east. Data on petitions suggest similar patterns.

EU consultations are also characterized by the limited plurality of the interests represented (Kohler-Koch, 2013a, 2013b). Studies of interest representatives at the EU level have found unequal participation of different types of interest (Coen & Katsaitis, 2013; Eising, 2007; Greenwood, 2007a, 2007b). The consultation process in particular is essentially dominated by corporate representatives (Rasmussen & Carroll, 2014) and, to a lesser extent, by civil society organizations (de Schutter, 2002; Kutay, 2015; Nanz & Steffek, 2003), public authorities, and research

centres. Save for a few exceptions,¹⁴ lay citizens are almost entirely absent from the current consultative process (Badouard, 2013; Quittkat & Finke, 2008). The Commission's Better Regulation guidelines acknowledge the fact that data gathered through public consultations is not a representative snapshot of the EU population as a whole and that the EU Commission should not treat their insights as being 'representative' (European Commission, 2017, pp. 319 & 424). The EU Commission explains the lack of representativeness as being the inevitable result of the self-selecting nature of voluntary consultations. However, the data on the current level of participation and its limited representativeness hide the broader systemic inequality in the *access* to EU participatory tools. Ultimately, the current EU participatory mechanisms and practices were not primarily designed for the broad participation of citizens. They were crafted instead to receive public input through functional intermediaries, like NGOs, trade associations, and other groups formally representing the various interests affected by a given policy initiative (Smismans, 2004).

Largely as a result of these structural circumstances, the current participatory practice is characterized by unequal access, limited representativeness, and ultimately the disparate influence of participants. These shortcomings are a function of a set of structural features that characterize the EU practice of participation, particularly of consultations, and which largely reflect the existing ecology of interest groups within the EU (Berkhout et al., 2015). These have to do with the overall legal and policy framework of participatory tools, notably their publicity, design, format, and feedback policy, as well as the overall participatory environment, notably the unequal distribution of resources among participants (Greenwood, 2007a, 2007b; Pansardi, 2016).

Ultimately, given the structural disparities in access and resources, participation in and engagement with the EU has become a prerogative of those who are not only epistemically but also financially better off and can therefore afford to contribute to the technocratic, highly technical, and generally resource-intensive forms of participation. While representative

¹⁴ One of the most notable exceptions was the response to the consultation on the functioning of the existing EU summertime arrangements in July 2018. It received more than 4.6 million responses, mostly from citizens but mainly from Germany whose participation rate as a country was approximately 4% of its entire population (European Commission, 2021).

democracy is based on formal equality, participatory democracy highlights the need to create the conditions for substantive, real equality (Della Porta, 2012). As argued elsewhere, the EU can no longer presume that all stakeholders, particularly citizens and civil society groups, enjoy equal access to political institutions as well as equal information, voice, and ultimately influence. Hence the urgent need to embrace power-shifting reforms capable of reshaping the overall environment of participation in the EU. There is however reason to believe that the Conference on the Future of Europe, because of its different format,¹⁵ may draw a different audience (Alemanno, 2021). The sole exception is the European Citizens' Assembly, which is set to gather randomly selected citizens who will debate and deliberate upon a set of themes and then offer recommendations to the conference plenary which is composed of a mix of randomly selected citizens and elected representatives, such as MEPs and MPs. This is unprecedented in EU policymaking and may potentially be institutionalized within the EU institutional architecture (Alemanno, forthcoming, a; Alemanno, forthcoming, b).

5 THE BIG DISCONNECT

Beyond the problem of structurally unequal access, existing EU participatory channels also tend to be disconnected from the day-to-day decision-making. The 'Stop Glyphosate' ECI, which demanded that this pesticide be no longer used, exemplifies such a trend.¹⁶ Despite reaching many more signatures than the one million required, this ECI could not be considered in the then ongoing EU decision-making process. There is no explicit link between an ECI request relating to an upcoming EU decision and the actual ongoing process.¹⁷ This illustrates the fact that, under the current Treaty framework, the participatory and representative

¹⁵ See <https://futureu.europa.eu/>, the digital platform acting as the hub of the Conference.

¹⁶ 'Ban Glyphosate and Protect People and the Environment from Toxic Pesticides' was the fourth European Citizens' Initiative to have met the requirements set out in Regulation (EU) No. 211/2011 of the European Parliament and of the Council on the Citizens' Initiative.

¹⁷ See Commission Regulation 2017/2324 of December 12, 2017, renewing the approval of the active substance glyphosate in accordance with Commission Regulation 1107/2009, O.J. (L 309), and amending annex to Implementing Regulation 540/2011 O.J. (L 153).

aspects of EU democracy are like ships that pass in the night. This is true also for a complaint brought to the Ombudsman, or a petition lodged to the Parliament. These mechanisms are not designed to intersect with and therefore affect EU decision-making, even if their claims are considered well-founded. The question is therefore not only to overcome the systemic inequalities in access to EU participation mechanisms, but also to better connect them to EU decision-making.

The interface between participation and representation emerges today as one of the most (if not the most) intractable and undertheorized problems for our democracies. It reflects the difficulty of doing justice to the 'expansion of the political' within the current constitutional and political culture (Taylor et al., 2020, p. 18). As participatory inputs are set to emerge within CoFoE, through the European Citizens' Panels (as well as national ones), the question arises of how to accommodate them into institutional mechanisms that are governed—directly or indirectly—by elected, and therefore representative, institutions. Thus, the avenues of EU participation must not only be revamped and democratized, but also better connected to representative democracy. Treating EU democracy as a system means recognizing that every democratic channel carries its own value and that weaknesses can be compensated elsewhere (Parkinson & Mansbridge, 2012).

EU leaders designed the Conference on the Future of Europe¹⁸ to increase the quality and quantity of citizen participation, creating a novel multi-layered 'device' that reproduces—in a controlled environment—a genuine transnational space for participatory deliberation (Alemanno, 2021). As such, the Conference is qualitatively different from any other previous attempt at institutional (and constitutional) reform. Contrary to the 2003 Convention on the Future of Europe—an equally innovative institutional set-up that drafted the EU's never-ratified constitution¹⁹—this Conference was not tasked with reforming the Treaties and takes

¹⁸ The purpose of the Conference is, according to the March 2021 Joint Declaration, to 'open a new space for debate with citizens to address Europe's challenges and priorities'.

¹⁹ See on this point Federico Fabbrini who qualifies the Conference on the Future of Europe as an 'out-of-the-box initiative' analogous to the Conference of Messina and the Convention on the Future of Europe (Fabbrini, 2021). One may also add the 1952 Ad Hoc Assembly tasked to work out the text of the never-ratified European Political Community (EPC).

place outside the dedicated procedure of Article 48 TEU.²⁰ It was rather meant to be a preparatory process,²¹ which could lead to a revision of the Treaties. It also, just like EU integration, did not have a pre-defined *finalité*. Except that this time the EU has made the reform of the Treaties dependent on the completion of an unprecedented process of co-creation via deliberation between institutional actors and ordinary citizens (Alemanno, 2021; Elstub, 2018). This is premised on the idea—central to deliberative democracy—that political decisions should not only integrate citizens’ input, but also be shaped by reasonable discussions among these same citizens (Mutz, 2007). As a result, rather than embarking on a Treaty revision and getting entangled in highly divisive and abstract themes such as institutional reform, the Conference put substantive policy issues affecting EU citizens at its core and gave ‘citizens a say on what matters to them’.²² Should those issues call for solutions the EU cannot offer in the present constitutional circumstances, then a Treaty change (or other policy reforms) could suddenly be driven by citizen demand (and not be a top-down imposition). The Conference’s underlying ‘deliberative’ logic is not only to reinforce the voice of citizens, but also to promote institutions’ willingness to listen to—and engage with—that ‘voice’ (Carson, 1999; Chwalisz, 2017; Patriquin, 2020). The assumption is that, through deliberation, political decision-making at the EU level may become more acceptable to the general public (Habermas, 2009; Steiner, 2012). Indeed, according to Jürgen Habermas, one of the main champions of deliberative democracy, ‘deliberation has the power to give rise to legitimacy’, insofar as rational argumentation helps a political system demonstrate its legitimacy, thus finding the support of its citizens (Habermas, 2009). From this perspective, the launch of the Conference on the Future of Europe can be seen as an attempt by EU Member States and the institutions themselves to give citizens back some of the

²⁰ The Council clearly stated that ‘the Conference does not fall within the scope of Article 48 TEU’ in order to rule out Treaty reform.

²¹ The 2001–2003 Convention on the Future of Europe, modelled on the prior successful experiment of the Convention that drafted a Charter of Fundamental Rights, was also preparatory in nature, but was constitutionally bound being institutionally tied to Treaty Reform.

²² Joint Declaration on the Conference on the Future of Europe, 2020.

constituent power that has traditionally been exercised on their behalf (Alemanno, 2021; Patberg, 2020).

However, it remains to be seen whether this new logic of constitution-making consisting of bringing citizens on board from the very start (*rectius*, zero) of institutional reform through consultation and then deliberation, might deliver on its promise of legitimization. Some empirical research suggests that deliberation-based democratic innovations involving ordinary citizens, citizens' assemblies particularly, can have a positive influence on the perceived legitimacy of decision-making from the perspective of the wider public (Boulianne, 2018; Dryzek, 2009; Jäske, 2018; Jäske & Setälä, 2020; Mouffe, 1999; Pow, 2021). Yet it remains to be determined whether this Conference and its method are up to the task of creating a new opportunity structure to overcome the structural deficiencies surrounding the realities of EU participation (Alemanno & Nicolaidis, 2022).

6 CONCLUSIONS

The establishment of participatory democracy as one of the EU's normative bedrocks is a potentially important step because it makes clear that representation cannot be the sole foundation for a legitimate regime in the EU. It provides a comparative advantage to the EU democratic quality when compared to that of most of its Member States, not to mention to other non-EU jurisdictions (Alemanno & Nicolaidis, 2022). Yet the realities of EU participation remain fundamentally misaligned with society's participatory expectations, and its democratic potential largely untapped. Ultimately, the realities of EU participation demonstrate not only that participatory opportunities remain vastly underutilized, but also that governments and EU institutions remain sceptical of citizens' ability to contribute to decision-making beyond the ballot box—despite all their rhetoric to the contrary.

This outcome is all the more surprising when contrasted with the growing demand for participation beyond elections across European societies (Della Porta, 2012, pp. 58–59) and the many democratic innovations taking shape across the continent (Alemanno & Organ, 2021). A panoply of new democratic experiments has been taking place, including

the G1000 assemblies in Belgium, the Netherlands, and Spain²³; citizens' assemblies in Gdansk; and the Fearless Cities of the 'municipalist' movement unfolding in different countries. Yet most of these democratic experiments remain hidden and unmapped, even by EU institutions themselves. As such, they escape the attention of mainstream media and, more generally, of the public. Typically, these bottom-up and participatory initiatives take place outside formal institutional processes and stem from different ecosystems committed to promoting citizen-oriented democratic legitimacy (Youngs, 2017). While these kinds of initiatives may be difficult to scale, they offer a platform for the EU to build on. That's exactly what the Conference on the Future of Europe has been tasked to do, by importing one of the most prominent democratic innovations at the transnational level: citizen assemblies.

Yet, the EU needs to do more to draw from alternative, unconventional forms of participation and adapt them to the unique democratic circumstances of the EU, notably its transnational nature. These democratic innovations may be capable of channelling the pluralistic and increasingly chaotic input of citizens into the political conversation and thus bring citizens closer to their representatives—which they may be able to do between elections and across countries.

The complexity of the EU institutional apparatus makes it unrealistic to expect EU citizens to understand it and be familiar with its workings before they have a chance to voice their opinions. Therefore, any meaningful attempt to make participatory democracy work in Europe requires drastically simplifying the institutional participatory apparatus—and its access—in the eyes of the public. This does not necessarily entail complex institutional reforms. A new EU participatory agenda could instead be established through inter-institutional decision-making to integrate existing avenues of participation and amplify their collective power. To unleash EU participatory democracy means breaking the

²³ The G1000 emerged as a Belgian crowd-funded citizens' assembly initiative, founded as a result of a manifesto published in five national newspapers in 2011, and run by volunteers. It took a multi-level—local, regional, and national—approach to citizen assemblies, with the aim of providing recommendations on economic and sociopolitical themes in Belgium during the government crisis (2011–2012). The assembly's final report listed a number of recommendations aimed at various audiences, including parliamentary commissions, local and provincial governments, regional and federal parliaments and governments, political parties, social partners, citizens, the European Union, and the Council of Europe.

agenda-setting monopoly enjoyed by the European institutional apparatus, notably the European Commission and the European Council. It will involve supporting unorganized citizens and facilitating their access to participatory opportunities within and outside EU channels. These avenues of participation should also trigger a feedback loop so as to guarantee input from citizens and grassroots organizations is considered in tangible ways within EU decision-making. It is only by accommodating citizens' input into existing democratic participatory avenues that these may potentially contribute to—by potentially enhancing—EU democratic legitimacy as a whole (Organ, 2017). Ultimately, the success of the Conference on the Future of Europe will be measured against its ability to design and practice new forms of citizen participation that transcend the conference itself, thus becoming the new participatory *modus operandi* for the Union.

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Higher Turnout at the Expense of Representativeness? The 2019 European Elections Against the Backdrop of a Socio-Economically Biased Voter Turnout

Michael Kaeding and Stefan Haußner

1 INTRODUCTION

The 2019 European “elections of fate” saw a European-wide increase in turnout. “For the first time since 1979, there was a major increase in voter turnout—which raised from 42.6% in 2014 to 51% in 2019” (Costa & van Hecke, 2021) (Chapter 1 of this book). Although these values remain clearly behind the turnout in main national elections they also distract from the fact that in 8 out of 28 member states voter turnout did not

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follow the European-wide trend but decreased instead. Indeed, in Europe lower turnout has been an overall trend since the 1970s (Franklin & Hobolt, 2011), it is even a global phenomenon in democracies (Blais & Dobrzynska, 1998). But this does not make it any better because low turnout rates challenge the legitimising power of elections.

In the long run, low turnout rates jeopardise the basic idea of modern democracies: the ideal of political equality and its social integrative power (Verba, 2003). This is because participation in elections today appears to be heavily skewed towards well-educated, affluent, and employed citizens (Brady et al., 1995; Haußner et al., 2017; Kaeding et al., 2016; Schäfer, 2015; Smets & van Ham, 2013). Citizens with a lower socio-economic status are significantly more likely to not exercise their right to vote than citizens with a higher status. This endangers elections' power of social integration and claim of equality (Verba et al., 1995), an effect that is aggravated with low voter turnout: the lower it is, the greater the social distortion (Lijphart, 1997).

European elections might be particularly prone to socially distorted voter turnout due to their (notorious) second-order character (Reif & Schmitt, 1980) despite the increasing politicisation and polarisation of EU politics (de Wilde et al., 2016; Put et al., 2016) and the European electoral processes (Duff, 2020; Schulz, 2015).

Are European Elections With Systematic Lower Turnout Levels Than First-Order Elections More Exposed To Greater Socio-Economic Inequality?

This chapter examines the socio-economic distortion of the voter turnout in the 2019 European elections. By analysing the effect of unemployment on voter turnout at a small-scale city district level in major European cities we show that social distortion is not a country-specific phenomenon, but rather a persistent central feature of European elections turnout across Europe. On the other hand, we have not found a stronger socio-economic imbalance in the 2019 European elections compared to previous national elections. To conclude this chapter, we discuss our findings and their implications for a European Parliament operating in a European Union that is 'at a turning point in time' (Costa, 2019).

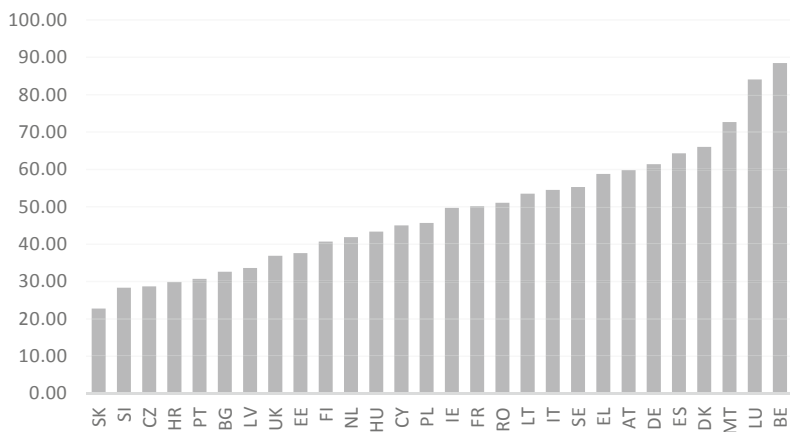


Fig. 1 Voter turnout in European elections 2019 across Member States (*Source* Haußner and Kaeding [2020a, p. 329])

2 INCREASED VOTER TURNOUT IN THE 2019 EUROPEAN ELECTIONS—GREATER DIFFERENCES AT SECOND SIGHT

The 2019 European Elections were the first ones since 1994 in which more than half of the European electorate made use of their voting rights. Across Europe, voter turnout increased by about eight percentage points, reaching a staggering 51%.

Looking closer, though, there are some caveats to this generally positive assessment (Fig. 1). Still, 15 out of 28 member states¹ are below the 50% mark. Four countries even fall below the 30% mark, which is particularly worrying. Only Luxembourg and Belgium achieve very high participation rates of over 80%—with both countries having compulsory voting.

Figure 2 further shows the differences in voter turnout by country. Here we notice (once again) distinct differences across Europe. A strong increase in voter turnout (10% points and more) occurred only

¹ Please note that 28 member states participated in the 2019 European elections. Brexit became effective at the end of January 2020.

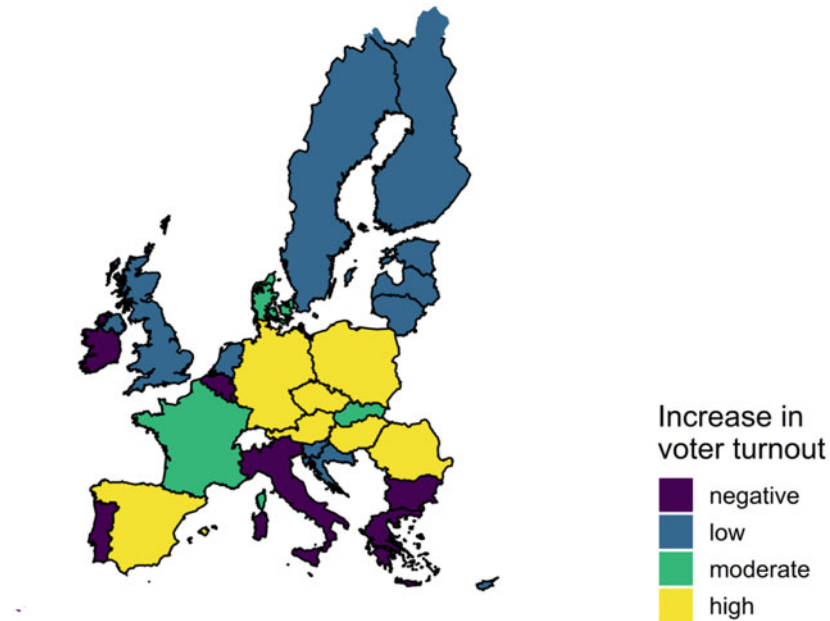


Fig. 2 2019 European election voter turnout in comparison to 2014 (*Source* Haußner and Kaeding [2020b, p. 330])

in Germany, Spain, and some Eastern European countries (Poland, Hungary, etc.). The latter were however starting from low levels of participation in the 2014 European elections. In southern Europe, Belgium, and Ireland, voter turnout actually fell. Although this decline is only just over three percentage points in the case of Bulgaria and thus significantly lower than the increase in other countries, the picture in Europe is still more diverse than what many commentators analysed on election night.

The increase in voter turnout in the 2019 European elections was mainly driven by large member states, which were among those with strong increases in participation. Due to their large number of inhabitants and voters, these countries naturally had a particularly strong influence on voter turnout in the EU as a whole.

Most importantly though, they remained second-order elections, because—compared to the previous national first-order elections in each

country—voter turnout was lower for the European elections across Europe—with the exception of Romania, Lithuania, Greece, and France.

3 SOCIO-ECONOMIC INEQUALITY AND VOTER TURNOUT—A POTENTIAL PROBLEM OF LEGITIMACY AND REPRESENTATION

Lijphart (1997) and subsequent studies have argued that declining and low voter turnout exacerbates socio-economic inequality (Sinnott & Achen, 2008, p. 2). But low turnout rates and a growing imbalance between socio-economically privileged and less privileged groups call into question the legitimacy of the democratic promise of political equality (Lijphart, 1997). In the end, political equality does not only stand for the extent to which citizens have an equal voice and right to vote, but it also includes a third dimension: the capacity to vote. Political equality is thus closely linked to social equality (Persson et al., 2013) and therefore “[...] declining voter turnout can mean not only a legitimacy problem, but also a problem of political representation” (Rabuzza, 2016, p. 6).

Studies on the actual effects of voter turnout on the election result comprehensively confirm that “socio-economic status (SES) is strongly correlated to participation” (Lutz & Marsh, 2007, p. 540). In fact, electoral abstention, often linked to socio-economic inequalities in low turnout, is a global phenomenon that is found in basically all established democracies across Europe: In Britain and Finland, for example, Hill finds socio-economic distortions in voter turnout (Hill, 2002, p. 84). A strong correlation between low socio-economic status and voter turnout has also been found in France, Spain, the Netherlands, Sweden, and Norway (Dalton, 2014, p. 57; Lijphart, 1997, p. 3; Persson et al., 2013, p. 179).

4 LINKING LOW TURNOUT AND SOCIAL INEQUALITIES: TINGSTEN’S LAW OF DISPERSION

Emphasising the connection between decreasing turnout and rising social inequalities Tingsten introduced his ‘law of dispersion’ in 1937: “[...] according to this rule, the dispersion (the differences) in regard to participation in an election or within a certain group, is smaller the higher the general participation is” (Tingsten, 1975, p. 175). Conversely, differences between social groups *worsen* as voter turnout *decreases*.

Although many studies on turnout refer to the law of dispersion, very few have tested it empirically. While Sinnott and Achen (2008) find no evidence in the US context and only moderately strong effects in the EU-context, Persson et al. (2013) find strong support for it in a Swedish natural experiment. Bhatti et al. (2019) also find that the law is confirmed in Denmark—another high turnout context. Dassonneville and Hooghe (2017) confirm this mixed picture in their study of six EU countries, finding some evidence for the law, but not in all of the countries observed. All of these studies only examine the relationship either in individual countries or for individual elections. Studies on European elections are rare (but see Lefevere and van Aelst [2014]).

5 ARE EUROPEAN SECOND-ORDER ELECTIONS MORE SOCIO-ECONOMICALLY BIASED THAN FIRST-ORDER NATIONAL ELECTIONS?

European elections have been repeatedly classified as second-order-elections (Reif & Schmitt, 1980) and low-participation elections (Steinbrecher & Rattinger, 2012). Following Tingsten's law, we would expect, as a consequence, greater socio-economic distortion in European elections compared to national first-order elections. So, what is the purpose of this chapter?

First, there is a general perception that there is less at stake in European elections. On the voters' side this is accompanied by little interest and less of a sense of voting as a civic duty (Stockemer & Blais, 2019) than in national elections. Those who vote in European elections are mainly those who are interested in politics. This characteristic, as well as the sense of civic duty, correlates strongly with socio-economic status (Stockemer & Blais, 2019).

Second, a low level of interest in the European election campaign has increased the likelihood of abstaining in past European elections (Schmitt et al., 2020, p. 11). European election campaigns continue to be conducted by national parties, which have other important elections in mind. Although parties put more emphasis on European issues in their euromanifestos than in national manifestos (Braun & Schmitt, 2018, p. 6), these issues are often seen as insignificant when weighed against the "national" issues of the party.

Third, parties are also much less willing to spend money on voter mobilisation in second-order elections. This is especially true if the party

expects to be successful even in a situation of low turnout (Reif & Schmitt, 1980). Parties strategically direct their efforts towards the districts that are most promising. These are often districts with high turnout, which are mostly in areas that are economically better-off (Lutz & Marsh, 2007).

Finally, voters in European elections are core voters. These are voters who usually vote and do not skip any single election (Bhatti et al., 2019). Core voters are again predominantly better educated and earn higher incomes. European voters are often citizens with an established habit of voting (Franklin & Hobolt, 2011).

Taken together, these elements and the second-order elections model may indicate that European elections are particularly susceptible to socio-economic imbalances in voter participation. So, is socio-economic inequality in turnout more pronounced in second-order European elections than in national main elections?

6 RESEARCH DESIGN

Since smaller units of analysis are often more homogeneous, while similarities fade in larger units due to greater heterogeneity, we will answer Hajnal and Trounstein's plea for smaller scale units of analysis (2005, p. 517) and focus on the city district level.

Selected European Cities

To start, we selected nine cities from EU countries scoring low (Czech Republic, Slovakia), medium (Estonia, the Netherlands, UK) and high (Austria, France, Germany, Spain) on turnout in the 2019 European elections. In addition, these cities represent a wide range of variations in turnout between the city districts in one election. While in European elections the between-district difference in Paris is only about 18 percentage points, in Amsterdam it is more than 60 (see Table 1).

Together, the selected European capitals represent five per cent of the total EU population. They are also capitals of their respective countries with smaller (430,000 in Bratislava) and larger (8.9 mill. in London) total number of inhabitants and varying numbers of districts (from eight in Tallinn to 103 in Amsterdam).

Capital cities have special characteristics and may present other patterns. However, with 74% of Europe's population living in urban areas

Table 1 Descriptive statistics of selected EU-capitals

<i>Capital City</i>	<i># of districts</i>	<i>Turnout figures for the respective election</i>					
		<i>max. EP 2019</i>	<i>min. EP 2019</i>	<i>max. first-order</i>	<i>min. first-order</i>	<i>Max. local</i>	<i>min. local</i>
Amsterdam	103	83.50	19.90	99.10	42.80	77.89	27.76
Madrid	21	76.22	57.40	84.18	71.04	76.78	57.95
Vienna	23	73.34	50.18	81.53	69.18	80.97	69.26
Berlin	12	69.00	49.40	81.70	69.30	50.50	43.99
Paris	20	67.17	49.08	87.47	78.83	64.18	50.03
London	33	54.04	31.56	na	na	51.38	29.54
Prague	57	53.88	29.25	82.27	65.97	71.16	29.46
Tallinn	8	52.60	31.10	75.69	55.58	62.80	49.80
Bratislava	17	44.12	24.98	78.00	59.96	50.44	26.91

Note The table shows the highest and lowest turnout in the city districts in the respective elections
Source Haußner and Kaeding (2020a)

(2018), we chose to expand the selection of cities to include smaller major cities (Bremen, Dortmund, Hamburg, Köln, Leipzig, and München). While this second step does not allow us to control for urban–rural effects, it does allow us to control for any potential “capital-city-effect”.

*Operationalisation of the Socio-Economic Situation in City Districts:
Unemployment*

Smets and van Ham report “over 170 independent variables used to explain voter turnout” (Smets & van Ham, 2013, p. 356). None of the explanatory factors are listed in all 90 studies in their meta-analysis. Therefore, this chapter will focus on unemployment, which has often been used as a strong indicator both at the individual and at the aggregate level as a proxy for the socio-economic status of the potential voter (Schäfer, 2015; Schwarz, 2012). Non-voter strongholds are almost invariably found in underprivileged neighbourhoods, which are often known as social hotspots (Kaeding et al., 2016). Accordingly, we will use unemployment as a proxy for the latent variable “socio-economic background” of city districts.

Data

The data sources are the official statistics offices of the cities and/or of their respective countries. These official statistics have the advantage of not being affected by overreporting (Karp & Brockington, 2005). Survey data also tend to underestimate social differences in voter turnout (Lahtinen et al., 2019). Turnout is consistently calculated as the ratio of voters to votes cast.

While unemployment is the only indicator that is measured fairly comprehensively at the neighbourhood level, its operationalisation is more complex compared to turnout. (For more information see Haußner & Kaeding, 2020a).

Method

Using bivariate scatterplots for each city we show the effect of socio-economic inequality on turnout. Next, we pool the data to compare the effects using a linear regression model with interaction effects of electoral type and unemployment. The districts are nested in the cities and the elections, which is why we use cluster-robust standard errors. We then test the argument that lower turnout is associated with greater socio-economic inequality by comparing different types (first versus second-order) of elections. We use data for the second-order European elections in 2019 as well as the most recent previously national first-order election and another second-order local election (mostly those of the City Council).

7 RESULTS: EUROPEAN ELECTIONS ARE NOT MORE SOCIO-ECONOMICALLY DISTORTED THAN FIRST-ORDER ELECTIONS

For the 2019 European elections Fig. 3 displays a systematic correlation at the aggregate level between unemployment figures and voter turnout across Europe. In all 28 member states employed citizens made systematically more use of their voting rights than unemployed citizens.

So, despite the European-wide increase in turnout during the 2019 European elections we see that voter turnout is socio-economically unequal across Europe. Comparing voters at the city district level, Fig. 4 zooms in one step further showing that voter turnout in first-order

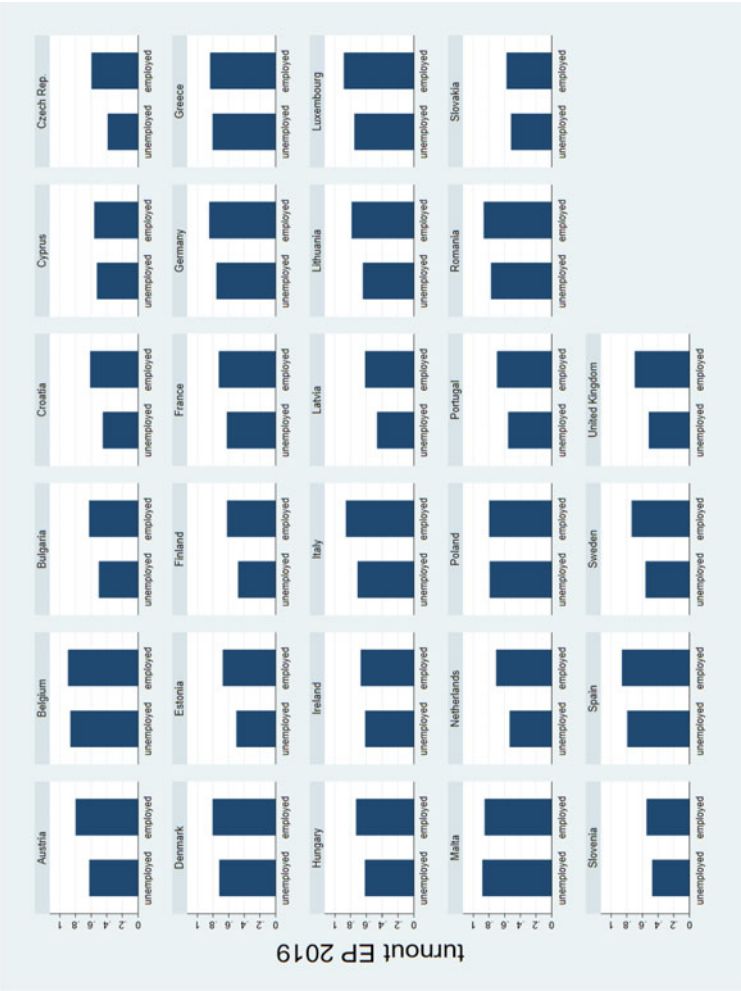


Fig. 3 Matching employment status with voter turnout in the 2019 European elections across Europe (*Source* own compilation)

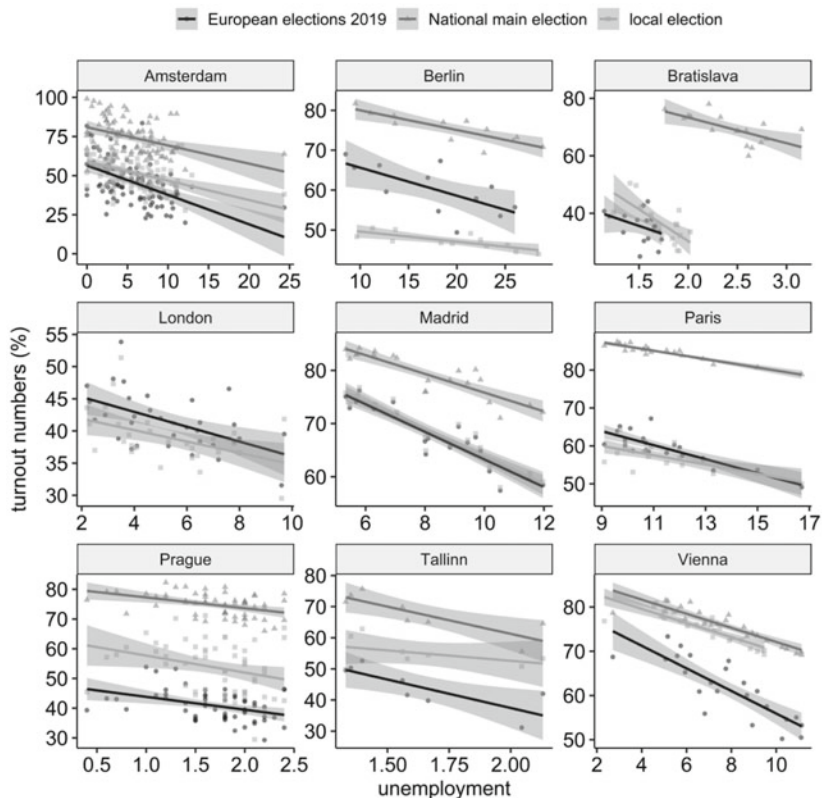


Fig. 4 Scatterplots of unemployment and voter turnout across European capital cities and election-type (*Source* Haußner & Kaeding, 2020a)

national elections and second-order European and local elections is significantly higher in certain city districts. Across Europe, voting is significantly less likely in city districts with a low socio-economic status—regardless of the election type (first- and/or second-order election).

Notwithstanding the expected significant differences in turnout at national, local, and European levels, the socio-economic inequality of turnout is stunningly similar between election types. Apparently, second-order elections with lower turnout are not systematically more socially

imbalanced than previous national main elections—despite their special characteristics.

To determine whether the link between unemployment and turnout remains the same in different elections, we built a linear regression model with interaction effects (see Table 2). (For a multi-level model as a robustness check please see Haußner & Kaeding, 2020a). Although the elections differ in the level of turnout, the effect of the socio-economic variable on turnout remains the same across all elections (including dummy variables for the election type in Model 2 and/or additional interaction effects between the effect of unemployment and the effect of the election type in Model 3).

To control for a potential “capital effect” we extend the analysis to six other major cities: Bremen (569,352), Dortmund (587,010), Hamburg (1,841,000), Cologne (1,084,000), Leipzig (587,857), and Munich (1,472,000), covering a total of 6 million citizens in 2019. (For the calculation of unemployment rates see Haußner and Kaeding [2020b]).

Table 2 Linear regression model to compare social inequality between elections

	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>
Unemployment	−3.57*** (0.31)	−3.58*** (0.30)	−4.19*** (0.61)
<i>Reference: EP election</i>			
Election type: national		24.27*** (4.18)	24.27*** (4.18)
Election type: local		3.04 (5.54)	3.04 (5.54)
<i>Reference: Unemployment × EP election</i>			
Unemployment × national election			0.83 (0.72)
Unemployment × local election			1.04 (0.77)
R^2	0.05	0.50	0.50
Adj. R^2	0.05	0.50	0.49
Num. obs.	816	816	816
Nested in cities × elections	9 × 3	9 × 3	9 × 3
RMSE	2.73	1.99	1.99

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$
Cluster robust standard errors in parentheses

The figures for major German cities in Fig. 5 display a very similar picture. In all cities, the “unemployment” indicator has a strong negative effect on voter participation. The lower the unemployment in the city district, the more likely these neighbourhoods are to have significantly higher participation rates. Despite differences in strength, the effect is clearly visible in all cities. Furthermore, we see that the effect hardly differs from the 2017 German federal election. Effect sizes are all at roughly the same level when comparing the two elections.

Again, notwithstanding the expected significant differences in turnout at the national and European levels, the social inequality of turnout is stunningly equal across election types as well as across the six selected cities. Here again second-order elections with lower turnout are not systematically more socio-economically imbalanced than their preceding national main election—despite their special characteristics.

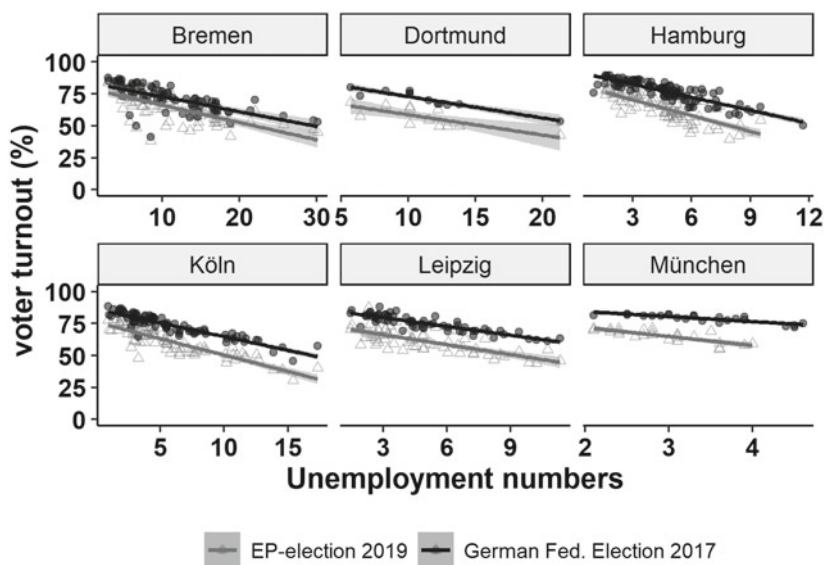


Fig. 5 Scatterplots of unemployment and turnout across six German cities and election-type (Source Haußner and Kaeding [2020b, p. 334])

8 DISCUSSION

Looking at voter turnout during the 2019 European elections one finds a mixed picture, displaying significant diversity across Europe. The participation numbers range from about 23% turnout in Slovakia to almost 90% in Belgium. While some states, especially those with large populations, have seen significant increases in voter turnout during the 2019 European elections, voter turnout actually declined in a substantial number of member states.

Regarding the 2019 European elections, we find, as expected, a strong correlation between the socio-economic context and voter turnout across Europe. The better the living conditions in the district, the higher the turnout.

If one is guided by turnout, the 2019 European election remains a second-order election. But contrary to the widespread expectation that lower turnout in European second-order elections would be associated with greater socio-economic distortion compared to national first-order elections, the 2019 European Parliament elections were not more socially unequal. The European elections, generally described as “special”, do not seem to be truly special from the perspective of social inequality.

9 CONCLUSION

Where does this leave us? The diversity in voter turnout across Europe is remarkable considering the latest European-wide efforts to increase voter participation throughout the European Union. In this regard, the Spitzenkandidaten process has had regional rather than pan-European effects at best (Hobolt, 2014; Schmitt et al., 2015), despite all broad efforts by various actors on many fronts during the 2014 and 2019 European elections (Kaeding & Switek, 2015; Kaeding et al., 2016; Put et al., 2016; Wolfs et al., 2021).

While European elections continue to be low turnout second-order elections, they are not more socio-economically biased than first-order national elections. Furthermore, this appears to be not only a country-specific, but rather a pan-European phenomenon.

The overall social and economic structure and the living conditions of citizens across Europe cause certain population groups to withdraw from the political process. The ideal of political equality is threatened

across Europe and this is true no matter the country and the first- or second-order character of an election.

Future reforms of European electoral laws would do well to take this socio-economic distortion of voter turnout in European elections into account in order to strengthen the European Parliament and further legitimate EU decision-making in times of continued crises with the Union standing at “a turning point in time”.

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Unpacking Legislative Turnover in the 2019 European Parliament Elections

Isabelle De Coninck

1 INTRODUCTION

The new EP is composed of 61% of newcomers: an all-time high marking large-scale elite renewal and implying the widespread failure of incumbent MEPs to renew their mandate. To be sure, historically European Parliament elections have been characterized by elevated turnover rates, typically renewing half its members. As legislative turnover reflects the “proportion of members of a legislative assembly that change after general elections” (Gouglas & Maddens, 2017, p. 1) it is commonly measured by setting off newcomers against returning incumbents in the legislature’s opening session. However, this simple definition and an aggregated level

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of analysis risk ignoring particular instances of elite recirculation create aggregation effects that obscure inter-group differences and fail to identify the actors driving elite renewal (François & Grossman, 2015). This chapter explores how new the 2019 European Parliament is, where the regeneration happened, and how far voters and electoral swings—so often debated regarding these most recent elections—are the driving forces of the parliament’s renewal.

Turnover can be understood as a ‘democratic thermometer’ (Crowther & Matonyte, 2007) or even as a “kind of seismographer, detecting shifts in the foundations of politics and policy” (Putnam, 1976, p. 43). Scholars across time and space agree that the quality of democracy and policy suffer when there is too little or too much alternation in power. Low turnover makes assemblies unresponsive (Boll & Rommele, 1994; Matland & Studlar, 2004), while excessive renewal leads to instability and short-sightedness (IPU, 2012, pp. 16, 49; Uppal & Glazer, 2015). By any standard, the EP’s 2019 turnover surpasses what would be considered ‘normal’. To be fair, the absence of traditional government-opposition dynamics and the organization of parliamentary work along transnational party ideological lines via the European Political Groups may somewhat mitigate the risk of losing sight of long-term horizons. In contrast, the loss of expertise and weakening of established networks may be particularly impactful on ones’ ability to influence policy-making in the EP.

This chapter reflects on the constituent parts of the European Parliament’s most recent legislative turnover. Legislative turnover in the EP is unpacked to uncover what portions of it are in reality voter and elite driven. Mapping and unpacking the 2019 EP elections’ turnover, this chapter moves beyond an aggregate view, thus allowing a deeper reflection on the drivers of this elite renewal but also on its consequences. First, the EP 2019 legislative turnover is put into its historical and electoral context. Then, turnover and its constituent parts are reflected upon from a theoretical perspective before moving on to the descriptive analyses of various segmentations of the EP’s 2019 turnover. The record-high turnover rate is broken down into constituent parts: intra- versus inter-party turnover, drivers of turnover, member state variations, and finally voter versus party instigated turnover.

2 THE LANDMARK LEGISLATIVE TURNOVER OF THE 2019 ELECTIONS

There is no denying that the 2019 European Parliament elections were marked by unprecedented elite renewal. Less than 40% of outgoing MEPs returned after the elections, with three in five of the MEPs who took office in July 2019 being new to the assembly.¹ To be sure, relative to national assemblies, the European Parliament has systematically been characterized by high levels of turnover, its ‘usual’ rate hovering around 50% (cf. Manow & Verzichelli, 2007a, 2007b; Sigalas & Tiemann, 2012; Van Geffen, 2018; Westlake, 1994; Whitaker, 2014). European elections are largely understood to be second order elections: elections of low salience to both parties and voters. Its high levels of turnover are often ascribed to a large share of incumbents voluntarily stepping down and moving on at the end of the legislature. Many among them use the EP as a waiting room for a national political career or a convenient retirement home, although the attractiveness of EP careers has been on the rise (Cirone, 2018; Manow & Verzichelli, 2007a, 2007b; Scarrow, 1997; Verzichelli & Edinger, 2005; Whitaker, 2014).

Low voter turnout and a limited pursuit of strong EP careers by parties and individual politicians signal European elections playing second (or third) fiddle to national (and regional) politics (Hix et al., 2007; Judge & Earnshaw, 2008; Marsh & Norris, 1997; Reif & Schmidt, 1980). Figure 1 shows the EP’s legislative turnover and voter turnout in EP elections since 1984. Though the EP has always been marked by high turnover, the 2019 results mark a historic height.² With a dramatic increase of

¹ The vast majority of experienced MEPs renewing their mandate in 2019 are outgoing MEPs, though some have returned to their Strasbourg office either after having ‘skipped’ a legislature (mostly because their parties came up short in the 2014 election), or after having prematurely dropped out of their mandate. The term *novice* MEPs is used to indicate the elected MEP who has no prior experience in the EP whatsoever. Though conceptually different, mathematically and analytically, the difference between the EP’s share of newcomer and novice MEPs is negligible.

² The steady professionalization of the EP set in after a noticeably high turnover in 1994. That year, no less than 58% of MEPs assuming office were new to the assembly. A closer look reveals that this rise in turnover was not caused by a peak in incumbents’ disinterest to return nor by exceptional electoral volatility. Rather it can be explained by the Union’s enlargement. The new EP counted 49 additional seats to recalibrate national delegation sizes in response to German reunification and in anticipation of the accession of Austria, Finland, and Sweden. Evidently, these mandates had no prior occupants;

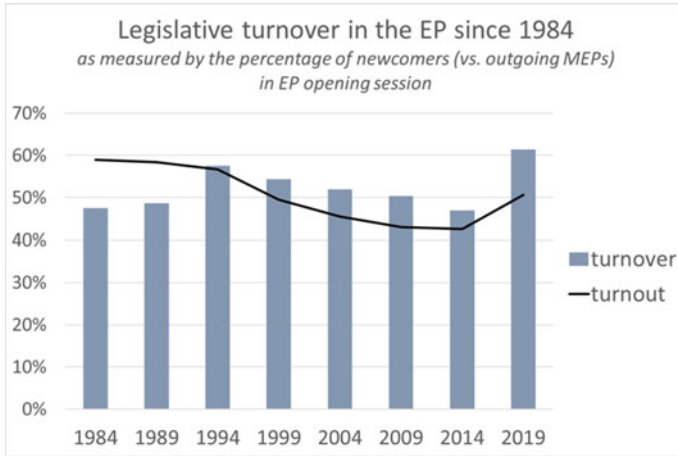


Fig. 1 Legislative turnover in the EP since 1984 (*Source* European Parliament)

14.4% compared to the 2014 elections, the massive elite renewal of the 2019 elections disrupts the steady decline in EP turnover sparked in the mid-90's by the Maastricht Treaty and the EP's increasing salience to politicians. The more salient the political mandate and elections become, the more incumbents will strive to renew their mandate and the lower legislative turnover will be. Interestingly though, the 2019 EP elections are characterized by a surge in both incumbent turnover and voter turnout. In other words, public attention for the elections increased, and yet a substantially larger share of incumbents did not continue their career in the EP.

hence they were taken up by newcomers. If we consider the re-election rate of outgoing incumbents in 1994 instead, legislative turnover 'drops' by about 10%. This underscores the extraordinary level of turnover witnessed in the most recent elections. It is indeed worth noting that EU enlargement rounds—altering the EP's size and/or redistributing its seats among member states—logically affect the starting session's newcomer ratio. In fact, the 2019 EP elections were the first in which the total assembly size and seat allocations among member states remained unchanged since the previous elections. A somewhat ironic landmark as adjustments had been arranged to deal with Brexit but were postponed, as slow progress in the negotiations obliged the UK to participate in the elections once more.

3 A CRY FOR RENEWAL: GREEN WAVES AND POPULIST SURGES

Another way 2019 marked a turning point, is the fact that the elections gained in salience for citizens across the Union. For the first time ever, EP voter turnout increased (+8.1%), enough for every second eligible voter to show up (see Fig. 1 for voter turnout in EP elections since 1984). An intuitive explanation is the omnipresence of voter-mobilizing issues such as migration, climate change, fake news, and Brexit—sparking strong public opinions on what the EU is and should (or not) be doing about it. The increased salience adds to the idea that the EP is consolidating (or even increasing) its appeal to politicians as a proper career venue. If so, the drop in elite recirculation may suggest many incumbents sought re-election but failed, which would be in tune with the idea that voters mobilized around the above-mentioned issues and a desire for change. Perhaps then, the EP’s massive elite renewal should not surprise us. After all, these mobilizing issues may in and of themselves lead voters to reconsider their political priorities and preferences. Moreover, the previous EP elections in 2014 and recent rounds of national legislative elections across Europe already reflected popular calls for renewal and electoral swings away from the centre. The traditional liberal, socialist, and Christian-democratic families are being challenged by the ascension of the green political family and party families on the populist radical right and left. Commentators consistently predicted the 2019 European elections would be marked by ‘populist surges’ and ‘green waves’, by ‘the rise of the far right’ versus the ‘Greta-effect’. Whichever way they lean, electorates across Europe exuded a “powerful, shared yearning for change” (Tisdall, 2019).

The predicted swings broadly materialized: the electoral support for the centre and left waned while non-traditional—both green and populist—parties increased their influence in the EP. They—as well as a reinvented liberal front—are the clear winners of the 2019 EP elections. Looking at the election results and the composition of the new parliament, it is only fair to conclude that voters thoroughly shuffled the deck. Yet at the same time, one should not overstate the extent to which these waves and surges have overthrown the status quo or spurred elite renewal in the assembly. Green parties did relatively well and—to the relief of many observers—the Union was not ‘taken over’ by the radical right.

Often, one side or another gained support at the expense of the traditional party families in a member state though in some countries, none the least in France and Germany, both sides made a considerable splash (De Lange, 2019; Durovic et al., 2019). Disentangling the data shows however that the shifts' impact on legislative turnover may actually be much more limited than would appear at first sight.

In reality, the choice of the voter is already in large part decided before the elections take place. As Gouglas and Maddens (2017) put it: "by the time voters are called to make a choice at the ballot, [turnover] has already been delimited. [...E]ssentially, what happens prior to general elections at the stage of selection is the body of the iceberg we do not see, elections being its permanently visible tip" (pp. 3, 5). It is therefore worthwhile to look at legislative turnover from its mirror side: the perspective of outgoing incumbents. How many of the MEPs who served in the outgoing session of a legislature return after the elections, and who or what determined the fate of the absent?

4 THEORIZING AND MEASURING TURNOVER: RENEWAL AT WHOSE REQUEST?

Electoral defeat is only one of the reasons why incumbents may not return after elections. Indeed, prior to the elections a large portion of legislative turnover is already decided by the political elite itself; either by the incumbent's ambition to return or the party's choices when composing their candidate list. Whether eventually replaced by a newcomer of the same or of another party, the fact that an incumbent does not renew his/her mandate may have been decided well before the electorate cast their votes at the ballot box. Looking at what drives legislative turnover and the influx of newcomers thus requires us to study the choices of three actors: the incumbents proper, their party selectorate, and the voters.

To be re-elected, incumbents should first have the desire to renew their mandate, their parties must renominate them as a candidate, and finally they need to do sufficiently well in the elections. A lack of ambition to renew their mandate on the part of the incumbent or the decision by the party not to relist them both result in non-candidacy.³ Evidently,

³ Strictly speaking, it is not necessary for the incumbent to be *reselected* by his outgoing party. Alternatively, s/he could seek re-election as a candidate for *another* party or as an

whomever is not partaking in the race cannot be elected. Therefore, non-candidacy is the first driver of legislative turnover. Next, some relisted incumbents will fail in their bid to be re-elected. Either because the party list loses vote share (resulting in inter-party turnover), or because the incumbent is defeated by a newcomer from within his/her own party (feeding into intra-party turnover). Voters make their choices and, in doing so, further the renewal of elites in as far as they pick newcomers over relisted incumbents.

In party-centred (i.e. closed and flexible lists) electoral systems, parties control the ranking of their candidates which in turn decides the intra-party allocation of mandates.⁴ And “because there are ‘safe seats’ in virtually every legislature, in many cases it is the candidate-selection procedure—and not the general election—that determines who will become a member of parliament” (Rahat, 2007, p. 159). As parties decide who they select for which position, it is in their power to steer who will get the mandates won in the elections. This has important implications for our understanding of the locus and drivers of legislative turnover. If parties exert considerable control over the electoral fortune of their candidates through ballot placement, then surely electoral defeat may not always be caused by voter choices. One should note that this party control only applies to party-centred electoral systems. Where open list or single-transferable vote systems are used, the defeat or success of listed incumbents is always ultimately the result of preference votes cast by the electorate. Still, candidate selection and the relegation of incumbents may have a considerable impact on who drives turnover in the EP. Party-centred systems are used in 16 EU member states represented by a total of 523 MEPs, or 70% of the EP’s seats. Unless specifically stated otherwise, the remainder of this section concerns MEPs competing in party-centred systems.

independent. In the 2019 elections, 41 incumbents did so, 12 of which were successful in securing another EP mandate.

⁴ In party-centred electoral systems, some candidates are much more likely to be elected than others. Others stand so little chance that they can be considered to be virtually de-selected. The highest ranked candidates on a list have better prospects than those placed below them. This is because in party-centred systems the intra-party seat allocation follows the ballot order. Invariably so in closed list systems, but in practice this extends to flexible lists where preferential votes have been found to alter the rank order of candidates, but rarely who gets elected (Däubler & Hix, 2018).

Party selectorates are well aware of the electoral value of ballot positions and select candidates accordingly. In doing so, the positions with the highest electoral prospects go to those candidates the party wants to see serve in the upcoming legislature. “If the party selectorate [...] chooses to re-select incumbents, there are still multiple outcomes [such as to] relegate them to less attractive list positions” (Put et al., 2015, pp. 4–5), i.e. place them on list slots that are not expected to lead to their (re-)election. Beyond the influence of voters and despite partaking in the race, incumbents placed in so-called ‘hopeless’ (as opposed to ‘realistic’ or ‘eligible’) positions face little—if any—chance of returning to the EP. Relegation leads to electoral defeat but refers to selectoral turnover as the party selectorate knowingly decides the incumbent’s fate. In other words, the curtain has fallen on these re-election seeking incumbents before voters were called to express their preference. Thus, the part of turnover that relates to the replacement of incumbents relegated to hopeless positions is prompted by the decisions of the political elite, and not those of the voters. If parties wish to retain as much of their incumbent expertise as possible in the upcoming legislature, this will show in their reluctance to relegate re-election seeking MEPs.

To identify relegation—and thus separate hopeless list positions from those with electoral prospects—the number of seats the party won in the previous elections is used as a benchmark. An incumbent who is placed in a position that would not have yielded electoral success in the past election is then considered relegated. On the electoral lists of 2019, this corresponds to ballot positions with a rank number larger than the number of seats the party won in the 2014 EP elections.⁵ The defeat of incumbents in these positions is a verdict of party more than it is one of the voters. In contrast, the losses of incumbents who were not relegated but instead competed from a position that led to a mandate the last time around, are the result of electoral swings and voters’ choices. Essentially, this approach tells us what portion of re-nominated incumbents would not have re-entered the EP in the absence of electoral swings.

However, parties do not design their ballot list in a vacuum, oblivious to looming electoral swings. Instead, “candidates and parties anticipate and adapt when past unrealistic [i.e. hopeless] positions become increasingly realistic” and vice versa (Dodeigne & Meulewater, 2017, p. 11). The

⁵ The official electoral results of the 2014 EP elections as published on the website of the European Parliament were used to measure party size.

party's anticipation of how it may be affected by projected electoral swings and the expectation of consequent seat gains and losses may well inform their choices. They may opt to renew their delegation proactively, aim to retain as many incumbents in the positions they can keep, push new faces forward while giving incumbents a good fighting chance for the additional seat(s) they may expect, or any strategy in between. Whatever the details of the internal (re)selection process, if parties use forecasts to make their decision, positions that are not *expected* to win a mandate in the upcoming elections are considered hopeless. Relegated incumbents then are those who occupy list positions that—according to the polls—will not result in a ticket to Strasbourg.⁶ Arguably, the relegation of incumbents is at least in part based on signals sent by the electorate, but ultimately these individual MEPs are sacrificed by the party, not the voters. In contrast, the defeat of incumbents who are not relegated according to this benchmark, again results from voter choices.

The descriptive analyses offered in this chapter are based on a unique dataset composed of all members of the outgoing session of the 8th EP (2014–2019) and the starting session of the 9th EP (2019–2024), containing information on their political affiliation, member state, and the relevant electoral system. I checked the participation of all the MEPs of the outgoing parliament in the 2019 elections, as well of course as their results. Candidacy in the elections was checked by collecting all the complete ballot lists registered for the EP elections and identifying incumbent candidates by matching them to our dataset. When competing within a party-centred electoral system, the rank order of the incumbent's ballot position is also recorded in the dataset. With regard to the identification of relegation I rely on the official results of the 2014 EP elections as found on the EP website and the forecasts made concerning the 2019 EP elections by Simon Hix and his colleagues (unpublished dataset).

In the analysis that follows, I disaggregate the European Parliament's 2019 legislative turnover along four different fault lines: intra- versus inter-party turnover, drivers of turnover, member state variation, and voter- versus party- driven renewal.

⁶ To determine whether the incumbents are relegated using this poll-benchmark, we use the seat forecasts as calculated by Simon Hix and his team in the year preceding the 2019 EP elections (unpublished dataset). Three forecasts were produced, in September 2018, January 2019 and May 2019. An incumbent is considered relegated if s/he is placed on a position not expected to win a seat in any of the forecasts.

5 INFLUX OF NEWCOMERS OR OUTFLOW OF INCUMBENTS?

From a perspective of voter volatility and the decline of traditional parties, it makes intuitive sense to attribute the high turnover in 2019 to voter choice. Surely, a reorientation of votes and the corresponding seat reallocations between parties brought these newcomers to parliament? To test this assumption, Fig. 2 illustrates the composition of the 9th EP's starting session based on how MEPs entered: either as a returning incumbent or as a newcomer. Among the newcomers, the graph differentiates intra- or inter-party influx, i.e. newcomers can take up a seat as a consequence of either intra- or inter-party changes: they can either fill a seat that was already held by their party in the past legislature, or one that was previously held by another political party. Newcomers can replace a retiring (or otherwise standing down) incumbent of their party, defeat an incumbent of their party through preference votes—or enter the parliament as a consequence of increased seat share to the detriment of other parties (Gallagher, 1988; Gouglass & Maddens, 2017).⁷ In the two former cases, the influx of newcomers happens independently from electoral swings. The latter scenario is where electoral shifts, such as the green waves and populist surges documented in the 2019 EP elections, bring newcomers into the parliament.

Figure 2 shows that among the EP's many newcomers, a majority entered parliament through inter-party turnover. Electoral shifts caused every third EP seat to change party hands. Lost by one party and gained by another, these seats are occupied by non-incumbents. Either because the parties making an electoral gain now need to fill more seats than they have outgoing incumbents, or because the party is making its first entry in the EP altogether. Clearly, through their wish for change, voters bestowed EP mandates onto a large number of newcomers.

⁷ Redistricting too, can cause the entry of newcomers into parliament. We already know the 2019 EP elections did not see size adjustments or seat reallocation among member states initially. That said, 27 so-called 'frozen MEPs' were elected across 14 member states in anticipation of the UK's departure from the EP. In February 2020 the 73 UK MEPs left the Parliament, while the frozen MEPs entered. Among the 27 frozen MEPs, five were outgoing MEPs, another three amongst them otherwise had prior EP experience. Overall, this adjustment did not alter the turnover rate in the EP. Replacing the UK MEPs by the frozen 27 still results in a legislative turnover rate of 61%. It does however impact for example the sizes and incumbency rates within political groups.

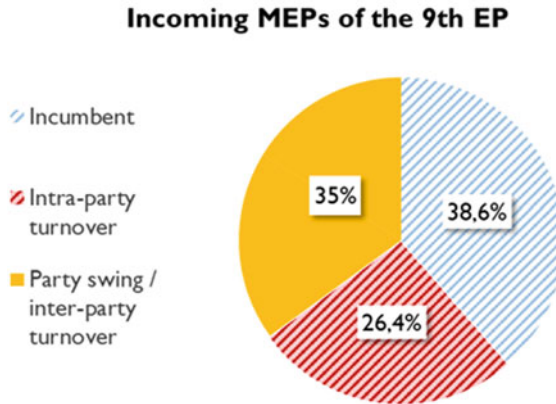


Fig. 2 Legislative turnover from a newcomers' perspective: inter- and intra-party turnover (*Source* own calculations)

Still, 65% of the EP's mandates remain in the hands of the parties that held them prior to the elections (striped section). In large part, these seats are occupied by re-elected incumbents renewing their mandate, but there are newcomers here too. Elite renewal within a party's delegation can happen in two major ways. First, incumbents can resign (because they retire for example, or seek another challenge), meaning they do not take part in the race and a non-incumbent candidate takes their place on the ballot and—if the party successfully retains the mandate—the incumbent's place in the assembly. Second, intra-party turnover happens when re-election seeking incumbents are unsuccessful compared to non-incumbent candidates on the same list.

While all newcomers unmistakably take up a seat previously occupied by someone else, the replacement of incumbents is not necessarily caused by voter choices and electoral swings. Not all those who are absent from the new assembly are sent home by voters. It would be misguided to assume inter-party turnover necessarily defeats *incumbents* of other parties, or intra-party turnover to depend solely on decisions made at the ballot box. Figure 2 gives us the composition of the new assembly after the election but it does not tell us how many incumbents were defeated electorally.

6 EP TURNOVER AS A SUM OF DRIVERS

In its simplest form, there are two sequential key drivers that add up to an assembly's turnover rate: non-candidacy and electoral defeat. There is widespread scholarly consensus that “[m]ost turnover happens prior to general elections [and t]his appears to be a general rule characterizing the phenomenon” across countries and time (Ibid., p. 1). Nevertheless, the respective weight of non-candidacy and electoral defeat on legislative turnover may vary. High turnover in EP elections specifically is often almost solely ascribed to the career ambitions of MEPs, suggesting that those who aim to pursue a career in the EP are highly successful in doing so, while many still do not seek it despite the EP's growing attractiveness.

Figure 3 shows that although the EP is marked by a highly elevated and quite steady turnover, the respective weights of selectoral and electoral drivers are variable. Just two elections ago, in 2009, the EP's 50% legislative turnover could be almost entirely ascribed to the non-candidacy of its incumbents. “[P]arty re-nomination almost guarantee[d] re-election” as only one in ten relisted incumbents did not succeed in renewing his/her mandate (Sigalas & Tiemann, 2012, p. 3). In 2014, the electoral success of incumbent candidates dropped from 90 to 66%. Its effect on overall turnover was mitigated by the fact that nearly three quarters of outgoing MEPs sought re-election, a vast increase compared to the 2009 election. Overall, the EP's turnover remained close to its usual 50% but, in contrast to the previous elections, it was not a direct consequence of non-candidacy. Finally, in 2019, the picture looks different yet again. This time, both a high non-candidacy rate (39%) and electoral defeat (23%) among candidates have spurred legislative turnover. Their combined effect on elite renewal resulted in a 15% increase in the EP's total legislative turnover compared to the previous elections.

Despite the relative attractiveness of the MEP mandate today, many outgoing MEPs did not take part in the 2019 elections. They were either not seeking to continue their career in the EP—moving on to other things, including retirement—or not reselected by their party. Among incumbents who did run for re-election on their party's list, about a quarter failed to be elected. While voter demand for renewal is unmistakably a driving force behind elite renewal, we know this is only part of the story. Before voters cast their ballot, much has already been decided. More than through non-candidacy alone, “by the time voters are called to make a choice at the ballot, [turnover] has already been delimited by party

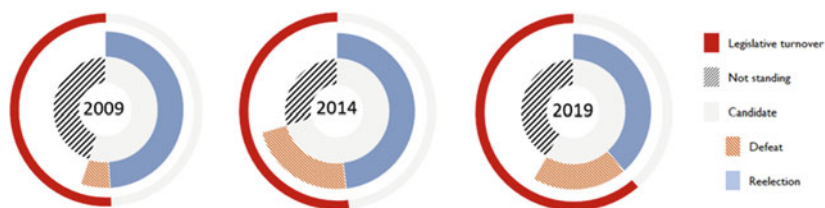


Fig. 3 Unpacking legislative turnover: non-candidacy and defeat (2009, 2014, 2019) (*Note* These graphs illustrate the fate of the outgoing MEPs that had served a full legislature to replicate the results found by Sigalas and Tiemann [2012]. *Source* 2009: Sigalas and Tiemann [2012], 2014 and 2019: own calculations)

selectorate choices” (Gouglas & Maddens, 2017, p. 3). Clearly, legislative turnover is the sum of its drivers: ambition, reselection and re-election; and their respective contributions to the EP’s turnover rate vary widely across elections.

7 EP TURNOVER AS A SUM OF NATIONAL (S)ELECTIONS

Not only is EP turnover a sum of its component drivers; it is also the aggregate of turnover rates in the national delegations within the assembly, each of which is subject to the European elections within their respective member state. With turnover at a record high, the delegations of all member states have been thoroughly renewed. Each member state strikes its own turnover balance between candidacy and re-election. Figure 4 maps the 2019 legislative turnover across the Union by illustrating the total recirculation rate of MEPs (left), the incumbents’ participation rate in the elections (middle), and the re-election rate among relisted incumbents (right) per member state. Lighter zones indicate countries with higher turnover, i.e. less recirculation, candidacy, and re-election. Sweden and Slovakia take the cake: their EP delegations are renewed by 80 and 85%, respectively. Also facing spectacular elite renewal with delegations composed of 70% or more of EP novices are Spain, France, Romania, Denmark, and the UK. Other member states retained higher portions of their incumbents, although (with the exception of Slovenia and Hungary) the elections consistently resulted in the replacement of at least half their MEPs.

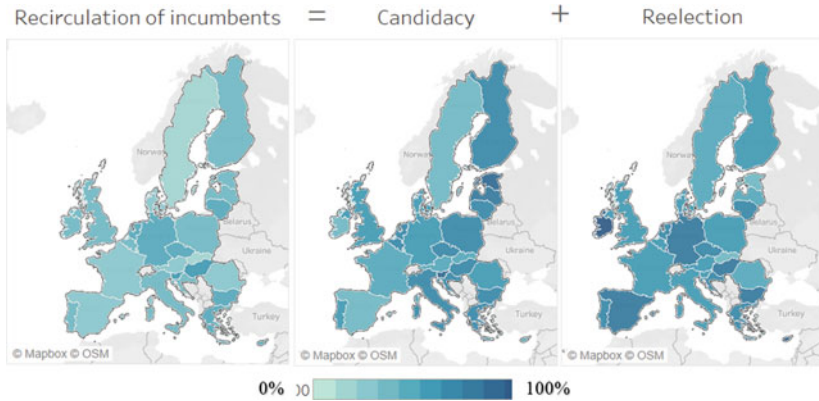


Fig. 4 Elite recirculation, candidacy, and re-election rates across the Union (2019) (*Source* own calculation based on outgoing incumbents, 2019 ballot lists, and election results)

A delegation's renewal can be primarily driven by non-candidacy or by voter choices, depending on whether it is driven by individual ambitions and party choices, or by the electoral environment within a member state and the resulting shifts that replace incumbents with new faces. Explicit illustrations of this are found in a couple smaller members states whose 2019 turnover rates are almost entirely dependent on either one of the constituent parts of legislative turnover: non-candidacy or electoral defeat. Estonian and Slovenian turnover was almost exclusively driven by the electorate while Irish and Cypriot MEP turnover was almost entirely caused by selectoral decisions. Usually however, legislative turnover is more nuanced, a combined effect of both the supply and success of incumbents seeking re-election.

High levels of non-candidacy indicate that most legislative turnover took place before voters made their choice. Electoral shifts can subsequently only expand it. Where few incumbents partake in the race but most of them are re-elected, the elite recirculation is mainly driven by personal ambitions and parties' selectoral choices. For example, this happened in Spain and Germany, whose national delegations faced 66 and 56% renewal, respectively, based on non-candidacy alone. Spanish voters did not rock the boat. German voters acted on the call of non-traditional parties more, but this did not result in much additional incumbents'

losses. Interestingly, in both cases non-candidacy was most prominent among incumbents of green and (left and right) populist parties. While MEPs from traditional parties were seeking re-election more frequently, non-candidacy was high within the non-traditional party families who were generally expected to make electoral headway.

When, in contrast, candidacy among incumbents is high but their re-election is low, turnover is predominantly decided in the voting booth. This dynamic characterized for example the elections in Italy and Belgium. Changed voter preferences exacerbate the share of newcomers in the assembly, as seats are redistributed between parties. Shifting party support in Italy—most clearly illustrated by the *Northern League's* 20% vote share increase—prompted the defeat of almost half of incumbents seeking re-election. In Belgium voters shifted to the far right in the Dutch speaking constituency and towards the far left and greens in the French speaking part of the country. In addition to elite renewal created by non-candidacy, the voters in these countries thoroughly reshuffled the cards.

8 ALIA IACTA EST

So far, we have seen that turnover in the EP can be disaggregated into intra- and inter-party turnover, component drivers and national turnover rates in the European election. The role played by party selectorates has also been examined—particularly in party-centred electoral systems. Segmenting turnover into voter- versus party- driven elite renewal remains a daunting task however. Indeed, the parts of legislative turnover that are driven by the choices of the elite or the electorate are difficult to isolate as voter signals and party choices are not always easily distinguishable. In this analysis, I use two different measurements of incumbent relegation to gauge the extent to which parties put their own incumbents up for replacement without fully deselecting them.

Figure 5 illustrates the different components of turnover from the perspective of the outgoing incumbent. The pies differentiate between incumbents who stood down, who were defeated at the ballot, and those who were re-elected. The left-hand pane illustrates elite and voter driven turnover in party-centred systems using both relegation benchmarks discussed above. Setting off the party size benchmark (inner circle) against the seat projections benchmark for relegation (outer circle) illuminates the muddy waters between elite and electoral drivers of turnover. The middle

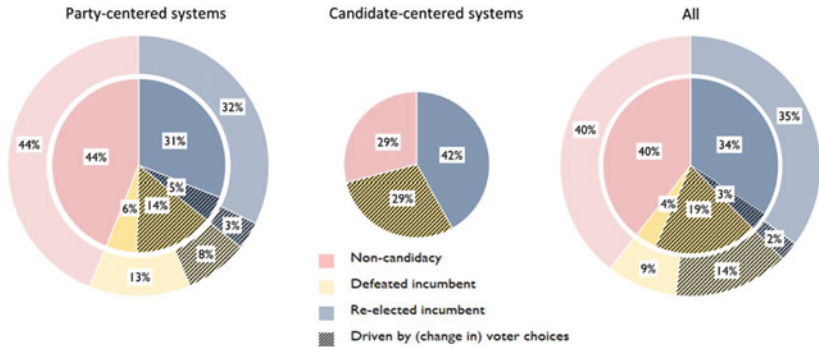


Fig. 5 Voter choices and relegation drive electoral defeat of relisted incumbents (*Source* own calculations—Inner circle ‘party size’ relegation benchmark at seats won in 2014 [based on election results collected from the European Parliament website]; outer circle ‘seat projection’ relegation benchmark based on polling results 2019 elections [based on PollWatch forecast data])

pane shows non-candidacy, defeat, and re-election in candidate-centred systems. Finally, the right-hand pane merges the two other panes and covers the fate of all the outgoing incumbents of the 8th EP.

Where incumbents were absent from the ballot or relegated by their party to a hopeless position, I consider their exit from the EP and their replacement by a newcomer to be a consequence of elite choices. Where incumbents are re-elected after competing on a viable ballot position this also involves elite decisions: voters did not disturb the turnover rate that was already put in motion by selectoral choices. The share of incumbent turnover that was truly decided at the voting booth is found where incumbents fail to return to Parliament despite their ambition *and* their party’s best effort to place them on a ballot position with good electoral prospects (i.e. by not relegating the incumbent), and where voters re-elect incumbents against all expectations. Incumbents’ defeat or success in candidate-centred systems is invariably understood as resulting from voter choice. Here, non-candidacy is considered to be the sole driver of turnover that is determined prior to the elections.⁸

⁸ While heuristic cues and party endorsements may matter here, ultimately the voter decides. Further exploration of drivers of turnover here would be interesting yet it would lead us far beyond the scope of this analysis.

The graphs show that outgoing MEPs in candidate-centred systems have considerably better odds of returning to the assembly compared to their colleagues from party-centred systems. They seek re-election more frequently but then their success depends on preferential votes. In party-centred systems on the other hand, voters are more constrained about which incumbents they can realistically re-elect. Here, the legislative turnover driven by electoral choices corresponds to the share of incumbents that were elected or defeated ‘against the odds’. The fate of all other incumbents had in fact been settled beforehand. In the 2019 elections, about one in ten incumbents were relegated to a position that had not led to a mandate last time around (i.e. relegation: total = 6% defeat driven by relegation + 5% re-elected despite being relegated). When considering the relegation of MEPs against the parties’ anticipated electoral result—be it a gain or loss—relegation to a hopeless position becomes the lead driver of defeat for MEPs seeking re-election, affecting 16% of outgoing MEPs (13% + 3%). Non-candidacy and ballot ranking determine incumbents’ fate almost exclusively. Neither parties nor candidates are blind to this reality. The elevated rate of non-candidacy among MEPs elected in these systems may prove politicians’ preference for standing down from a race they know they will not win. If incumbents face relegation, they may opt out instead. All-in-all 40% of outgoing incumbents decided their own exit by standing down in the 2019 elections. The additional renewal stems from both elite and electoral decisions. Voters are responsible for the fate of the majority of defeated incumbents. However, considering that the re-election of well-placed incumbents is a direct consequence of selectoral choices, elite-driven turnover clearly rules the EP’s democratic thermometer.

9 CONCLUSION

Never before has the European Parliament been populated by so many newcomers without any prior experience in European politics as it has after the 2019 elections. Conversely, never before have so few incumbent MEPs returned to the assembly. It would appear that voters have thoroughly shaken up the composition of the EP, rallying in green waves and populist surges to the detriment of the established elite and traditional party families. Most newcomers are there because of their party’s electoral gains, or even its first representation in the EP (inter-party turnover). Still, 65% of EP seats have not changed hands and a considerable share

of elite renewal takes the form of intra-party turnover. Moreover, a closer look at the fate of the outgoing incumbents reveals that—despite relative EP careerism and a surge in the EP’s salience for the electorate—the major driver behind the 2019 turnover remains the non-candidacy of outgoing incumbents. Many incumbents are simply absent from the ballot list, which sets the EP’s turnover at 39% before any even elections took place.

In party-centred electoral systems that are used for the election of the vast majority of MEPs, the relegation of relisted incumbents further delimits the assembly’s renewal. Incumbents are overwhelmingly placed in positions the party expects to win, for others the race was over before it began. Voters’ preferences finally account for 30% of incumbents’ failure to renew their mandate. Voters’ impact on legislative turnover further diminishes if one considers that parties are aware of the value of their ballot positions in light of electoral forecasting rather than by benchmarking the current size of their delegation. A precise division between elite and voter driven turnover is impossible as reality is more nuanced, but this first rough unpacking of legislative turnover illustrates the fact that the bulk of elite renewal is decided (and elite recirculation ensured) before citizens cast their votes. In addition, beyond the impact of the electoral system on incumbents’ return, turnover rates—and its constituent drivers of reselection and re-election—vary considerably between member states.

Above all, the European Parliament’s turnover is the summation of its components—and these segments are complex units in their own right. This chapter has made a first attempt at disaggregating the EP’s infamously high turnover rate along multiple fault lines, and in particular gives due consideration to the intricacy of party selectoral choices as a generally underestimated—or at least shallowly understood—direct driver of legislative turnover. Further research should be directed at capturing driving forces and sub-aggregate variations and patterns in legislative turnover. It is time for the scholarship to move into the space between the birds-eye and individual-level views of elite renewal. Attention to the meso-level, contrasting multiple delineations to identify drivers and segments is needed to understand legislative turnover in the EP more fully. If we are to interpret turnover as a reflection of the democratic quality of the European Parliament, a fine-grained analysis of its components and drivers is needed. Contemplating the aggregated result alone can never yield persuasive insights, as it is incapable of telling the whole story as it obscures crucial nuances.

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The Life and Death of the *Spitzenkandidaten*: What Role is Left for European Political Parties?

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1 INTRODUCTION

‘I was the first and last *Spitzenkandidat*’, Jean-Claude Juncker said at a press conference in Helsinki on 5 July 2020, a few days after the European Council had nominated German defence minister Ursula von der Leyen to become Commission President (EUobserver, 2019). The outgoing President referred to himself as being the first, but also the last *Spitzenkandidat* to reach the top floor of the Berlaymont building. At the same time, he stated regretfully that the *Spitzenkandidaten* nomination process, which he had successfully experienced in 2014, ‘unfortunately didn’t become a tradition’ and was ‘not very transparent’ in 2019.

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The *Spitzenkandidaten* system basically entails that every European political party selects a candidate to become president of the European Commission. Consequently, the candidate becomes the leading figure in the Europarty's electoral campaign. The system is rather complicated and indirect. It links European political parties with EU institutions through elections that take place within national political arenas, and serves various purposes, both at the national and the European levels. It was relatively successfully used in 2014, but still had its fair share of critics and non-believers.

In 2019, contrary to five years earlier, the European Parliament elections did not have a decisive impact on the presidency of the European Commission. This chapter will discuss the origins and characteristics of the so-called *Spitzenkandidaten* system, explain why the outcome was different in 2019 than it had been in 2014, and evaluate the role of European political parties therein. This will also provide an analysis of the inter-institutional relations between the Parliament, the European Council and the Commission, with a particular focus on the post-2019 balance of power in the EU.

2 THE BIRTH OF THE *Spitzenkandidaten* SYSTEM¹

Undoubtedly, without the direct election of the European Parliament (which has been taking place since 1979), the existence of the presidency of the European Commission (as the top job in the EU executive) and the gradual development of European political parties (the traditional ones were established in the 1970s) there could never have been a *Spitzenkandidaten* system. How did these three actors—the Parliament, the Commission and European political parties—come to organise their relationship in such a way that it could be supported and implemented by all three?²

The *Spitzenkandidaten* system did not appear out of the blue in 2014. Instead, it was the result of many incremental institutional and political steps taken in the previous years and decades. First, the Maastricht Treaty crucially extended the term of office of the European Commission from

¹ This paragraph is largely based on an updated version of Van Hecke et al. (2018).

² With regard to the European Commission see, for instance, J. M. Barroso, 'State of the Union 2012 Address', speech at the plenary session of the EP, Strasbourg, 12 September 2012.

four to five years, starting with its appointment after the European elections and thus bringing it in line with the legislative term of the European Parliament.³ This alignment considerably strengthened the link between the European elections on the one hand, and the Commission and the office of its president on the other. The new arrangement was first implemented in 1994, as the third and last Commission led by Jacques Delors only served from 1993 to 1994. Since 1995, every Commission has been appointed after the European Parliament elections for a period of five years (in principle). This was even the case in 1999, when the Santer Commission stepped down before voters went to the polls. From March that year, a caretaker Commission was installed until the new one began its mandate in September 1999, once again in alignment with the five-year term of the Parliament.

The 1999 EP elections represented another step towards the *Spitzenkandidaten* system as, for the first time since the introduction of elections in 1979, the European People's Party (EPP) became the largest group in Parliament. However, the former Italian Prime Minister Romano Prodi was appointed as Commission president, based on a deal between German Chancellor Gerhard Schröder (a Social Democrat) and French President Jacques Chirac. Prodi, a left-wing Christian Democrat, had for a long time been affiliated with the EPP but had left after Forza Italia and its leader Silvio Berlusconi had become the Europarty's new stronghold in Italy (Jansen & Van Hecke, 2011, pp. 63–64; Martens, 2009, pp. 145–146). The fact that a Social Democratic Chancellor had helped install a non-EPP Commission president despite the fact that the EPP had won the elections was unacceptable to many within the EPP, especially the German Christian Democrats. This led the new EPP Group chairman in the Parliament, Hans-Gert Pöttering from Germany, to demand that not reflecting a clear electoral victory in the choice of the Commission president not be permitted to happen ever again.

Learning from this experience, the EPP made it very clear before the 2004 European elections that if it were to remain the largest group in the Parliament, the new Commission president should come from within their ranks (Jansen & Van Hecke, 2011, p. 132). After the elections, Chancellor Schröder and President Chirac proposed Belgian Prime Minister

³ Art. 158 of the Maastricht Treaty.

Guy Verhofstadt to succeed Prodi. However, as a liberal he was unacceptable to the EPP, which had kept its relative majority in the Parliament. Spurred on by the EPP leadership, Italian Prime Minister Silvio Berlusconi vetoed Verhofstadt's candidacy, along with his British counterpart Tony Blair. Unanimity among the members of the European Council was therefore not reached and another candidate had to be chosen. Backed by the EPP, the Portuguese Prime Minister José Manuel Barroso eventually became Commission president after the Europarty's leadership first put forth the Conservative British Commissioner, Chris Patten (Martens, 2009, pp. 173–178). Thus, the new president of the European Commission was at last from the ranks of the largest group in the European Parliament.

Another step was taken five years later. In the run-up to the 2009 European elections, the EPP not only claimed that the new Commission president should be from its political family if it were to remain the largest group in the Parliament; it also presented a candidate. At its electoral congress in Warsaw in late April, it proposed José Manuel Barroso for a second term (Jansen & Van Hecke, 2011, p. 134). This was the very first time that a *Spitzenkandidat* had officially been 'chosen', although it was a largely informal proposal and the term had not yet been coined at the time. The expectation was that the second-largest European political family, the Party of European Socialists (PES), would do the same. The problem, however, was that a number of Socialist heads of state and government—such as Spanish Prime Minister José Luis Rodríguez Zapatero—also supported Barroso for a second term. These internal divisions made it impossible for the Socialists to agree on a common candidate and, in the end, the Socialists did not present an alternative, making Barroso the only *Spitzenkandidat* in 2009.

3 THE OLD DAYS ARE OVER

By the 2014 elections, the Lisbon Treaty had been implemented, along with the following stipulations: 'Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members of the Lisbon Treaty' (Art. 17[7] TFEU). At the same time, European party procedures became much more formalised, as

four other European political families besides the EPP also presented their candidates to become president of the Commission: European Parliament President Martin Schultz for the PES; Liberal Group Chairman Guy Verhofstadt for the Alliance of Liberals and Democrats for Europe (ALDE); José Bové and Ska Keller for the European Green Party (EGP), the future Greek Prime Minister Alexis Tsipras for the Party of the European Left (EL); and, for the EPP, the former Prime Minister of Luxembourg Jean-Claude Juncker, who had won an internal contest against European Commissioner Michel Barnier. There were various rules within the Europarties for the selection of their leading candidate (Put et al., 2016).

This time, however, the real political battle took place after the European Parliament elections, as the European Council was hesitant about appointing Juncker. The EPP suffered losses in the elections but remained the largest group. Backed by the leadership of the EPP and the PES—both parties together had an absolute majority in the newly elected Parliament—they firmly stood behind Juncker’s candidacy. According to Juncker, ‘the democratic toothpaste is out of the tube with the election of a lead candidate’ and ‘the old days, when a Commission president was elected by diplomats in backrooms are finally over’ (EurActiv, 2014). The EPP’s leadership was divided, however, as European Council President Herman Van Rompuy and German Chancellor Angela Merkel both stuck to the line that it was up to the heads of state and government to nominate a new Commission president, not only formally but also in substance. Eventually they had to give in after the newly elected European Parliament, and especially the group leaders of the main political families, made it clear that they would not vote for any candidate that had not been part of the *Spitzenkandidaten* system (Pop, 2014). Eventually, Juncker became the new President.

What lessons can be learned from this 25-year-long history of the *Spitzenkandidaten*? There is no automatic link between being the *Spitzenkandidat* of the largest group and becoming Commission president, contrary to what the EPP likes to think and claim. Declaration 11 on Article 17(6) and (7) of the Treaty on European Union is clear, especially the plural ‘candidates for President of the Commission’: ‘The Conference considers that, in accordance with the provisions of the Treaties, the European Parliament and the European Council are jointly responsible for the smooth running of the process leading to the election of the President of the European Commission. Prior to the decision of

the European Council, representatives of the European Parliament and of the European Council will thus conduct the necessary consultations in the framework deemed the most appropriate. These consultations will focus on the backgrounds of the candidates for President of the Commission, taking account of the elections to the European Parliament, in accordance with the first subparagraph of Article 17(7). The arrangements for such consultations may be determined, in due course, by common accord between the European Parliament and the European Council’.

Indeed, the system *sensu stricto* implies only that a new president should be found among the *Spitzenkandidaten*, not necessarily that they should be the candidate of the largest group. First and foremost, a *Spitzenkandidat* must find a majority in Parliament, which does not have to include the largest group. Until 2019, the EPP managed—as the largest group—to keep its central role in the Parliament, but this is far from being eternal true as it could lose either its status as the largest group or its pivotal role if other groups form a majority without them. In either case, the EPP’s *Spitzenkandidat* would not become the Commission president. Moreover, the EPP’s political opponents might have good reasons for such a plan because, so far, only the EPP has benefited from the *Spitzenkandidaten* system. The fact that the group opposed the introduction of transnational lists certainly added to a sense of opportunism, with, for example, the ALDE Group leader Guy Verhofstadt claiming that the EPP only supports that which is in its own interest (Banks, 2018).

In essence, the *Spitzenkandidaten* system is difficult to oppose because of the expectation that it serves various goals, such as increasing the stakes of the European elections and improving voter turnout, personalising European politics and Europeanising the election campaigns (which are still fought within the boundaries of the member states). In sum, the main aim of the *Spitzenkandidaten* system is to strengthen ‘European democracy’. It can thus be argued that only those opposing democracy at the EU level would be against it. The real problem with this line of argument, however, is the lack of convincing empirical evidence that the system has a positive effect on voter turnout or promotes the Europeanisation of the electoral campaign. Yet, 2014 was arguably only a starting point, and more time might be needed for these effects to materialise.

Finally, the *Spitzenkandidaten* system is only one (albeit a very strong) example of a longer and broader power struggle between the EU’s member states and the European Parliament. One should never underestimate a newly elected Parliament that wants to show its strength and

be taken seriously, one ready to use the rules, including treaty articles, creatively to the benefit of its own position vis-à-vis the other institutions and the member states (Hix & Høyland, 2011). That the phrase ‘taking into account the elections of the European Parliament’ in Article 17(7) regarding the appointment and election of the Commission president has been used to limit the role of the European Council was a clear victory for the Parliament in 2014. However, this was not written in stone and it was easy to imagine that the European Council would try to tilt the balance of power back in its favour.

4 THE OLD DAYS ARE BACK

The 2019 episode of the *Spitzenkandidaten* system turned out to be very different compared to 2014. While the system was used relatively successfully back then, it lacked broad support among the Member States. The Commission, headed by Juncker, was in favour, as well as the Parliament. In November 2015 the latter adopted a text for the reform of the EU’s electoral law in which it ‘determines to set a common deadline for the nomination of lead candidates by European political parties 12 weeks in advance of European elections, so as to enable their electoral programmes to be presented, political debates between the candidates to be organised and Union-wide electoral campaigns to be mounted; considers that the process of nomination of lead candidates constitutes an important aspect of electoral campaigns due to the implicit link between the results of European elections and the selection of the Commission President as enshrined in the Treaty of Lisbon’ (European Parliament, 2015).

However, there were doubts as to whether the *Spitzenkandidaten* would be able to reinforce the link between the European Parliament elections and the Commission presidency (Hobolt, 2014). The system was also contested from an institutional perspective, pointing at the dominant role the Europarties had gained for themselves in the process. Overstretching the role of the Parliament also disturbed the balance of power with the Member States in the decision about the selection of the Commission President. Finally, there were political reasons not to support the *Spitzenkandidaten* system that had clearly benefited the EPP, and the EPP only. The party of Emmanuel Macron especially—that only existed since 2017, did not have any MEPs, and was not allied to any of the existing Europarties—openly challenged the system (De La Baume, 2018). The support of the EPP, for instance, is much stronger for the

Spitzenkandidaten than it is for transnational lists, an idea that was backed by French President Emmanuel Macron but was received rather half-heartedly and was voted down in the Parliament, largely due to the EPP's opposition, in early 2018 (Teffer, 2018).

Nonetheless, whereas only five European political parties organised a selection process in 2014, seven Europarties put forward a lead candidate in 2019. The EPP chose its *Spitzenkandidat* at its party congress in Helsinki in November 2018. In an intra-party electoral contest, European Parliament Group Chairman Manfred Weber defeated former Finnish Prime Minister Alexander Stubb. Within the PES, two candidates managed to secure sufficient support according to the internal party rules: Frans Timmermans and Maroš Šefčovič, both of whom were Vice-Presidents of the European Commission. Eventually Šefčovič withdrew his candidacy and Timmermans was endorsed as PES *Spitzenkandidat* in the autumn of 2018. Contrary to 2014, the ALDE Party decided to conduct an electoral campaign with a group of candidates (Wolfs et al., 2021, p. 8). A 'Team Europe'—balanced in terms of gender, geography, seniority and ideological background—was composed, resulting in a group of seven *Spitzen*: Nicola Beer from Germany, former Italian Commissioner Emma Bonino, Slovenian Commissioner Violeta Bulc, Katalin Cseh from Hungary, Luis Garicano from Spain, ALDE Group Leader Guy Verhofstadt, and Commissioner Margrethe Vestager. However, in several election debates between the *Spitzenkandidaten*, it was Vestager who represented the Liberal family, as she did at the 2019 Election Night in the European Parliament. Yet, unlike the other candidates within ALDE and other Europarties, she did not take part in the elections.

As in 2014, in line with the party's shared leadership tradition, the EGP opted for a *Spitzenkandidaten* duo. After an internal selection procedure, the Greens chose German MEP Ska Keller—who was also a nominee in 2014—and Dutch MEP Bas Eickhout. The EL also decided to put forward two lead candidates which resembled a balanced 'ticket' in terms of gender, geography and profession: Violeta Tomic from Slovenia and Nico Cué from Belgium. The successful implementation of the *Spitzenkandidaten* system in 2014 led two other Europarties to recruit lead candidates for the 2019 elections: the Alliance of Conservatives and Reformists in Europe (ACRE) and the European Free Alliance (EFA). In late 2018, ACRE selected Czech MEP Jan Zahradil; in March 2019, EFA

chose former MEP Oriol Junqueras, who was in prison at the time due to his role in the Catalan independence referendum. He nonetheless took part in the elections and became MEP in July 2019.

In the 2019 elections, the EPP and the PES managed to remain the largest and second-largest group respectively, despite losing a number of seats. For the first time since the beginning of direct elections in 1979, the two main political families lost their absolute majority in the Parliament, marking the end of the so-called Grand Coalition. The Liberals were able to secure the MEPs of the party of Emmanuel Macron, the result of a political flirtation that was already ongoing in the run-up to the elections. The ALDE group changed its name to Renew Europe and became the third largest group in the newly elected European Parliament. More importantly, unlike 2014, the three traditional political families did not manage to agree on a single candidate to put forward to the European Council for Commission President, reigniting Member States' reluctance to endorse the system. European Council President Donald Tusk, although an EPP leader, expressed reservations about the *Spitzenkandidaten* system early on (Herszenhorn & De La Baume, 2018), despite the fact that both the European Parliament and the European Commission expressed explicit support for the lead candidate process on multiple occasions and had urged the European political parties to select their *Spitzenkandidat* (Wolfs et al., 2021, p. 4).

Only two days after the results of the European Parliament elections were clear, heads of state and government met in Brussels for dinner. This informal European Council was meant to quickly control 'the nomination process for the new heads of EU institutions' (European Council, 2019a). President Tusk received a mandate to consult Member States and the European Parliament 'to prepare the ground for decisions at the next EU summit on 20–21 June'. At a press conference after the dinner, Tusk stated: 'The Treaty is clear: the European Council should propose, and the European Parliament should elect. Therefore, the future President of the Commission must have the support of both a qualified majority in the European Council and a majority of the Members of the European Parliament'.

In order to build consensus among the three major political families, six members of the European Council started holding informal talks, with the blessing of Council President Tusk. The EPP was represented by Croatian and Latvian prime ministers Andrej Plenkovic and Krisjanis Karins; the PES by Portuguese and Spanish prime ministers Antonio

Costa and Pedro Sanchez; and ALDE by Belgian and Dutch prime ministers Charles Michel and Mark Rutte (Rettman, 2019). Although this new format did not lead to a breakthrough, it was the first time in the history of the European Council that the basis for such an informal group was not Member States but rather European political families.

The meeting of 20–21 June, however, also failed to reach an agreement. According to Tusk, ‘There was no majority on any candidate. The European Council agreed that there needs to be a package reflecting the diversity of the EU’ (European Council, 2019b). Indeed, the fact that political family but also gender, geography and small versus large Member States needed to be taken into account for a total of four top jobs—President of the European Commission, the European Council and the European Central Bank, and High Representative of the Union for Foreign Affairs and Security Policy—did not make things easier.

An extra European Council was scheduled for Sunday evening 30 June. On Friday 28 June the Parliament’s Conference of Presidents issued a statement, reconfirming their ‘resolve for the lead candidate process so that the next Commission President has made her/his programme and personality known prior to the elections, and engaged in a European-wide campaign’ (European Parliament, 2019a, 2019b). In other words: the Parliament was up for the fight with the European Council.

In the margin of the G20 Summit in Osaka (Japan) on 28–29 June, German Chancellor Angela Merkel seemed to endorse Timmermans, against EPP candidate Weber, who never got the support of French President Macron (Herszenhorn et al., 2019). This so-called Osaka deal was not successful either, as it triggered an outcry by other EPP leaders (Barigazzi et al., 2019). Eventually, negotiations in the European Council lasted until Tuesday 2 July. Among the top jobs that had to be decided, none of the *Spitzenkandidaten* were nominated as European Commission President. Instead, the heads of state and government chose German Defence Minister Ursula von der Leyen. The fact that she was a Christian Democrat and the first woman to lead the Commission made it difficult for the EPP to oppose her. Thanks to the support of Renew Europe and some of the Socialists, a majority in the Parliament—albeit a narrow one—supported her candidacy on 16 July 2019: needing 374 votes, 383 members voted in favour and 327 against, while 22 abstained (European Parliament, 2019b).

The way the selection of the new Commission President was handled received a lot of negative attention. Especially when compared to 2014,

the idea that ‘the old days are back’ triumphed. Von der Leyen immediately understood that, at the very least, there was the perception that she got the job thanks to the Member States, especially Chancellor Merkel and President Macron. Consequently, she reached out to the Parliament. In her speech asking for support she stated: ‘I have heard your concerns, your hopes and your expectations’ (European Commission, 2019a). Under the heading of ‘A new push for European Democracy’, she made a clear promise: **‘I want us to work together to improve the *Spitzenkandidaten* system.** We need to make it more visible to the wider electorate and we need to address the issue of transnational lists at the European elections as a complementary tool of European democracy’. Additionally to launching a Conference on the Future of Europe, she also **supported a right of initiative for the European Parliament and hoped for a** ‘stronger partnership’ with the assembly.

This *Wiedergutmachung* vis-à-vis the Parliament was also made explicit in von der Leyen’s Political Guidelines (European Commission, 2019b). In a paragraph dedicated to ‘Improving the lead candidate system’ she wrote: ‘The experience of the 2019 European elections clearly shows the need to review the way we appoint and elect the leaders of our institutions. I am ready to lead that work, in close cooperation with the European Parliament and the Member States. To rebuild trust and confidence, I propose to broker the discussions between the European Parliament and the European Council. I firmly believe we must improve the lead candidate or *Spitzenkandidaten* system together. To make it more visible to the wider electorate, we should also address the issue of transnational lists in the European elections, as a complementary tool of European democracy. (...) The new rules should be in place well in time for the European elections of 2024, for greater transparency and democratic legitimacy’.

5 CONCLUSION

The *Spitzenkandidaten* system has been presented as a means to strengthen the pan-European dimension of European elections that remain organised at the level of the Member States, and to increase voter turnout by raising the stakes. However, research has shown that its electoral impact remains limited. According to Wolfs et al. (2021, pp. 15–16) ‘only substantial developments at the political system level of the EU—such as introducing transnational lists or institutionalizing the

role of *Spitzenkandidaten*—can provide a new impetus for the democratization of Europarties’ selection procedures’. Certainly, the system of *Spitzenkandidaten* provides an opportunity for European political parties to strengthen their position and legitimacy in the political system of the EU (Wolfs et al., 2021, p. 4).

The final outcome of the 2019 experience with the *Spitzenkandidaten* system remains unclear and will probably only be evaluated in 2024 (just as the true nature of the 2014 experience became clear in 2019). Paradoxically, 2019 did not confirm the old, unwritten rule (in place since the selection of Commission President Jacques Santer) that the European Council selects the Commission president from its own ranks. In 2014, part of the hesitation of the European Council to comply with the *Spitzenkandidaten* system was alleviated by the simple fact that the person involved was Juncker. In 2019, the Parliament wanted the European Council to nominate someone who had no experience as a former head of state or government, much to the displeasure of Macron. In the end, someone who had not even taken part in the 2019 European Parliament elections was chosen.

The coronation of von der Leyen and the uncertainty around the *Spitzenkandidaten* system, alongside the unpredictability of the elections themselves, may discourage heads of state and government even more from throwing their hat into the ring. The current *Spitzenkandidaten* system also limits candidates who are not backed by their political family or by their national government. Indeed, as well as their nomination by a Europarty, a candidate should be assured of the backing of its member state in order to avoid a lack of support in the European Council, as it is rather unlikely that the heads of state and government would nominate someone who does not even have the support of his or her own capital. The current *Spitzenkandidaten* system favours politicians who seek to take a defining career step. Indeed, there may be clear benefits to running anyway, even if they are not nominated by their political family or if they do not win the *Spitzenkandidaten* contest in the end. Candidates can count on a certain level of media attention, not least in their own member state. This increased visibility—however small—could give them an advantage compared to their direct competitors in the domestic arena. Furthermore, it may increase their chances of gaining other senior positions in the EU institutions. Take, for instance, Juncker’s initial two competitors to become the EPP *Spitzenkandidat* in 2014. Valdis Dombrovskis was nominated by his member state, Latvia, to become a

member of the Juncker Commission, while Michel Barnier was selected by Juncker in 2016 to be in charge of the Brexit negotiations. In the socialist family, *Spitzenkandidat* Martin Schultz managed to stay on as president of the EP after the 2014 elections, while in the liberal family Guy Verhofstadt continued to lead the group. In 2019, Weber continued to be EPP group leader while Timmermans and Vestager became Commission Vice-President. Given these experiences, one could even wonder to what extent candidates may use the system as a means to other ends.

The *Spitzenkandidaten* system certainly limits the room for traditional political bargaining, but it has not stopped it. After all, political positions are linked, often as part of larger package deals made behind closed doors. Indeed, the *Spitzenkandidaten* system has clearly made the selection procedure for the Commission president more political and European political parties (as well as the Parliament) more visible. The politicisation of the EU did not come to a halt in 2019 (Heidbreder & Schade, 2020). The balance that was sought by the European Council in choosing the Presidents of the Commission, the European Council, the ECB and the High Representative was not only about gender, geography and small versus large Member States. Party political affiliation also mattered a lot, with von der Leyen (Commission) and Lagarde (ECB) from the EPP, Michel (European Council) from the Liberal family and Joseph Borrell (High Representative) from the Socialists.

The fact that the *Spitzenkandidaten* system is part of a long-standing power struggle between the Parliament and the Member States reveals that the ultimate goal is arguably parliamentary control over the EU executive. It is clear that the *Spitzenkandidaten* system has (1) strengthened the position of the Parliament vis-à-vis the Member States with regard to the installation of a new European Commission; (2) strengthened the role of European political parties in selecting the *Spitzenkandidaten*, and therefore the future Commission president; and (3) directly linked the leaders of the parliamentary groups with the president of the European Council. This was confirmed in 2019, although the outcome was not what had been wanted by a large part of the Parliament, let alone by the Europarties themselves.

Interestingly, the impact of the system on the position of the EU executive has not played much of a role in this debate. In particular, the argument that the *Spitzenkandidaten* system also empowers the Commission, by providing a stronger popular mandate, is seldom heard. This does not seem to be a major concern as the focus seems to be on the system's

strengthening of the mandate of the legislature (at least one branch of it, the Parliament, vis-à-vis the other one, the Council) to appoint the executive. The political balance of power within the Parliament, the argument goes, should be reflected in the election of the Commission, hence the formula that the appointment of its president should 'take into account the election of the European Parliament', according to Article 17(7) of the Lisbon Treaty. This argument is anything but controversial as it is part of the constitutional system in most EU Member States. A new government is formed at the national level after parliamentary elections, and it tends to reflect the political balance in parliament (but not necessarily the winners). To be legally more precise: the new government depends on a majority in the new parliament for its survival.

This is exactly what the *Spitzenkandidaten* system is about: there can be no new president of the Commission if they do not have a majority in the new European Parliament. In many member states (including Germany, hence the use of the German term) the same system is applied. Political parties nominate their candidate for the executive even they are not a candidate in the whole member state, as there is no country-wide electoral district (the equivalent of European transnational lists and an EU-wide constituency at the national level). The only thing a *Spitzenkandidat* should do is rally a majority after the elections in order to become the head of the executive. Aside from the fact that some Member States are more familiar with this system than others, it is also clear where the real power lies within such a system: the executive. Governments that are dependent on a majority within parliament tend to dominate the parliament rather than the other way around. In most national contexts, the so-called parliamentarisation of the political system leads paradoxically to strong governments and weak parliaments.

Therefore, the introduction of the *Spitzenkandidaten* system is anything but neutral. It is not impossible that in the long run it will weaken the European Parliament vis-à-vis the Commission, as in most national political systems governments tend to dominate parliaments. The implication is clear: supporting the *Spitzenkandidaten* system to strengthen European democracy may lead to weaker parliamentary control vis-à-vis the executive and end up strengthening the European Commission rather than the Parliament. Paradoxically, this weakening of the Parliament could be prevented by independently electing the executive, as in the US political system. There, the direct election of the president as the head of the executive independently of the election of

the legislature has created a political system in which parliament is not dominated by the government, at least not as much as in so-called parliamentary systems. If the *Spitzenkandidaten* system is to also strengthen the role of the Parliament (and not only of the Commission, vis-à-vis both the Member States and the Parliament), it can only be an intermediate stage. Eventually the Commission president should be elected directly and act independently of the European Parliament, in order to secure a strong parliament as a crucial player within the democratic system of the EU. Undoubtedly, European political parties would be willing to play a crucial role on the road towards or within this system of *Spitzenkandidaten* 2.0.

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The Political Regime of the EU Through the Prism of the Confirmation of the von der Leyen Commission by the European Parliament

Olivier Costa

1 INTRODUCTION

The 2019 electoral sequence demonstrated the continued intense confrontation between different perceptions of, and approaches to, the European Union over very practical issues regarding the functioning of its institutions. Disagreements regarding the potential use of transnational lists, the renewal of the Spitzenkandidaten procedure or the ways in which the electoral campaign might become more supranational, are all part of debates that date back to the early days of European

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integration. Admittedly, the themes and objects of discord have been evolving, and it is difficult to identify clear and coherent coalitions in this discussion, but one still finds the same binary dividing lines, opposing partisans of a more intergovernmental or more supranational European integration, supporters of a parliamentaryisation of the Union's political system or those who wish to preserve its originality, advocates of a more consensual and (supposedly) effective or more openly conflictual and (potentially) democratic functioning. In the run-up to the 2019 elections, these tensions once again made it impossible to carry out the reform of the 1976 Act on the organisation of European elections called for by the European Parliament (EP) (Costa, 2020). They also thwarted the Spitzenkandidaten procedure since the top candidates did not play a central role in the campaign and the European Council chose a person who was neither a lead candidate nor even a candidate in the European elections to preside over the Commission.

These differing views on the nature of the Union's political system and on how it should operate were especially sharp during the Commissioners' appointment procedure. They came to a climax on October 10, 2019, with the rejection of the nomination of Sylvie Goulard, the French candidate, by the competent parliamentary committees. This decision led to conflicting interpretations: described by some as a sign of democratic vitality and evidence of the Union's new electoral logic, it was criticised by others as a lowly partisan manoeuvre, unrelated to the qualities of Mrs. Goulard's candidacy, perhaps even as a settling of scores by proxy with the French President. These discordant reactions, reflecting the existence of very diverse interests, are more fundamentally indicative of the ambiguities and ambivalence that mark the Union's political system and its operating rules.

Thus, beyond the potential bad faith and strategies of politicians and practitioners, the analysis comes up against the very real indeterminacy of the Union's political system. This explains why "European studies", defined as the discipline devoted to the analysis of European integration, has developed into several schools offering as many different interpretations of what the Union is and of what governs its operations. This complex debate, fuelled by multiple concepts and models, has given rise to three prevailing perspectives—intergovernmentalism, neo-functionalism and post-functionalism. These provide a better understanding of recent events, in particular the events leading up to the appointment of the von der Leyen Commission.

The first part of this paper will review these three theories, which are echoed in the world of politics, EU practitioners and civil society. The complex sequence of the appointment of the von der Leyen Commission will then be retraced in the second section. How this turbulent procedure can be analysed using the three theories in question, and what this tells us about the nature of the Union's political system and the role played by the European Parliament within it, can then be explored.

2 THREE THEORETICAL VISIONS OF EUROPEAN INTEGRATION

Since the end of the 1950s, researchers from a variety of backgrounds (international relations, public law, comparative politics, public policy analysis, sociology, political economy, etc.) have proposed multiple theoretical models to account for the process of European integration and the way in which the Community, and then the Union, functioned. This is a vast and complex debate, and is at times unnecessarily conflictual, as authors situate their considerations at different levels of analysis. Some focus on the *raison d'être* of European integration and on the reasons for deepening it. Others are more interested in the Union's political system and attempt to qualify it or theorise how it works. Others still are concerned with the dynamics governing the development and implementation of EU policies, without questioning the nature of the Union. Furthermore, European studies have gradually been structured by the epistemological schools of thought that have marked all social sciences in recent decades: neo-institutionalism, sociology of actors, constructivism, rational choice, cognitive approaches, etc. These intellectual currents strongly determine the work of many authors and give rise to lively controversy. However, they offer less a vision of the Union than indications on how it should be studied.

In this jungle of theories, concepts and paradigms, three approaches, which can be described as metatheories, deserve our attention. They offer a relatively exhaustive reading of European integration, putting forward a vision of the integration process, the nature of the Union's political system, the way it operates and its interactions with national political systems. These are intergovernmentalism, neo-functionalism and post-functionalism.

Intergovernmentalism

Intergovernmentalism appeared very early in the field of European studies. International relations specialists refused to see European integration as anything else than the creation of a classical international organisation as early as the 1950s. The “empty chair crisis”, orchestrated by De Gaulle in 1965 and 1966 to oppose the federalist undertones of the Community method lead to a strong revival of this approach (Hoffmann, 1966). Indeed, intergovernmentalists believed that this crisis had demonstrated that European integration was not irresistible and that its scope and progress were closely controlled by the representatives of the Member States (Ludlow, 2006; Warlouzët, 2008). Since then, intergovernmentalism has been a central analytical framework for European studies and has regularly undergone new adaptations such as liberal intergovernmentalism in the 1990s (Moravcsik, 2013) and new intergovernmentalism in the 2010s (Bickerton et al., 2015).

In short, according to intergovernmentalists, European integration results from Member States seeking arrangements that are likely to be of collective benefit to them. They see it as a strategy for rebuilding and pacifying the continent, and then for dealing with the Cold War. More recently, the EU has been a means to manage new shared problems collectively—be it migration, security issues or climate change. Intergovernmentalists consider that states only delegate to the Union the competences that are strictly necessary to meet their needs and participate in the process only as long as they feel it serves their interests. These authors strongly disagree with the idea of the Union as a quasi-state or federation and persist in seeing it as an international organisation whose main actors remain national politicians. According to them, supranational institutions have no real initiative or decision-making autonomy; they are bodies at the service of the states (Commission, European Central Bank), forums of negotiation between national representatives (European Parliament, Council, European Council) or mere arbiters (Court of Justice, Court of Auditors). European integration is therefore regarded as lacking its own dynamics: it is what the states make of it, and nothing more.

Neo-Functionalism

Neo-functionalists have a completely different view of things. This school of thought emerged in the early days of European integration, when

certain political scientists—particularly American ones—wanted to explain how this process avoided inter-state tensions, and how European institutions managed to acquire some form of autonomy from them (Haas, 2008). Consequently, European integration is described as the product of the strategies and initiatives of various economic, political and social forces, within states and at the supranational level, and not as the result of an adjustment of the preferences held by the representatives of the Member States. According to neo-functionalists, multiple actors from various sectors have agreed on the fact that there are common functional needs that require that certain decisions be taken at the supranational rather than the national level, even if this means eroding state sovereignty. In this case, European integration is considered to be driven by an autonomous supranational movement. It tends to be strengthened by the steady increase in its competences,¹ the growing independence of its institutions supported by economic and civil society actors, the socialisation of national political and administrative elites in the European circles, and the centripetal dynamic that drives the whole process. Thus, according to neo-functionalists, the states have partly lost control of the integration process, which has acquired a high degree of autonomy and is now largely based on the initiatives of supranational institutions—notably the Commission, the Court and the EP.

Post-Functionalism

Post-functionalism is the most recent meta-theory. It aims to integrate the developments in European integration after the Maastricht Treaty, and to theorise the subsequent rise of Euroscepticism (Hooghe & Marks, 2018). Other theories do this as well. For instance, federalist authors underscore the emergence of a European-level public and political space, its growing interconnections with national spaces and the deepening of European citizenship (Borriello & Crespy, 2015). However, post-functionalism's capacity to reflect on the resistance that Europe generates sets it apart. It notes the growing tensions between the functional needs for integration expressed by European states and the concerns that this raises within these same states. Since the mid-1990s, European integration has been the subject of criticism which has led to a strong politicisation of the issue,

¹ See for example the spill over concept used by E. Haas.

both at the national and European level (Hobolt & De Vries, 2016). While it developed discreetly for 40 years, it is now strongly constrained by the hostility of certain political parties, large sections of public opinion and even certain national leaders. In other words, integration, which until relatively recently was the subject of a permissive consensus—a widespread support among the population that allowed national politicians to negotiate freely on the matter—is now giving rise to a binding dissensus—that is to say, differences of opinion that limit the room for manoeuvre of the national representatives within European bodies (Hooghe & Marks, 2009).

Post-functionalists also observe that European integration, which was largely focussed on economic issues until the entry into force of the internal market and the Maastricht Treaty in January and November 1993, now includes more sensitive issues such as defence, justice, migration and taxation. Debates on the Union now refer to issues as fundamental as religion, culture, sovereignty and identity and give rise to strong political divisions and national tensions that political leaders cannot ignore. As a result, while intergovernmentalism theorises a certain status quo of European integration, neo-functionalism anticipates its gradual deepening due to its own dynamics and repeated treaty reforms, and post-functionalism envisions the possibility of disintegration—as witnessed by Brexit and the multiplication of opt-out clauses—under the pressure of national political forces. However, it does not present this option as being inevitable, only theorises it as a possibility.

Competing and Complementary Theories

What explains these different patterns of interpretation? First of all, one must remember that European integration initially developed without a pre-existing model or roadmap, spurred on by pragmatism and a quest for efficiency removed from any political and theoretical consideration. Later, it was guided by the pursuit of new objectives, often at the whim of circumstances and exogenous constraints, with the constant objective of overcoming national and partisan divisions. Moreover, negotiations on the treaties and the broad orientations of European integration have always taken place within the very restrictive framework of the pursuit of unanimity: they have only been able to deliver results by maintaining certain ambiguities, mixing different approaches and inspirations and granting political leaders some latitude in the interpretation

of the concepts and objectives on which the Union is based. It is no coincidence that the key terms of European integration are vague or polysemic. Indeed, integration, Community, Union, Commission, Council, directive, regulation, are all terms that had the main virtue of not referring to anything specific. The name “Europe” was itself the subject of various interpretations and did not represent any objective geographical reality—unlike other continents (Morin, 1987). This vagueness allowed the protagonists of European integration—in the political world, civil society and academia—to foster contrasting ambitions around it. While some were only interested in an integrated market, others hoped for the development of a European welfare state, an area of shared values or a European power.

The current treaties reflect this complexity, ambiguity and indeterminacy, and thus lend themselves to the three theoretical explanations mentioned above, which emphasise, in turn, the diplomatic rationale, endogenous institutional dynamics and political events. These different approaches, although they are not known of the general public, or even of many practitioners, refer to political conceptions of European integration, which have fed them in part. Intergovernmentalism reflects an understanding of European integration largely based on the relationships between national political leaders and on the primacy of unanimity; it is not necessarily Eurosceptic, but its emphasis on the idea that Europe is a matter of cooperation between national leaders gives it strong *Gaullist* undertones. Neo-functionalism embraces a very endogenous vision of European integration, as it exists in European circles; it is attached to the “Community method”, majority decision-making and the central role of supranational European institutions—in particular the Commission. Finally, post-functionalism coincides with an idea of European integration that is more sensitive to political issues and the points of view of citizens; it underlines the need for the Union’s institutions to mind the concerns articulated in Member states’ societies, including expressions of Euroscepticism, and sees the politicisation of European issues as beneficial.

These three schools of thought both compete and complement each other. They are complementary as they tend to focus on different aspects of European integration. Intergovernmentalists, for example, focus more on major events—such as the negotiation of a new treaty, major reforms or budgetary agreements—and pay particular attention to the activities of the European Council. Neo-functionalists are more interested in the

adoption and conduct of day-to-day policies, thereby underlining the key role of the Commission. Finally, post-functionalists are particularly attentive to the constraints that national political life places on the Union's progress and are predominantly interested in the political games played within the EP and the Council, and between the national political spaces and the Union.

But these three approaches are also in competition when they offer divergent interpretations of the causes or meanings of a given event. Thus, they can present both complementary and competing readings of the recent appointment of the European Commission. Beyond the stylistic exercise and scientific controversies, an analysis that combines all three makes it possible to underline the indeterminacy of the political regime of the European Union, the conflicts this generates between the different actors in the system, and the new equilibrium that has been reached at the end of the sequence.

3 THE DIFFICULT APPOINTMENT OF THE VON DER LEYEN COMMISSION

For the second time in the history of the Union, the 2019 electoral campaign for the European elections was organised around the Spitzenkandidaten, i.e. the candidates of the main European parties aspiring to hold the Presidency of the Commission if their party should win (Hobolt, 2014; Priestley & Peñalver García, 2015). However, there was not the enthusiasm and interest that there had been in 2014. The Liberals refused to nominate a sole candidate, as they had done five years earlier, because some of their leaders—notably the French President—were opposed to the procedure. This was both a retaliation against the EPP, which had fought against introducing the transnational lists wanted by the Liberals, and a strategic choice, as they had no chance of coming out on top in the election, and thus of winning the Commission presidency through the Spitzenkandidaten. The procedure was also criticised because of the lack of democracy in the nomination process of the leading candidates of the various parties. As some observers pointed out, the procedure was tantamount to entrusting the 600 EPP delegates with the choice of the next President of the Commission—since it was likely that party would win once again (Goldoni, 2016).

After the elections, it emerged that the leader of the EPP, the German Manfred Weber, did not have the support of the European Council

(Euractiv, 2019). His lack of political experience (he had never been a minister and had therefore never sat on the Council), his relatively conservative stance (which made him little compatible with the views of the Socialists and Liberals) and his insufficient fluency in French, and even English, were highlighted. Other candidates were then considered, including the Dutch Frans Timmermans, First Vice-President of the Juncker Commission. However, the EPP objected to having a Socialist as President of the Commission, given the obligation of the European Council to consider the results of the European elections in this matter (Art. 17.7 TEU). After some muddled debates, the European Council decided on Ursula von der Leyen, the German Defence Minister. Her name was put forward as part of the search for a more general equilibrium, the aim being for the three major pro-European political forces (EPP, PES and ALDE/Renew) to share the main positions of responsibility within the Commission and in the various institutions of the Union.

Mrs. von der Leyen's candidacy was given a cool reception, especially in the EP. Not only had the Spitzenkandidaten procedure not been respected, but the European Council was choosing a politician who had not taken part in the European elections, had never sat in the EP, and had limited knowledge of the Union's institutions. She presented MEPs with a programme designed to unite the three main groups and keep the European Council happy, using key elements from the campaign programmes of the EPP, PES and ALDE/Renew, as well as the 'New Strategic Agenda' adopted by the European Council in June 2019 (European Council, 2019).²

Despite these efforts, Mrs. von der Leyen was only narrowly elected with 383 votes, barely 9 more than the majority required by the Treaty. The EPP, S&D and Renew groups had given her their support, and were expected to deliver a large majority, with a total of 444 votes, but a significant proportion of their members decided otherwise, taking advantage of the secret ballot which released them from any voting discipline.

Once the President was elected, the representatives of the states proposed their respective candidates to the Commission. The exceptional European summit on July 2, 2019 was largely dedicated to this, allowing exchanges between the Heads of State or Government and the new

² European Council, A New Strategic Agenda 2019–2024, 20 June 2019. <https://www.consilium.europa.eu/fr/european-council/role-setting-eu-political-agenda/>.

President. However, the procedure dragged on throughout the summer due to the delicate political situation in several Member States, particularly in Italy and Romania. The list of Commissioners-designate was not approved by the President until September 9th. She then allocated the vice-presidencies and portfolios, in liaison with the European Council.

It was then up to the EP committees to interview the candidates within their jurisdiction. Even before the hearings, two candidates—Hungarian László Trócsányi and Romanian Rosana Plumb—were disqualified by the Legal Affairs Committee, which was charged with ruling on possible conflicts of interest. The auditions were eventful as MEPs were particularly pugnacious in their assessment of the candidates' probity, values, and qualifications. This was the case for Sylvie Goulard, the French candidate. After compelling her to attend a second hearing to clarify her involvement in the case of the parliamentary assistants of her party, the MODEM, in the European Parliament and her links with an American think tank, the Bergruen Institute, MEPs rejected her nomination, considering her answers to be unsatisfactory. The French President expressed his irritation and played for time to find a successor. To this end, he demanded assurances that France would keep the very large portfolio that had been secured for S. Goulard and that the main political groups in the EP would guarantee approval of the new candidate. The leaders of the EPP and PES refused this debate and in the end Emmanuel Macron nominated Thierry Breton, a businessman and former minister. Following a tense examination of his case by the Legal Affairs Committee—which approved his candidacy by only 12 votes to 11—he was approved by the EP. The nomination of the new Hungarian and Romanian candidates was also confirmed.

Speculation had been running high in the run-up to the confirmation vote of the College of Commissioners. The result was not in doubt, since a majority of the votes cast was sufficient, unlike in the case of the election of the President, which had required the votes of a majority of the members. But limited support would have boded ill for the Commission's ability to implement its agenda and pass its legislative proposals throughout its term of office. Such a scenario was not impossible in view of the tensions that had arisen between the main political groups during the hearings of the Commissioners-designate and of their lack of internal cohesion. Some national delegations were openly critical of the alliance's strategy and expressed their mistrust of Commissioners from other formations. But it was also possible to predict a return to the calm and political

configuration of 2014 given that the leaders and members of the EPP, S&D and Renew groups were sufficiently aware of the stakes of the vote for the credibility of the Commission and the effectiveness of the Union, and of the need to close ranks against the Eurosceptics.

The second scenario prevailed: on November 27, 2019, the von der Leyen Commission was easily confirmed, with 461 votes in favour, 157 opposed and 89 abstentions. It even scored better than the Juncker Commission had five years earlier (423 votes to 209, with 67 abstentions), which was unexpected. It received a higher number of votes in the EPP, S&D and Renew groups than the election of the President four months earlier. The Green group, for its part, refused to give its backing, considering the Commission's environmental commitments unconvincing and criticising the selection of certain Commissioners. On the other hand, the ECR Group, despite its sovereignist views, voted overwhelmingly in favour of the new Commission.

4 THREE THEORETICAL PERSPECTIVES ON THE APPOINTMENT OF THE VON DER LEYEN COMMISSION

From an intergovernmentalist approach, the process of appointing the Commission is mainly a negotiation between the Heads of State or Government within the European Council. The Treaties entrust them with the task of choosing the President of the Commission; once the President is elected, each national representative nominates his or her candidate, obtains the President's approval and, possibly, negotiates a vice-presidency or a specific portfolio. From an intergovernmentalist point of view, the claims of the Member States cannot be equal in this respect; those with the greatest influence under the rules of qualified majority voting—based on their population—or because of historical considerations—as founding Member States—have *a priori* a decisive vote. The Treaty does not mention this and instead stipulates that the President may do as he/she sees fit, but practice and political reality dictate otherwise.

More broadly, and although there is no reference to this in the Treaty, the European Council is responsible for finding an overall agreement so that the appointment of the main leaders of the Union (Presidents of the Commission and the European Council, or even of the EP; High Representative of the Union; Governor of the European Central Bank)

respects a political, geographical and gender balance. Therefore, the real negotiation on the composition of the Commission takes place within the European Council, and the rest of the process is merely an institutional packaging designed to ensure the legitimization of the College of Commissioners by the EP.

From this angle, the rejection of Sylvie Goulard's candidacy is an anomaly, and even a serious setback. Indeed, her nomination, like those of all the Commissioners-designate, had been approved by the other national political leaders and the President of the Commission, with the full knowledge of the allegations against her. The French President had also obtained a broad portfolio for his candidate after his discussions with the President-elect of the Commission. As he explained in the media (L'Express, 2019)—breaking the rule that the confidentiality of the European Council negotiations should not be betrayed—Ms von der Leyen reportedly told him that she had the approval of the leaders of the three main groups in the EP. The collapse of this agreement is therefore seen as an incident.

An Unfortunate Incident for Intergovernmentalists

From an intergovernmentalist standpoint, Mrs. Goulard's failure is understood to be the product of agreements and disagreements between the Member States, since this is the way in which the entire process underpinning the functioning of the Union is analysed. In Mr. Macron's entourage, it was thus interpreted as resulting from the desire of MEPs from central and eastern European countries to protest the "double standard"—whereby Commissioners-designate from the "big" Member States enjoy a degree of immunity, while others are disqualified for minor reasons. Some have also argued that the French President had been punished, through the rejection of his candidate, for his iconoclastic positions on the Union, be it the idea of a two-speed Europe—something that eastern European countries dislike considerably, refusing the enlargement to the western Balkans or rejecting the Spitzenkandidaten procedure (Le Parisien, 2019). These same reasons would explain the very short majority obtained by Thierry Breton after his hearing.

Intergovernmentalists also object to the EP's excessive claims to control the Commission's nomination process. In their view, this is a prerogative of the European Council, but it is clear that many MEPs are

trying to interfere in these choices, through the Spitzenkandidaten procedure—on which the Treaties are silent—or by demanding, as they have been doing since 2004, changes in the composition of the Commission after the hearings—which the Treaties also fail to mention.

The EP's ultimate confirmation of the Commission by a large majority signals a return to normal from an intergovernmental point of view: the assembly falls in line and finally complies with its role of supporting the Commission's action. In this perspective as well, it is worth noting that national logics strongly structured the vote. The government parties, whose members are mainly from the three major groups, logically supported the Commission. Thus, even the very Eurosceptic MEPs of the Polish "Law and Justice" party voted in favour of the confirmation, not because of their support for the Commission's agenda, but because of their loyalty to the Polish Commissioner from their ranks. Conversely, the abstention of the French Socialist MEPs is difficult to understand if one disregards the national political context, namely their hostility to President Macron and their refusal to endorse the choice of Mr. Breton.

A Fair Process of Checks and Balances, According to Neo-Functionalists

Neo-functionalists would have a very different view of the summer 2019 episode. According to them, the Commission's appointment process is largely linked to autonomous decisions by its President and MEPs. First, the European Council must consider the results of the European elections when choosing a candidate for President. Once appointed, it is up to him or her to define his or her platform and present it to the EP, to be "elected" by it. When this is done, he or she must choose the Commissioners from among the names put forward by the European Council, and decide on their attributions, whether they be vice-presidencies or portfolios. In principle, national leaders no longer have a say at this stage. It is up to the EP to interview the Commissioners-designate, to see whether they have the required qualities and qualifications, and it is up to the EP alone to empower the College of Commissioners to assume its mandate. The European Parliament is also free to define the standards it intends to apply when assessing candidates. Although the Treaty does not specify this, the EP is in a position to ask the President of the Commission to change the composition of his or her team, since it has a de facto veto over the appointment of the College. In short, from a neo-functionalist point of

view, the appointment of the Commission is largely based on the interaction between the two main supranational institutions—Commission and EP—in a system of checks and balances.

From this perspective, the EP merely did its job in 2019: its role was not to take into consideration the possible agreements negotiated within the European Council, but rather to scrutinise the profile of each Commissioner-designate and demand that those who did not meet all the guarantees of competence, probity or independence be replaced. This rigorous parliamentary scrutiny is essential to ensure that unelected Commissioners have the necessary legitimacy for their role. For neo-functionalists, this is the EP's *raison d'être*: to control and legitimise the Commission, an *ad hoc* organisation which does not conform to the traditional canons of democracy.

Seen in this light, MEPs had every right to reject certain Commissioners-designate. Similarly, they were justified in criticising the Polish candidate's lack of expertise on agricultural issues or in considering that the French candidate's portfolio was excessively wide-ranging. From a neo-functionalist point of view, there was no reason to consider that the EP's requests were an attack on French interests, nor to insist that Mrs. Goulard's replacement inherit the same portfolio as her. Indeed, the Treaties gave the President the power to decide this on the basis of that person's profile and skills. And it is equally normal that Thierry Breton should have had to give Members the necessary explanations and guarantees regarding possible conflicts of interest. Finally, still from a neo-functionalist understanding, the investiture of the Commission by a large majority of the EP is not a change in attitude: it comes as the conclusion of a procedure that was not the product of political attacks or a settling of scores, but of MEPs exercising their mission of parliamentary control. Having obtained the required commitments and accommodations, they could vote to confirm.

The Virtues of a Partisan Debate, According to Post-Functionalists

Post-functionalists, for their part, will argue that the process of appointing the Commission is increasingly constrained by the political debates around European issues in the Member States. Not only are European issues becoming more prominent in the public arena, but they also create new dividing lines that challenge established partisan configurations. Politicians, now subject to a binding dissensus, can no longer go

negotiate in Brussels without being answerable to anyone, as was the case until the early 1990s, when there was a permissive consensus.

The appointment of the Commission is now closely dependent on the outcome of the European elections, which enjoy increasing voter interest and in which different policies and views on European integration compete for votes. Besides, the Treaty stipulates that the President of the Commission is chosen in the light of the outcome of the elections and must then be “elected” by the European Parliament: the process is thus clearly politicised. Post-functionalists will also point out that, once the President of the Commission is elected, he or she must pay close attention to the partisan alignments resulting from the European elections in order to reach the necessary majorities in the EP. Similarly, given the growing level of sensitivity of citizens towards the Union’s action, and the growing Euroscepticism throughout Europe, the Commission must consider the pressures stemming from public opinion.

The appointment of the von der Leyen Commission is, from a post-functionalist approach, a perfect illustration of this politicisation of the Union. The negotiations within the European Council have proven that national leaders are anxious to show their respective public opinions that they are not selling out national interests. They have also been largely governed by party politics. Indeed, following the European elections, the three main pro-European political forces (EPP, PES and ALDE) were encouraged to cooperate in the face of the rise of Eurosceptics and the populist right. This rationale did not stop with the EP: in the European Council too, state representatives agreed on the posts to be filled, following negotiations between Christian Democrats, Socialists, and Liberals.

The politicisation hypothesis is also supported by the fact that some EPP and S&D MEPs considered the exclusion of Mrs. Goulard (Renew) as a fair counterpart to the disqualification of the Hungarian (EPP) and Romanian (S&D) candidates by the Legal Affairs Committee, at the instigation of the Renew Europe group. In fact, the latter had rejected the non-aggression pact proposed by the EPP for the hearings and intended to fight it out with the Commissioners-designate considered to be Euroseptic. In this respect, one may consider—as did the French President’s entourage—that the EPP and S&D groups purposely placed the French candidate in difficulty, in order to make Emmanuel Macron pay for his refusal to allow their respective leaders (Manfred Weber for the EPP and Frans Timmermans for the PES) to become

President of the Commission. In a post-functionalist perspective, the European Council caused some of the Commissioners-designate to face complications in the EP because it had rejected the Spitzenkandidaten process, which meant choosing the leader of the party that came first in the elections as Commission President. The crisis stems more particularly from the Liberal Party, and in particular from Mr. Macron, who opposed the Spitzenkandidaten procedure and considered that it was up to the European Council alone to choose the future President. Understood in this way, Mrs. Goulard's disappointment, followed by Mr. Breton's challenging hearing, is part of the normal functioning of partisan institutions, in which various political forces develop dynamics of competition or of cooperation. And neither Mrs. Merkel nor Mrs. von der Leyen could validly guarantee Emmanuel Macron that the French candidate would be confirmed by the EP.

To a post-functionalist, the confirmation of the Commission by a large majority is the logical conclusion of this sequence. Indeed, it was driven by the partisan developments within the EP, where the three main groups chose to keep their divisions quiet in order to empower the Commission to implement its agenda. One will point out that partisan alliances do not only govern the EP, but also dominate all the institutions. In fact, the nomination process for the various key posts in the Union is entirely governed by partisan balances: Christian Democrats secured the Presidency of the Commission, the Liberals the Presidency of the European Council and the Socialists the post of High Representative as well as the Presidency of the EP. In theory, the latter is the sole purview of MEPs, but in practice, the election of Mr. Sassoli (S&D) was only possible because the EPP and Renew groups did not present a candidate. This decision follows a negotiation that goes beyond the scope of the EP, in fact the College of Commissioners also has an unprecedented balance between the three parties, both in terms of overall portfolios (9 EPP, 10 S&D, 5 Renew) and of the three "executive" vice-presidencies (one each). Finally, it is worth noting that, for the first time in its history, the European Council deliberated according to clearly partisan criteria in order to find a deal on the composition of the Commission; indeed, in the midst of the summit, its members mandated 6 negotiators—2 for each party—to reach an agreement, which was then validated by the plenary institution.

5 CONCLUSION

As an atypical and syncretic political regime, the European Union has conflicting dynamics and is subject to differing interpretations. It is thus marked by a twofold, somewhat paradoxical, evolution towards a more intergovernmental mode of operation, on the one hand, and a strengthening of parliamentary and partisan logic, on the other. Because of its indeterminacies and ambiguities, by virtue of its constant evolution, the Union lends itself to different readings, allowing actors to favour whichever approach best serves their interests and ideas.

Two further factors make this political system difficult to understand. Firstly, it is meant to evolve continuously, as it has done since the 1950s. The various protagonists are thereby driven to promote their vision of things constantly, in a combined process of proposal and *fait accompli*. The institutional provisions of new treaties are in fact always part of a dual approach: on the one hand, they formalise existing practices in a spirit of *aggiornamento* while, on the other hand, they introduce genuine reforms to move the system towards a chosen model. Secondly, it is important to underline that the Treaties allow institutions and actors some freedom of initiative. Indeed, there are many interstices and grey areas lending themselves to innovations or particular readings (Jupille, 2007), and which allow the emergence of practices such as the hearings of Commissioners-designate or the Spitzenkandidaten. They fall mainly within the scope of the EP which, since its first direct election, has shown itself to be particularly apt at making the most of these loopholes and silences at the appropriate time.

These institutional dynamics are compatible if one considers, for example, the many different modalities for reducing the democratic deficit included in the Maastricht Treaty: strengthening the powers of the EP, recognising the role of European parties, establishing European citizenship, creating the European Ombudsman, sharing information with national parliaments, stipulating the principle of subsidiarity, etc. However, they are mutually exclusive when it comes to determining who should define the broad orientations of European integration, or whether the appointment of the President of the Commission should be a matter for intergovernmental negotiation or a partisan competition tied to the European elections.

This detour through the theories of European integration is not a mere academic exercise: it invites us to pay attention to the ambivalence of the

Union and avoid a simplistic and one-dimensional analysis of its functioning. Commentators and politicians should, as much as academics, take these different approaches to European integration into account for a more comprehensive and balanced picture. Moreover, theories are not only analytical frameworks providing an interpretation of the way the Union works and uncovering coherence where there appears to be only a tangle of rules, procedures and strategies. They also have a normative dimension as they offer both an idealised understanding of the functioning of the Union which legitimises some practices and disqualifies others and provide specific ideas as to what changes are desirable.

Hence, theories are not pure objects of science but relate quite closely to a range of political attitudes to European integration. Intergovernmentalism is in line with the concerns of those who, whether or not they are Eurosceptics, believe that key decisions ought to be left to the representatives of the Member States, and that the Commission should be a mere instrument of their will. Neo-functionalism favours an approach to the Union which is that of many in the European microcosm, a system based on its own logic where the Commission has the central role and is essentially based on the Community method. Post-functionalism, finally, echoes those who believe that the Union should be responsive to the concerns of its citizens, and that national and European elections must determine the choice of its leaders and its political priorities.

Accordingly, the vicissitudes of the appointment of the von der Leyen Commission should not be interpreted as a serious political crisis affecting the Union, as a sign of intolerable tensions between states, parties and institutions, or as a reflection of unacceptable institutional disorder. Rather, this sequence is the result of interactions between contending conceptions of the functioning of the European Union, which compete to impose a specific reading of this political regime. Surely, they will be at the heart of the conference on the future of the Union in 2020.

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Dealing with Fragmentation: The New Political Equilibrium and Coalition Dynamics in the European Parliament During the 9th Legislature

Nathalie Brack, Olivier Costa, and Awenig Marié

1 INTRODUCTION

One of the key outcomes of the 2019 elections is the increased fragmentation of the European Parliament (EP). The decline of traditional parties in many member states, the good results of the Greens and the Liberals,

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combined with the success of Eurosceptics, have led to a political reconfiguration of the parliament. For the first time since the creation of the EP, the two main political families—Christian democrats and socialists—do not have a majority. While initially seen as a potential threat for the European Union (EU), recent research has shown that this new situation has so far not created any deadlock and that the EU was still able to manage the COVID-19 pandemic crisis (Christiansen, 2021; Novak et al., 2020; Truchlewski et al., 2021). However, the higher level of fragmentation in the EP poses a challenge for the legislative institution and its place in the EU decision-making system. From the start, the EP has needed to carve out its place and has done so by speaking with one voice. Doubts may however be raised about its true level of influence: the past decade of crises has led to an increased dominance of executives, especially of the European Council (Puetter, 2014), leaving the EP at the margins in key decisions. A higher internal fragmentation may make it even more difficult for the legislative institution to reach a common position in time to truly have a voice in EU interinstitutional debates.

This chapter aims to examine the implications of higher political fragmentation on coalition formation in the EP since 2019. More precisely, it will analyse to what extent this higher fragmentation has impacted the traditional dominance of the grand coalition between the Socialist and Christian Democratic political forces. Put differently, our central question is: how has the political equilibrium within the EP changed since the beginning of the 9th legislative term? We expect that the two largest political families will cooperate even more now that they do not hold an absolute majority on their own. We further expect the two groups to include smaller groups in the grand coalition more often in order to continue to adopt reports with large majorities. In other words, we expect the higher level of political fragmentation to have led to more consensual and inclusive patterns of coalitions, a trend which is likely to have been reinforced by the COVID-19 crisis. To examine this question, we rely on an analysis of roll-call votes (RCV) at the plenary level.

This chapter will first examine the issue of political fragmentation. The second section will look at the impact of increased fragmentation on

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coalition-building. The third section will analyse the evolution of cooperation between the two traditional political groups within the EP, the European People's Party (EPP) and the Progressive Alliance of Socialists and Democrats (S&D), as well as the role played by smaller pro-EU political forces, the Greens and Liberals. A fourth section will investigate the current paradox of Eurosceptics which have gained seats and yet lost influence. Lastly, we will summarise our results and their implications for the EP.

2 THE INCREASED FRAGMENTATION OF THE EUROPEAN PARLIAMENT

Although the number of political families represented in the EP has remained quite stable over time, political fragmentation within the institution has recently increased dramatically. This evolution is the direct result of the decline of traditional mainstream political groups and the rise of smaller groups. Following their lack of success in the 2019 European elections, the two largest party groups within the EP, the EPP, and the S&D, no longer hold an absolute majority of seats (see Westlake in this volume). While in the 5th legislature (1999–2004) the two groups held 65% of seats, in the 9th legislature they only hold 47.5% (Fig. 1).

As a result, the share of seats held by smaller parliamentary groups has increased (see Fig. 2). The radical right Eurosceptic group has seen its share of seats rise from 2.5% in 1999, when the Europe of Democracies and Diversities (EDD) group comprised only 16 members, to 10% in 2019, with the Identity and Democracy group (71 members). Similarly, the Greens/EFA group has managed to increase its share of seats from 7.5% in 1999 to 9.5% in the 9th term. The major boost for the group came in 2019, when green parties across Europe gained from the increase in the salience of environmental issues (Pearson & Rüdiger, 2020). The Liberal group also benefited from the good electoral performance of some of its members in 2019 and from the fact that *La République En Marche* decided to join the group in the EP. As a consequence, the proportion of seats held by the Liberals has increased by more than 6 percentage points in 2019 compared to the previous legislature.

The fragmentation of the party system in the EP can be best visualised by looking at the effective number of political families represented in the European legislature using the indicator developed by Laakso and Taagepera (1979). This indicator considers the actual numerical weight

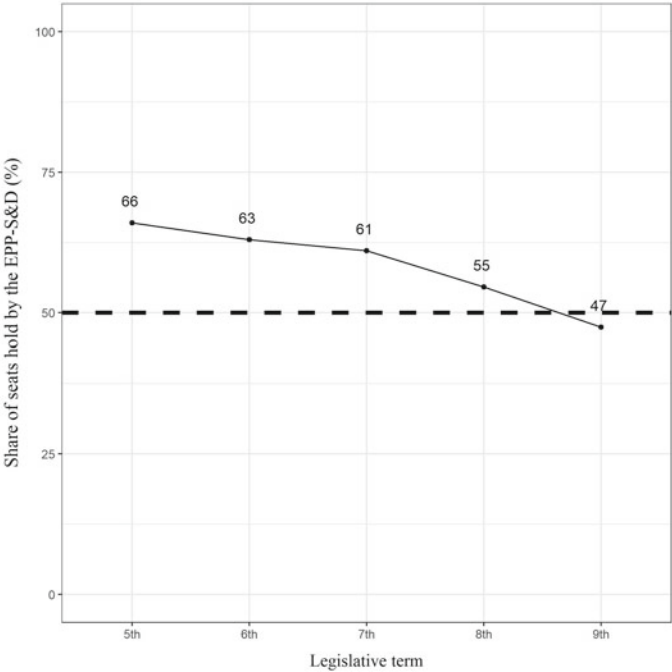


Fig. 1 Share of seats held by the EPP/S&D groups from 1999 to today

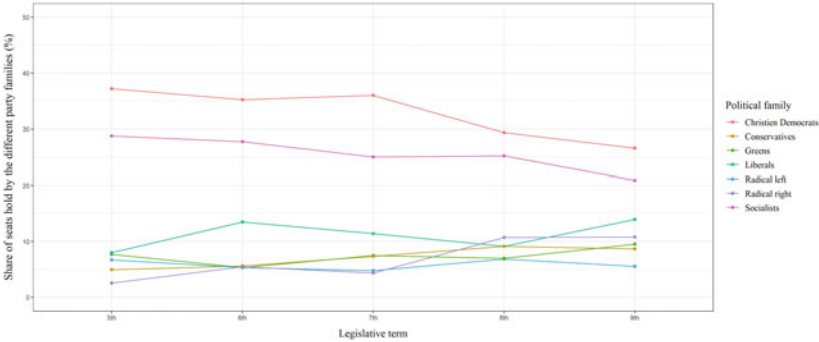


Fig. 2 Share of seats held by all political families in the EP from 1999 to today

of the different families. For instance, if a parliament is composed of four families of equal size holding each 25% of the seats, the effective number of families would also equal four. However, if a smaller number of families dominates the legislature at the expense of others, the effective number of families would be lower, indicating a lesser degree of fragmentation. Put differently, the higher the effective number of political families in a legislature, the more fragmented the party system is.

To grasp the evolution of the fragmentation of the EP party system since 1999, we calculated the effective number of party families represented in the EP for each legislative term. The actual (not effective) number of families represented has not changed. For each of the last five legislative terms, eight families were represented in the EP (the extreme left, the greens, the socialists, the liberals, the Christian democrats, the conservatives, the Eurosceptic radical right, plus non-attached members). If all these families weighed the same in terms of seats, the effective number of families would be eight. As shown in Fig. 3, the effective number has increased since 1999, illustrating the growing party and ideological fragmentation in the EP. This fragmentation in the European chamber is a direct consequence of the decline of traditional groups since the end of the 1990s and the rise of smaller political formations and should have a direct and important impact on the way coalition are built in the European chamber.

3 THE IMPACT OF FRAGMENTATION ON COALITION-BUILDING IN THE EP

The EP's growing party and ideological fragmentation reached an unprecedented level in 2019. This new context is likely to have impacted policymaking, and more precisely the patterns of competition and coalition-building in the EP.

The European Union is often characterised as being a consensual political system (e.g. Costa & Magnette, 2003; Elgström & Jönsson, 2000), where many policies are adopted through compromises between different EU institutions. Consensual practices of decision-making are the key elements of how these different institutions function, including the European Council and the Council of the EU (Hayes-Renshaw et al., 2006; Puetter, 2014) as well as the European Parliament (Kreppel & Tsebelis, 1999). Regarding the EP, previous research has shown that although deliberation is structured by multiple cleavages, it remains consensual

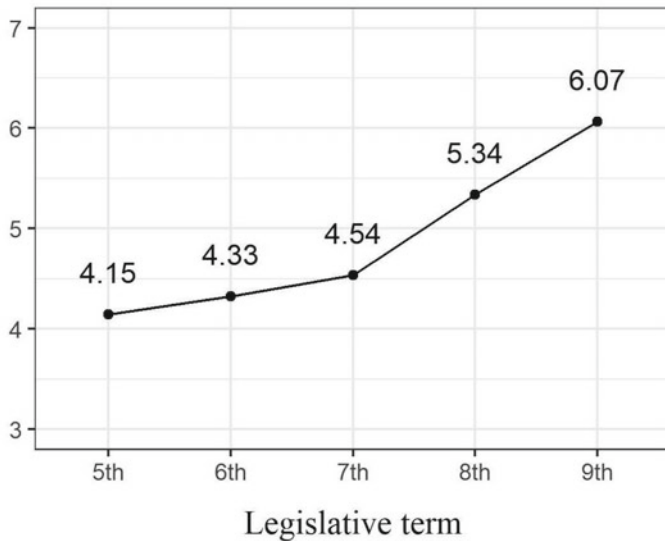


Fig. 3 The evolution of the effective number of political families in the EP from 1999 to today

overall at both the plenary and committee level (Novak et al., 2020; Settembri & Neuhold, 2009), leading to what scholars have called an “institutionalized consensus” (Benedetto, 2008). While it is true that there is no stable coalition and that majorities are formed differently depending on the issue at hand, its salience, the procedure, as well as the political context (Kreppel, 2000), in practice the vast majority of votes, especially those on final legislative reports, are adopted by a grand coalition which comprises at least the two main traditional groups, namely, the EPP and the S&D.

The cooperation between the Christian Democrats and the Socialists in the EP can be explained by several elements: ideological proximity on fundamental issues (social market economy and further integration); the technical nature of legislative texts, which may reduce political competition; the moderating role of expertise; the pressure to overcome the high majority requirements imposed by the treaties; a common desire to have a unified and strong position vis-à-vis other institutions; and a common interest in controlling the EP (Brack & Corbett, 1998;

Costa, 2001, 2018; Hix et al., 2007; Jacobs & Corbett, 2019; Kreppel, 2002). The tendency to build large coalitions is also derived from the internal decision-making process, especially the proportional representation system according to the D'Hondt method (Westlake, 1994) and is a way of simplifying parliamentary work by dividing labour among different groups (Settembri, 2006). Finally, the rise of Eurosceptic political forces in the EP may also have forced pro-European groups to increase cooperation among themselves in order to prevent Eurosceptic MEPs from having any legislative influence or the ability systematically veto proposals (Brack, 2013; Ripoll Servent, 2019; Ripoll Servent & Panning, 2019; Startin, 2010; Treib, 2014).

How has the coalition-building in the EP evolved since the beginning of the 9th legislative term? Firstly, let us mention that, despite the EP's higher fragmentation, we do not expect cooperation and consensus to have decreased over time. Consensual decision-making has a long history in the institution, and as such, it can be considered as a social norm of behaviour which is deeply rooted in the institutional and social context and constrains actors' behaviour. This norm, and the practice of consensus and compromise, has been assimilated by legislators, as well as by party groups' staff (Bendjaballah, 2016). Thus, the search for compromise is an objective for parliamentarians (Ripoll Servent, 2017). Individual legislators have an interest in building coalitions with other legislative actors, since successful MEPs who manage to get a report adopted by a large majority may reap important rewards, such as a better position in their group (coordinator), in their committee, or can be awarded another rapporteurship (Bendjaballah, 2016). Moreover, the key elements that have contributed to the consensual features in the EP (role of expertise, necessity for the parliament to present a unified front in trilogues) continue to constrain the legislative behaviour of party groups and MEPs since 2019. Therefore, because MEPs and the staff of party groups still have incentives to reach large majorities and continue to be constrained by these social norms (Novak et al., 2020), we expect decision-making to be as consensual during the 9th legislative term as during previous ones. We even expect consensus in the EP to have increased during this parliamentary term as a result of higher political fragmentation. Three main reasons may explain this.

Firstly, it is likely to be more complicated to build alliances in a more fragmented parliament. Two main types of voting coalitions are possible

in the EP: the grand coalition and an alternative left-wing or right-wing coalition.

1. The grand coalition comprises the EPP and S&D groups at least. We expect this configuration to be more unstable as a result of higher political fragmentation and to rely to a larger extent on additional smaller groups. As mentioned previously, the Christian Democrats and the Socialists no longer hold an absolute majority on their own. Even though it is not needed in most cases, MEPs and party groups still try to reach as broad a majority as possible, especially to present a strong EP position when negotiating with the Council and the Commission in trilogues. Their weaker position in the EP since 2019 means that the EPP and the S&D groups need to include smaller groups, ending the dominance of the “cartel” system of previous terms (Ripoll Servant, 2019). Including more actors in voting coalitions has a policy cost, but the two traditional groups do not have much of a choice, especially if they want to continue to secure policy benefits. The Liberals (Renew) and the Greens-EFA are therefore expected to vote more often with the grand coalition over the 9th term than during previous ones.

2. Alternative left-wing or right-wing coalitions include either the EPP or the S&D along with ideologically close allies. One may expect alternative coalitions along the left–right divide to become more common in the EP with the rise of the Greens and Liberals. However, this is not likely to be the case as the voting power of these alternative coalitions has remained quite stable over time. A potential right-wing liberal coalition (EPP, Renew/ALDE, ECR) only represents 49% of seats during the 9th term compared to 48% during the 8th term. A left-wing liberal coalition (S&D, Renew/ALDE, Greens-EFA) would reach 45% of seats during the 9th term, compared to 41% during the previous term. Only a left-wing coalition including the Liberals, the Socialists, the Greens, and the GUE-NGL group would exceed the absolute majority threshold of 353 MEPs—and even then, only by two seats. A right-wing coalition including the Eurosceptics (EPP, Renew, ECR, ID) would reach 60%, but is very unlikely because of the *cordon sanitaire* against extreme-right members and the large ideological diversity among these four groups. Therefore, we expect a voting grand coalition to form during the 9th term as neither the EPP nor the S&D can easily form alternative coalitions along the left–right divide.

Secondly, the presence of Eurosceptic political forces in the 9th EP is likely to increase pressure on mainstream groups to cooperate and form

pro-European voting alliances. As previously noted, mainstream party groups, and especially the EPP and the S&D groups, have incentives to collaborate to keep Eurosceptic forces out of key policy decisions. That was one of the reasons that led the EPP and S&D groups to adopt a formal coalition agreement in 2014 (Marié, 2019). The picture after the 2019 European elections has been even more worrying for mainstream groups. On the one hand, the number of MEPs considered as soft Eurosceptic (ECR and GUE-NGL), who used to be included in coalitions with the EPP and the S&D, has decreased. On the other hand, hard Eurosceptics have become stronger, with the creation of the ID group, the fifth biggest group in the parliament. Following the *cordon sanitaire* rationale, we expect the EPP and the S&D groups to increase their cooperation during the 9th legislature as they continue to exclude hard Eurosceptic forces from the policymaking process. Put differently, both the EPP and the S&D continue to have strong incentives to cooperate in order to gain policy benefits and support the EU's action.

Lastly, consensus in the EP may have increased as a result of the COVID-19 crisis, which has disrupted the overall organisation of the parliament (Ripoll Servent, this book). Pro-European groups have joined forces in order to adopt urgent decisions to fight the pandemic and manage its economic and social consequences. The COVID-19 crisis has also forced the parliament to adapt its modes of operation (working remotely) with an eye to “business continuity”, leaving less opportunities for MEPs to express diverging views and increasing the general level of consensus in plenary votes. A recent study (Braghiroli, 2021) on a limited dataset of votes shows that the grand coalition dominated votes on economic issues related to the pandemic. Although the left–right cleavage may have been visible in votes involving non-economic issues, it is clear that on sensitive (economic) matters and on final votes, such as the joint motion for a resolution on a “EU coordinated action to combat the COVID-19 pandemic and its consequences”¹ (17 April 2020), a coalition of the two largest groups as well as the Liberals was formed against the Eurosceptics. When it comes to sensitive issues, even in crisis situations, the consensus among pro-EU actors prevails.

In summary, there are good reasons to believe that decision-making in the EP has become increasingly consensual over time. By that we

¹ EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP)), P9_TA(2020)0054.

mean, firstly, that cooperation between the EPP and the S&D groups has increased and, secondly, that the coalitions have included smaller pro-EU groups more often (the Liberals and the Greens-EFA).

4 THE EP AFTER 2019: GREATER COOPERATION BETWEEN PRO-EUROPEAN FORCES

This part will analyse the cooperation between pro-European forces in the European Parliament. In a context of higher party and ideological fragmentation, we expect the EPP and S&D groups to increase their cooperation in order to gain policy benefits and block Eurosceptic forces from key decisions. Because the numerical weight of both the traditional groups has progressively decreased over time, especially after the 2019 European elections, we further expect them to be increasingly reliant on the support of smaller pro-European groups. The first section will investigate the evolution of the EPP-S&D voting cooperation at plenary stage. The second section will get a broader picture by studying the evolution of majority size in the EP. Finally, the last section will focus on the role played by smaller pro-EU groups often considered as pivotal: the Liberals and the Greens-EFA.

A Closer Cooperation Between EPP and S&D

In this first section, we investigate the evolution of the EPP-S&D cooperation. We expected these two groups to have increased their cooperation, especially since the beginning of the 9th term. To measure the extent to which the Christian Democrats and Socialists vote together in plenary, we use the RICE index (Hix et al., 2003), an indicator that varies between 0 (complete agreement between the two groups) and 1 (complete disagreement).²

Figure 4 shows the mean RICE index for the past four legislative terms. The smaller the RICE index, the higher the cooperation between the Christian Democratic and Socialist groups. The data clearly supports the expected increase in EPP-S&D cooperation. More specifically, this

² The RICE index is calculated as the “proportion of the group comprising the group majority on a roll-call minus the proportion comprising the group minority”. In other words, it is the absolute distance between the per cent of MPs that voted “yes” and the per cent that voted “no”.

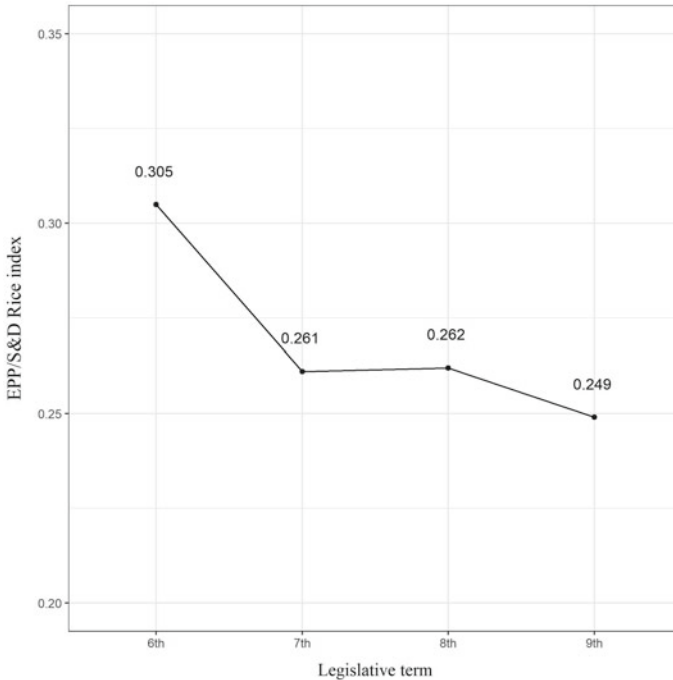


Fig. 4 The evolution of the EPP-S&D Rice index from 2004 to today

confirms our expectation: the two groups have increased their cooperation since the beginning of the 9th legislative term. To substantiate our findings, we further examine the data for the different types of procedures, as coalition-building is expected to be higher on legislative reports (Carruba et al., 2006; Høyland, 2010). Therefore, we distinguish legislative reports (files under the ordinary legislative procedure) and non-legislative reports (comprising initiative reports and EP resolutions). We also distinguish between final votes, which groups consider to be more important and thus lead to more whipping, and non-final votes, which are votes on parts of a text (a recital, an article, or an amendment). Figure 5 shows the evolution of the EPP-S&D agreement index for different procedures and different types of votes.

The evolution is quite consistent: the EPP-S&D cooperation has been higher (lower RICE index) during the 9th legislature than during

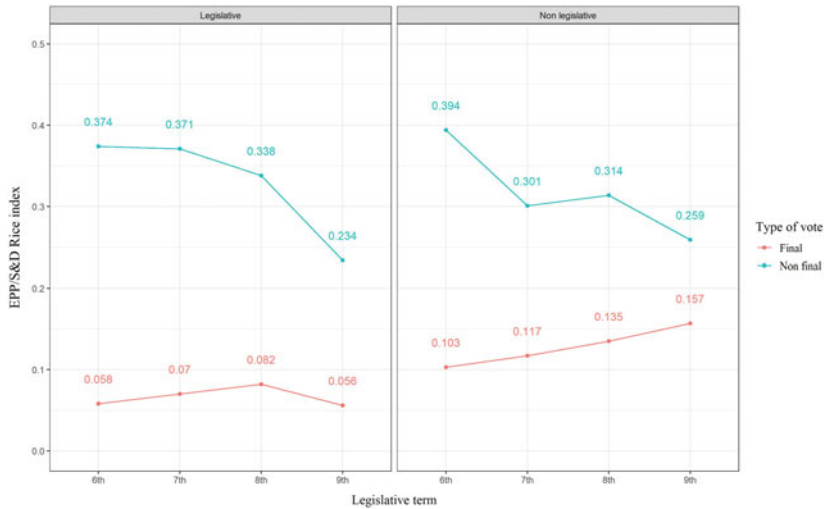


Fig. 5 The evolution of the EPP-S&D Rice index from 2004 to today, by type of procedure and type of vote

previous legislative terms. This means that, overall, the EPP and S&D have been voting together more often since 2019 than previously. The only exception is for non-legislative final votes, where the RICE index has constantly increased, meaning that the two groups tend to cooperate less often in these cases—even if the baseline is still quite high.

Although these results seem robust, we also ran linear regression models with the EPP-S&D agreement RICE index as the dependent variable. The different models predict the agreement index, controlling for the procedure and the type of vote. Table 1 presents these results.

The first model pools all RCVs from the sixth to the ninth legislatures, the second one adds control variables, and the third one removes all legislative dossiers linked to the COVID-19 crisis³—since the general consensus within the EP was very high when adopting texts related to the crisis, this could skew EPP-S&D cooperation measures upwards. For an easier interpretation of these results, the 9th EP is the reference category

³ Those listed on this webpage: <https://ocil.secure.europarl.europa.eu/ocil/popups/thematicnote.do?id=2065000&cl=en>.

Table 1 Result of the regression models predicting the EPP/S&D Rice index

<i>EPP-S&D Rice index</i>			
	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>
Term 6	0.057*** (0.007)	0.115*** (0.008)	0.110*** (0.008)
Term 7	0.013* (0.007)	0.059*** (0.008)	0.053*** (0.008)
Term 8	0.013** (0.006)	0.064*** (0.007)	0.059*** (0.007)
Legislative vote		0.003 (0.006)	0.003 (0.006)
Final vote		-0.227*** (0.007)	-0.228*** (0.007)
Constant	0.249*** (0.005)	0.258*** (0.006)	0.264*** (0.006)
<i>N</i>	29,500	22,287	21,813
<i>R</i> -squared	0.003	0.047	0.047

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$

for the *term* variable. Positive coefficients for the other terms mean that the RICE index is estimated to be higher (more disagreement) for these terms compared to the 9th legislative term. For instance, a positive coefficient for the 8th term means that the EPP and S&D, all things being equal, cooperated less frequently during the 2014–2019 period than they have been doing so during the 2019–present period.

This regression analysis further confirms our expectation: the RICE agreement index was significantly higher during the previous terms after controlling for the procedure and the type of vote. Moreover, this decrease in the RICE index, and therefore the increased EPP-S&D cooperation since 2019, is still significant even after removing votes related to the COVID-19 crisis from the analysis (third model).

The Stability of the Majority Size in the EP

In the previous section, we found that the EPP and the S&D groups have been voting together more often in the 9th legislative term than in previous terms. To better understand the political dynamics at play since

2019, we need to get a broader picture by studying the overall coalition-building dynamics in the EP. Have the EPP-S&D cooperation continued to cooperate, but on their own, or have they increasingly been included in winning majorities in smaller groups? Our overall expectation is that, because of the decline of the Christian Democrats and the Socialists after the 2019 European elections, pro-EU smaller party groups, especially the Renew and Greens-EFA groups, will regularly serve as necessary partners in winning coalitions.

In order to test this hypothesis, this section analyses the evolution of the size of voting majorities. With the numerical decline of the EPP and S&D groups in mind, a smaller average majority size would mean that the Christian Democrats and the Socialists have continued to rely, for each vote, on the same number of party groups or MEPs beyond their own ranks. In that sense, the type of coalition built by the two traditional groups would not have changed with the new context of fragmentation in the EP. However, if the average majority size increases or remains stable, it would mean that the EPP and S&D groups rely on a higher number of other parliamentarians to build winning coalitions and, in that sense, have changed their coalition-building strategies.

Table 2 displays the average size of winning majorities by procedure and type of vote. Two conclusions can be drawn from it. Firstly, the average size of winning majorities has remained relatively constant over time. For instance, the majority size on final legislative votes (row 4) was on average 89% during EP6, against 85% during EP9, although the EPP and S&D have gradually increased their cooperation over the past ten years. Secondly, it appears that the 8th term (2014–2019) stands out: in all cases, the sizes of majorities were smaller during that legislature than during the two prior terms as well during the current one. This might be related to the variability that occurred during that period: the EPP-S&D groups cooperated very closely during the first half of the legislative term (July 2014–December 2016) when they had a formal coalition agreement, but their cooperation rate fell after its breakdown in January 2017, driving the figures downwards for that legislature (Marié, 2019).

The stability of the size of winning majorities illustrates the long-term evolution of political conflict within the EP. Although the numerical weight of the EPP and S&D groups has gradually decreased, the size of voting majorities has not shrunk, indicating that the two traditional groups have progressively been obliged to rely to a larger extent on other and smaller party groups. This confirms our expectation that, as a result

Table 2 Average majority size by type of procedure and type of vote

	<i>Type of procedure</i>	<i>Type of vote</i>	<i>6th term</i>	<i>7th term</i>	<i>8th term</i>	<i>9th term</i>
1	Non-legislative	Non-final	72.3	74.4	70.5	73.5
2	Non-legislative	Final	85.6	82.2	75.2	75.9
3	Legislative	Non-final	71.7	71.9	70.3	74.6
4	Legislative	Final	89.1	87	80.5	85.3

of higher fragmentation and a weaker position for both the EPP and the S&D groups, coalition formation in the EP has been increasingly consensual over the legislative terms.

A Greater Role for the Liberals and the Greens

In the two previous sections, we found that the EPP and the S&D groups have increased their cooperation and that the size of winning majorities has not decreased over time. We therefore expect the Liberals and the Greens-EFA groups to be included more often in winning coalitions during the 9th term than during previous ones. Figure 6 shows the average winning rates for these two political groups, by procedure and type of vote. We excluded from the analysis all the votes related to the EP's response to the COVID-19 crisis.

We found a clear increase in the winning rate of the Liberals, regardless of the procedure (legislative or not) and the type of vote (final or not). For instance, for final legislative votes, the Liberals have been included in winning coalitions in 100% of cases during the 9th legislative term, compared to 96.4% during the 8th legislature. One could think that this trend is a direct result of the Liberals' electoral success in 2019. However, the Liberals had the same share of seats during the 6th legislature (2004–2009) as during the 9th term but were less often part of winning coalitions. This suggests that the group's influence is not directly a function of its voting power (share of seats) but is related to other factors. In fact, it is obviously linked to the higher fragmented partisan configuration, the rise of Eurosceptic forces and the numerical decline of the EPP and the S&D groups. As a result, the cleavage between pro-European and anti-European forces has deepened, at least when it comes to voting behaviour at plenary stage. This confirms the findings of recent research showing that the last decade of crises has left its mark on the lines

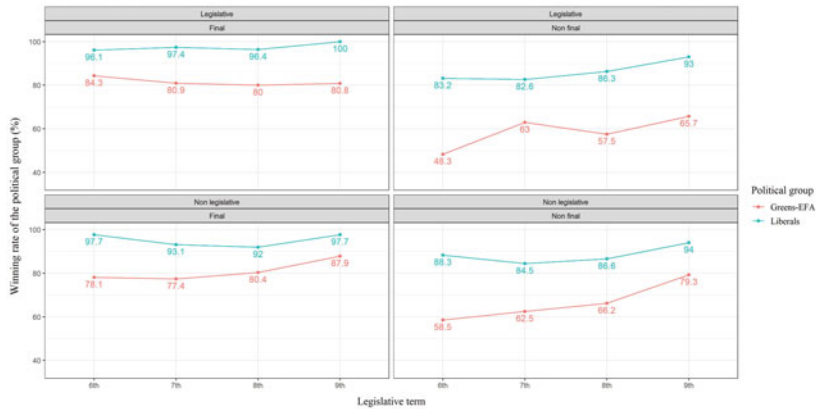


Fig. 6 The evolution of the winning rates of the Liberals (ALDE and Renew) and the Greens-EFA groups from 2004 to today, by type of procedure and type of vote

of conflict within the EP and that the pro-/anti-EU cleavage has become very salient in plenary votes (Otjes & Katsanidou, 2017; Otjes & van der Veer, 2016; Roger et al., 2017; Treib, 2021).

As for the Greens, as expected, Fig. 6 shows that the group has won more votes during the 9th legislative term than during previous terms. This confirms that the Greens-EFA group has been increasingly integrated in coalition-building processes with the Christian Democrats and the Socialists. The only exception is for legislative final votes, where the average winning rate of the Greens-EFA has been stable over the different legislative terms. This is probably due to the fact that, for these visible votes which are likely to attract the attention of the media, the Greens-EFA party group continues to have an issue-by-issue strategy and is more willing to oppose the EPP/S&D/Renew coalition.

A more precise way to analyse the voting behaviour of both the Liberals and the Greens is to investigate the frequency of the different coalition options the groups have during a plenary vote. For our analysis, we limit the range of these possible coalition outcomes to the six most frequent ones, sorted into two broad categories. More specifically, the Liberals and the Greens can either win or lose a vote. On the one hand, if they are on the winning side, they can win a vote either with the grand coalition (EPP and S&D), with only the EPP, or with only the S&D. On the other

Table 3 Summary of the different possible vote outcomes for a political group

<i>The political group <u>wins with</u></i>	<i>The political group <u>loses with</u></i>
The Grand coalition (EPP and S&D)	Alone (voting against both the EPP and the S&D)
Only with the EPP	Only with the EPP
Only with the S&D	Only with the S&D

hand, when losing a vote, they can lose either with the EPP, with the S&D, or alone (meaning that the winning coalition is comprised of both the EPP and the S&D but neither the Liberals nor the Greens). Table 3 summarises these six configurations. Roll-call votes related to the EP's response to COVID-19 have been removed from the analysis.

Figure 7 shows the evolution of these different configurations over time, for both the Liberals and the Greens. The two top panels display frequencies for the Liberals and the bottom panels for the Greens. The right panels show the frequencies when a group wins a vote and the left panels when a group loses a vote for ease of reading. The results confirm our previous findings for the Liberals: the Renew group has been more involved in winning coalitions with both the EPP and the S&D groups during the 9th legislative term than its predecessor (ALDE) was during previous ones. Specifically, the Liberals were on the winning side with the grand coalition in 73% of all votes during the 9th legislature, compared to 68% during the 8th term and 66% during the 7th term. Moreover, the Liberals have very rarely lost votes during the 9th term, and the proportion of votes the Liberals have lost has progressively declined since 1999. More specifically, the ALDE party group lost 8% of the votes against the grand coalition (EPP and S&D) during the 6th legislative term, compared to 2% during the 9th term. This clearly confirms the higher degree of consensus in the EP, especially at the centre (Liberals, EPP, and S&D) of the political landscape, as the great majority of the roll-call votes in plenary are adopted by a very large majority comprising all centrist and pro-European forces.

As for the Greens, the two bottom panels of Fig. 7 show that the group has also been included more often in winning majorities with the EPP and the S&D during the 9th legislature than previously. More specifically, out of all roll-call votes, the Greens-EFA party group has been on the winning side with the grand coalition in 60% of cases during the 9th

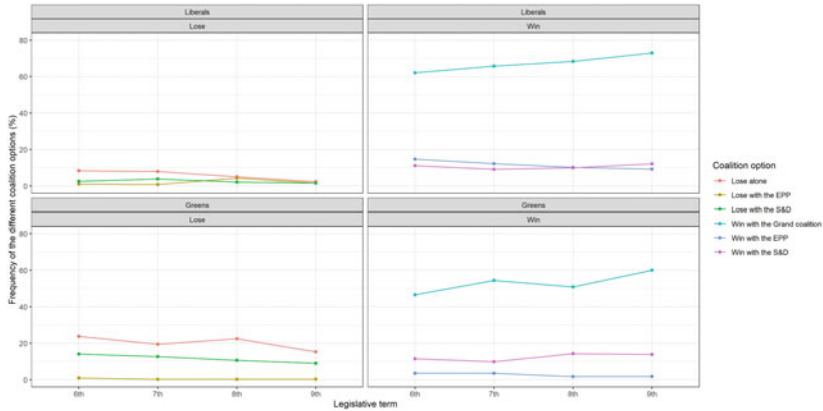


Fig. 7 The evolution of the frequency of the different vote options for the Liberals (ALDE and Renew) and the Greens-EFA groups from 2004 to today

legislature, compared to 51% during the previous one. As a direct consequence of this, the percentage of votes for which the Greens-EFA group was outvoted by the grand coalition has dropped to 15% during the 9th term, compared to 22% during the 8th legislature. Although not to the same extent as the Liberals, the Greens-EFA group has been, therefore, an important coalition partner for the EPP and the S&D.

Thus, as we expected, it appears that both the Liberals and the Greens have been increasingly integrated in coalition-building with the EPP and the S&D, especially since 2019 and the beginning of the 9th legislative term, therefore reducing voting opposition between pro-European forces and deepening the cleavage between pro- and anti-EU political groups.

5 EUROSCEPTICS IN THE EUROPEAN PARLIAMENT: MORE SEATS BUT LESS INFLUENCE?

Eurosceptic and populist fringe parties have progressively gained seats in the EP over the past few legislatures. Including the non-attached members, around one-third of parliamentarians can be considered to be Eurosceptics in 2019 (Ripoll Servent, 2019), although the level and nature of their opposition to the EU are very different from one group to another. In this section, we will distinguish between hard and soft

Eurosceptics, as they tend to have different attitudes and behaviours in the EP (Brack, 2018). Firstly, we will focus on the voting behaviour of the Conservative party group (ECR), which can be considered to be soft Eurosceptic (Whitaker & Lynch, 2014). The conservative group, which counts among its members governing national parties, is more often included in coalition-building processes and can be considered to have an influence over the policymaking process, in trilogues for instance (Ripoll Servent & Panning, 2019). Secondly, we will turn our attention to the voting behaviour of hard Eurosceptics (the ENF group during the 8th term, and the ID group during the 9th term). These groups tend to have a harder and more critical stance on European integration (Kaniok & Komínková, 2020), are often excluded from legislative activities (Brack, 2015), and are therefore considered to be less influential in the policymaking process (Almeida, 2010).

How has the voting behaviour of soft and hard Eurosceptic groups evolved? While the legislative behaviour of soft and hard Eurosceptic MEPs has diverged in the past, with soft Eurosceptics more often included in coalition-building processes with pro-European groups, we expect their behaviour to be more aligned in the 9th legislature. As demonstrated in previous sections, coalition-building during the 9th legislative term is characterised by an increased prevalence of the grand coalition, EPP-S&D cooperation, and the participation of pro-European smaller groups in winning coalitions (Liberals and Greens). As a consequence, the size of voting majorities has not decreased over time as a function of party fragmentation but has remained rather stable. Because of that, one can expect the two Eurosceptic families to be left out of coalition-building processes as they are not needed by the winning side. Most of the votes are adopted by a pro-European oversized majority, comprising the Christian Democrats, the Socialists, the Liberals, and more occasionally the Greens and, therefore, do not require additional support from the Eurosceptic fringes. Consequently, we do not expect the participation of Eurosceptic groups in winning coalitions to have increased over time. In the first section, we will study the voting behaviour of the Conservatives in the EP. The second section will focus its attention on three Eurosceptic groups: the ENF groups in the 8th term and the ID group in the 9th term.

The Marginalisation of the ECR Group

In this section, we analyse the role played by the ECR group in voting coalitions. Figure 8 shows the evolution of the winning rate of the ECR group in the EP, by procedure and type of vote. Roll-call votes related to the COVID-19 crisis have been removed from the analysis.

The trends are not as clear as the ones for the Liberals and for the Greens. We observe two different patterns for the evolution of the Conservatives' voting behaviour. Firstly, the participation of the ECR group in winning coalitions has remained quite constant or has decreased for non-legislative files and for non-final legislative votes. For these votes, which are less constrained than final legislative votes and where groups tend to be more flexible regarding whether they join a voting alliance, the Conservatives have been excluded more often from coalition-building during the 9th legislative term compared to previous legislatures. This might be a direct consequence of the new balance of power in the EP, where a great deal of votes are adopted by a centrist and pro-EU alliance. In that context, the ECR group is less likely to be an important (and necessary) actor to build a successful coalition. This is even more so the case since the departure of the British Conservatives from the EP (31 January 2020) and the increased influence of the Polish *PiS* party. These changes may have shifted the average ideological position of the

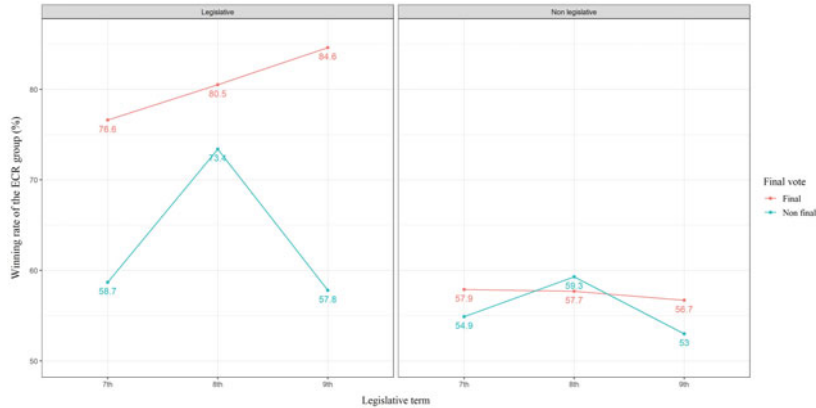


Fig. 8 The evolution of the winning rate of the ECR group from 2009 to today, by type of procedure and type of vote

ECR group away from the EPP and closer to the EP's Eurosceptic pole. Moreover, the success of the Liberals during the 2019 elections and the electoral loss of the Conservatives gave the Renew group more leverage to build alliances with the EPP rather than with the ECR.

Secondly, contrary to what we observe for non-legislative votes and for non-final legislative votes, the ECR group's winning rate has increased for final legislative reports. Indeed, it has been on the winning side in 85% of cases during the 9th term, compared to 80% during the 8th legislature and 77% during the 7th legislature. Put differently, although the Conservatives have been more often side-lined during the 9th term than previously when it comes to less salient and important votes, the contrary is true for final legislative votes. This upward trend in the case of final legislative votes can be explained by interinstitutional constraints. Indeed, the inclusion of the ECR party group in voting coalitions on legislative reports may be seen as important for the rapporteur in order to present a united front to the Council. Thus, the main centrist pro-EU groups (EPP, S&D, and Renew) are keener to negotiate with the Conservatives to adopt final legislative reports than they are for legislative amendments or for non-legislative dossiers.

A Normalisation of Radical Eurosceptics?

Previous studies analysing coalition-building in the EP emphasise the impact of the rise of populist and radical right Eurosceptic political forces. This is one of the reasons—mentioned by legislators themselves (Marié, 2019)—for the increase in inter-group cooperation. The pro-European centrist groups (EPP, S&D, ALDE/Renew, and, to some extent, the Greens-EFA) have systematised their collaboration in order to reduce the legislative influence of Eurosceptic groups and to avoid any deadlock of the institution. The increase in EPP/S&D cooperation described in the above sections as well as the growing inclusion of smaller pro-EU groups in winning coalitions support this point.

Following this argument, we do not expect the winning rate of the radical right Eurosceptic forces to have increased over time. To analyse the evolution of the voting behaviour of right-wing Eurosceptic groups, and the nature of their parliamentary opposition, we compare the winning rate in plenary of the ENF group during the 8th legislative term with that

of the ID group during the 9th term. Figure 9 displays these results. Roll-call votes related to the EU's response to the COVID-19 crisis have been excluded from the analysis.

Contrary to our expectation, the ID group has won more votes during the 9th legislative term than the ENF group did during the previous legislature. Out of all roll-call votes, the ID group was on the winning side in 40% of cases during the 9th term, against 34% for the ENF group.

As shown in Fig. 9, this result holds after controlling for the type of procedure and vote. Indeed, the ID group (since 2019) has been more often on the winning side than the ENF group (2014–2019) for all types of procedures and votes. The most significant difference between the two groups is for final legislative votes. When it comes to adopting legislative reports, the ID group participated in winning coalitions in 73.9% of cases, against only 39% for the ENF group during the 8th legislature. Put differently, contrary to what one may expect, the ID Eurosceptic group cooperated—or at least voted—with the EPP and S&D in three-quarters of final legislative votes. This does not mean that they have become more influential, that they were part of the actual negotiations with the other party groups or that their support was required to reach voting majorities. This increased participation in winning coalitions may be the result of a strategy of “normalisation” of radical right members, especially since

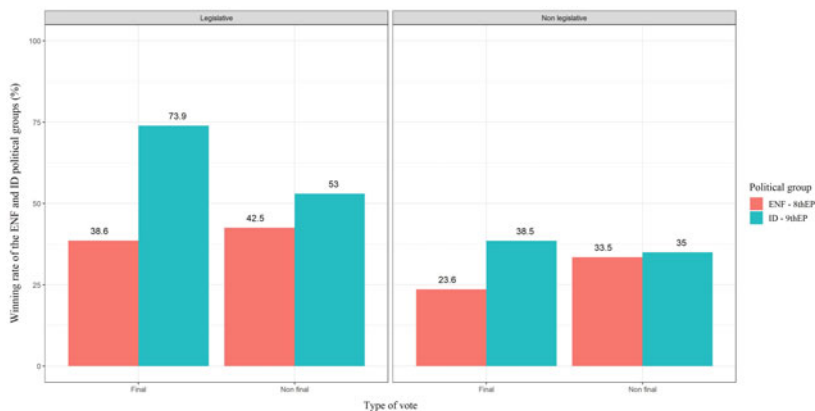


Fig. 9 The winning rate of the ENF group (8th term) and the ID group (9th term), by type of procedure and type of vote

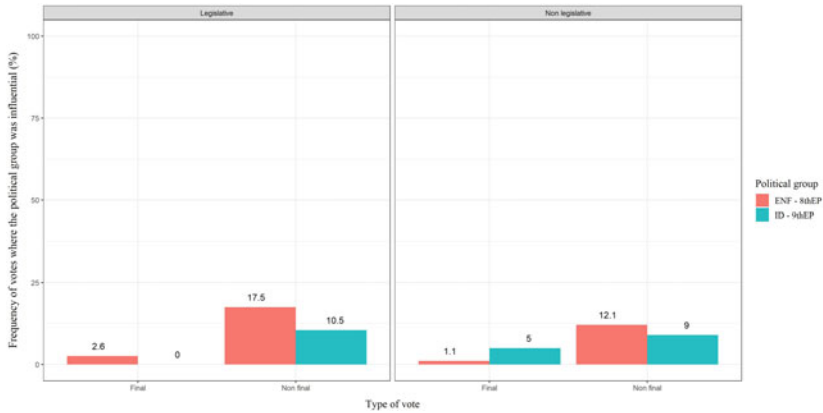


Fig. 10 The frequency of votes where the ENF group (8th term) and the ID group (9th term) were influential, by type of procedure and type of vote

most of them have renounced advocating for their country to leave the EU (Brack, 2020). They may no longer necessarily describe the EU as a fundamentally illegitimate system that needs to be dismantled but may consider it as a potential tool to reach specific political goals. For instance, during the 2019 campaign for the European elections, radical right parties called on the EU to do more to fight illegal migration or to improve security.

More participation in winning coalitions does not mean that Eurosceptics are more influential. One way to operationalise influence is to look at the percentage of times a given party group could have shifted the EP's voting majority. To operationalise influence in this way, we selected the votes on which the ENF and ID groups were very cohesive⁴ and then simulated a change in the group's majority position to determine if it could have challenged the majority. The results are displayed in Fig. 10.

It appears that the ID group is now less determinant to reach voting majorities than the ENF group was during the previous term. Specifically, since July 2019, the ID group has never had the possibility of shifting a voting majority on a final legislative vote, while during the previous term the ENF could have done so in 2.6% of cases. This situation

⁴ Hix's agreement rate more than 75.

is a direct consequence of the strength of the pro-European legislative block: as the EPP and the S&D groups have increased their cooperation, and because they have more often integrated other pro-EU groups (the Liberals and the Greens), the potential influence of Eurosceptic forces has been reduced, even though they vote more often along with pro-EU political forces.

6 CONCLUSION

Historically, the EP has been uninterruptedly dominated by a coalition between the two largest groups, namely the EPP and the S&D. Since July 2019, these two groups have lost their majority. This new political configuration has led specialists to fear that an increasingly fragmented parliament would hinder the EU decision-making process. This chapter has examined the consequences of this fragmentation on coalition-building.

Our analysis has shown that coalitions are now more consensual and inclusive than before, therefore confirming previous studies investigating the capacity of a polarised EP to legislate in specific policy fields (Buzogány & Četković, 2021; Petri & Biedenkopf, 2021). The two traditional groups, the EPP and S&D, have increased their cooperation since 2019. They have also been forced to turn to the Liberals much more often, and to the Greens to a lesser extent, in order to build sufficiently broad and stable majorities. Despite the higher fragmentation in the EP, most of the votes during the 9th term have been adopted by oversized majorities comprising all centrist pro-EU party groups. As a consequence, this chapter has also highlighted that the pro-/anti-EU divide has become more salient in plenary: pro-European groups have continued to stick together to avoid including Eurosceptic actors.

On the other hand, our analysis has found that the Eurosceptics fringes in the EP are not as excluded from the legislative process as before. Since the beginning of the 9th term, the ID group, the fifth biggest group in the parliament, voted with pro-EU party groups in favour of final legislative files in more than 70% of cases. This result raises questions regarding the role of Eurosceptics in the policymaking process and the existence of a “cordon sanitaire”. Further research is needed to determine whether the increased participation of Eurosceptics in winning majorities is related to the weakening of the “cordon sanitaire” among pro-European legislative actors or to independent changes in the behaviour of Eurosceptic

MEP. While the weakening of the “cordon sanitaire” would mean that pro-European actors more often cooperate with Eurosceptic actors prior to the voting stage, increasing the influence of the latter, the “independent changes” hypothesis implies that Eurosceptic MEPs, regardless of their actual working relations with pro-EU MEPs, now decide to be part of large majorities in support of EU policy action.

It should be noted that coalition-building at the plenary stage is only the tip of the iceberg, as it focuses on the very final stage of the decision-making process and, therefore, overlooks prior negotiating dynamics between groups. In this regard, the patterns of competition which are outlined in this chapter may be quite different from those at other stages of the legislative process, especially at the committee level (Bendjaballah, 2016). Therefore, conclusions on the basis of voting records cannot be easily inferred to other aspects of EP activities, yet they remain comparable over time and are a good indicator of the political dynamics at play.

Overall, our results point to a certain resilience of the EP as an institution: parliamentarians and party groups seem to have been able to cope with the new challenges resulting from increased political fragmentation. However, our analysis is based on plenary votes, and on the first 2 years of the 9th legislature. Further research is necessary over a longer time-frame to examine whether the same trends are confirmed throughout the entire legislative term. Furthermore, a more in-depth study at the committee level would present a more nuanced analysis of coalition-building in an increasingly fragmented EP. Finally, an analysis by issues would also provide us with a more fine-grained picture of the role of smaller groups in this new configuration. Indeed, it would be especially interesting to examine to what extent they can leave their mark on key pieces of legislation as new crucial elements of coalition-building.

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PART II

Institutions



‘They Are No Different, They Are Much the Same...?’ Post-2019 Inter-Institutional Dynamics in the European Union

Martin Westlake

1 INTRODUCTION: *PLUS ÇA CHANGE...*?

It is said, probably apocryphally, that in 1871 the then British poet laureate, Alfred Austin (1835–1913), wrote a poem about the illness of the Prince of Wales, which included a famous rhyming couplet celebrating the new technology of the telegram:

A first version of this chapter was delivered to the AFSP congress, Bordeaux, 3 July 2019. A more condensed version of the chapter was published as, ‘Ils ne sont pas différents, ils sont à peu près les mêmes... ?’ in *Revue de l’Union Européenne*, N° 637, April 2020, pp. 238–244. A second version of the chapter was presented at a 26 January 2021 online workshop organised by the College of Europe, Bruges, and the Catholic University of Leuven.

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Across the wires, the electric message came,

‘He is no better, he is much the same.’

What happened in May 2019 and what has happened since then? Did the European elections and their aftermath really represent a new beginning for the European Union and, in particular, for relations between the different institutions? Or is the basic relationship in terms of the balance of power about the same as it was before? What have been, in this context, the major changes and/or developments?

The first major change was the election, on 14 May 2017, of Emmanuel Macron as French president as the candidate of a new ‘non-party’ and centrist movement, ‘*En Marche*’. In the context of the European Parliament and the European elections in May 2019, the question was: where would ‘*En Marche*’ situate itself compared to existing political groups? In particular, would it join an existing group (ALDE—the Liberals), or would it try to form a new centrist group, taking members from various other groups? The arrival of ‘*En Marche*’ as an apparently different political force posed a second question: would it ‘play the game’ of the ‘*Spitzenkandidaten*’ procedure and, if so, how, given that its closest political allies, the ALDE/Liberals, would probably choose their President, Guy Verhofstadt, as their lead candidate? The fear—justified to a large extent—was that ‘*En Marche*’ would act as a ‘spoiler’; that is, the new political force would threaten the balance of power between the existing groups in the European Parliament, and therefore the internal coherence of the institution and its ability to react quickly and decisively, and that it would undermine the powerful precedent set in 2014, when the main groups in the European Parliament supported and respected the *Spitzenkandidaten* procedure and successfully insisted that the European Council respect it also.

A second major change was the apparent ‘failure’ of the *Spitzenkandidaten* procedure and the apparent reaffirmation by the European Council of its prerogative to nominate a candidate of its choice for the presidency of the European Commission—contrary to what had happened in 2014.

A third related change was the appointment by the European Council of a candidate, Ursula von der Leyen, who was neither a ‘*Spitzenkandidat*’ nor ‘one of us’ (that is, a former head of state or government).

The fourth change, given the relatively weak electoral performance of the two major traditional political families, was von der Leyen's dependence on a third centrist group (the ALDE plus '*En Marche*', disguised as a new group, 'Renew Europe') and the obligation she found herself under to promise further institutional and constitutional (as well as political) changes. This was essential for her to obtain Parliament's approval for herself and, subsequently, for her college.

Potentially the most significant change, the fifth, was von der Leyen's commitment, in her opening statement of 16 July 2019 before the European Parliament: 'I support a right of initiative for the European Parliament. When this House, acting by a majority of its members, adopts Resolutions requesting the Commission to submit legislative proposals, I commit to responding with a legislative act in full respect of the proportionality, subsidiarity and better law-making principles' (von der Leyen, 2019). The European Commission's monopoly of legislative initiative has always been the flagship of its panoply of powers, and an important guarantor of the proper functioning of the legislative procedure. At first glance, this commitment therefore seemed to be a major departure from the functioning of the Union and its institutions until then. However, this Chapter will argue that all these changes were less radical upheavals and more the continuation of developments that had mostly been underway since the first direct elections in June 1979.

This Chapter will show how the subsequent Brexit and Covid-19 crises and their ramifications have consolidated the tendency within the European Parliament to seek maximum consensus, particularly on institutional issues. The Chapter will conclude by briefly speculating about how the Union might evolve in the context of the May 2024 elections to the European Parliament—by when there may have been an intergovernmental conference and further 'adjustments' to the Treaty basis regarding the interactions between the different institutions.

2 SOME 'TRADITIONAL' TRENDS AND DYNAMICS BETWEEN THE EUROPEAN INSTITUTIONS

This section outlines a series of 'traditional' trends and dynamics within the European Union and between its main institutions—the European Parliament, the European Council and the Council of the European Union, and the European Commission—which together constitutes what is often described as being the 'institutional triangle'. It will be seen that

these trends and dynamics are contradictory and/or compensatory, and that it is precisely these tensions that give balance to the institutional configuration of the European Union.

A first feature of the institutional triangle is that it is composed of two 'reactionaries' and a 'revolutionary'. The Council of the European Union, in its various sectoral incarnations, has enjoyed all its powers since its creation in 1958—or even 1952, if the European Coal and Steel Community (ECSC) is taken as a starting point. For its part, the European Council has existed as an *informal* institution since the two summits in 1961 (Paris in February, Bonn in July), the Hague Summit in 1969 and the series of biannual summits starting with Dublin in March 1975, and, of course, as a *formal* institution since the Lisbon Treaty came into force in December 2009. Similarly, the European Commission and its predecessor in the ECSC, the High Authority, has played fundamentally the same role since 1958 and 1952, respectively. On the other hand, the European Parliament has only existed as a directly elected institution since June 1979, despite calls from its predecessor, the Parliamentary Assembly, composed of seconded national parliamentarians, to hold such elections and to create such a body as early as 1954. While the Commission and the Council settled into their roles (until 1979, it was often said that 'the Commission proposes and the Council disposes'), Parliament remained constrained by the lack of progress in its own role and strongly felt the condescension with which it was often treated. Since 1979, the European Parliament has been a revolutionary in a hurry, eager to win the role and full range of powers that it has constantly—and consistently—demanded since the 1950s. Hence a fundamental dynamic: the European Parliament always insists on gaining more powers and influence; the European Commission and the Council/European Council resist these demands, but are often forced to give in to them.

A second characteristic of the institutional triangle is that it is composed of two instinctively federalist institutions (the Commission and the European Parliament) and one/two intergovernmental institutions (the European Council and the Council of the European Union). Returning to the first characteristic, Parliament's demand for a greater role and additional powers can only be based on further federalisation of the European Union, whereas the Commission's *raison d'être* is to work and maintain the common (federal) interest. As a result, the Commission and Parliament are frequently complicit in the advancement of what they believe is a common cause—a complicity that the first President

of the High Authority of the ECSC favoured and encouraged from the beginning of the European integration process in 1952 (van Middelaar, 2013; van Zon, 2020). Thus, with the '*Spitzenkandidaten*' procedure, for example, the Commission gains legitimacy and political legitimacy, while the Parliament gains federal power. The representatives of the Member States meeting in the European Council and the Council of the Union, on the other hand, can only lose from a procedure that reduces their decision-making autonomy, especially since, from the implementation of the Lisbon Treaty onwards, the President of the Commission has also been a full member of the European Council. In this context, there are two 'revolutionaries' and one/two 'reactionaries'.

A third characteristic of the institutional triangle—which also constitutes a third dynamic (if not a tension)—is that there are two branches of the legislative/budgetary authority (the European Parliament and the Council) and an executive (the European Commission). Here, the fundamental starting point is the right of initiative, whether legislative or budgetary. Officially, only the European Commission exercises this right. Of course, it does not exercise the right in a vacuum, and its proposals in both contexts are increasingly the result of broad consultations and reactions to the 'instructions' emitted by the European Parliament or by the Heads of State or Government meeting together in the European Council or in the Council (see the last section). However, every time the Commission makes a proposal, whether in the budgetary or the legislative context, it necessarily adopts a political position. This position results from what the Commission believes best serves the common interest, given its in-depth knowledge of the positions and wishes of all the Member States. But each Commission initiative, from the point of view of the forces that structure the European Parliament or the Council of the Union, cannot be seen as anything other than a political choice with political consequences. This correlation has led to a constant dialectic between the executive and the budgetary and legislative authorities, not only regarding the fields in which the Commission chooses to formulate proposals, but also in the form that they take. Thus, here, too, there are two 'revolutionaries' (the Parliament and the Council), tabling amendments and concluding agreements between themselves through the ordinary legislative procedure and conciliation, and a 'reactionary' (the Commission), which still remains of the formal opinion that, in the legislative context, it can always withdraw a legislative proposal at first reading of the ordinary legislative procedure if it considers that its proposal has been distorted.

Elsewhere, I have compared these constant and contradictory tensions to the three-way swordfights favoured by the creators of the *‘Pirates of the Caribbean’* film franchise (Westlake, 2007). It is not so much ‘all for one and one for all’, as Alexandre Dumas’s three musketeers liked to cry, but ‘all against all’ and ‘all with all’. On a daily basis, this system has worked remarkably well and its effectiveness continues to improve as the partners in the tripartite ‘sword fight’ adapt to each change as it occurs. The system works because, fundamentally, it is based on a tacit recognition that all the actors involved—parliamentarians, ministers, diplomats, commissioners, officials, and so on—are players in the same game and, although it may seem a trivial observation, they can only play that game if there is a game to play. This is why terms and actions such as ‘gridlock’, ‘empty chairs’, ‘non-cooperation policies’, ‘walk outs’, ‘vetoes’ and ‘rows’ are so frowned upon. They run counter to the basic methodology of the inter-institutional triangle, based on mutual respect (or ‘mutual sincere cooperation’—TEU Article 13(2)). The goal is to play the game and, as far as possible, to play it well, not to stop playing or to prevent others from playing.

3 SOME ‘TRADITIONAL’ TRENDS AND DYNAMICS IN THE EUROPEAN INSTITUTIONS

Nowhere is this common spirit more pronounced than in the European Council. With only a few exceptions, the institution that brings together the Heads of State or Government of the Member States of the Union can work only on the basis of complete consensus. One of those rare exceptions is the decision to nominate the candidate for the presidency of the Commission, where qualified majority voting applies but, even then, the basic instinct is to seek a complete consensus. Thus, in 2004, Tony Blair was able to block Guy Verhofstadt’s candidacy, even though the changeover to qualified majority had already been introduced by the Treaty of Nice. What happened in 2014, when David Cameron and Viktor Orban found themselves in a minority and, notwithstanding their opposition, Jean-Claude Juncker was chosen to be the European Council’s candidate for the presidency of the Commission, had become an irresistible political necessity (given the domestic political situation in Germany), but it was a profoundly painful experience for the institution. The pain was only partially relieved by the ‘non-conformist’ image of the

British and Hungarian prime ministers. Internally, all the actors understood that this was an unfortunate situation from the point of view of the institution, as an institution.

Whatever the official statements of the time, similar sentiments were tacitly felt when David Cameron was isolated in December 2011 because of the determination of the members of the eurozone (representing a majority in the European Council) to agree on a fiscal pact to consolidate the euro, which was then under severe existential stress. For domestic political consumption, Cameron managed to present his isolation as a veto, which suited the British Eurosceptic media. The reality was that the Franco-German axis, correctly (and without difficulty) anticipating the UK's opposition to an EU-wide mechanism, had pre-emptively accepted the creation of a mechanism based on an international treaty. Thanks to this 'creative' solution, Nicolas Sarkozy and Angela Merkel had, in a sense, anticipated reprisals (Cameron, 2019, pp. 331–339). And the 'trick' worked very well. The euro and the eurozone have survived.

But the European Council, as an institution that is inherently consensual, did not operate in a consensual manner or, rather, it did not work at all, because the final decision was taken via an inter-institutional grouping of 27 Member States and not on the basis of the European treaties. In 2015, towards the end of the so-called 'refugee crisis' (caused by a mixture of human trafficking, other types of illegal immigration and genuine candidates for political asylum), the Commission proposed mandatory quotas of candidates for political asylum for all Member States, using a 'distribution key'. The proposal was rejected by several Member States, criticised by several others and largely not respected. Once again, the European Council, as a strategic governing body, seemed incapable of acting in a consensual manner. The ghosts of these experiences of 2011 and 2014 hovered over the European Council in 2019. The questions, in order, were; first, would it be able to make a decision? And, second, would it be able to make a consensual (that is, unanimous) decision?

In 2019, given all that had happened before, and also given frustration in the European Parliament (which, unlike in 2014, had failed to impose its candidate and its '*Spitzenkandidaten*' procedure), there was a strong institutional determination on the part of the European Council to maintain a consensus. Thus, given Emmanuel Macron's position, the surprise of 2019 was not the 'failure' of the European Council to support the '*Spitzenkandidat*' nominated by the European People's Party (Manfred Weber—Germany, CSU), but its ability *unanimously* to

nominate a candidate (Ursula von der Leyen—Germany, CDU) who also satisfied Macron’s insistence that a woman be, for the first time, appointed. With this decision, facilitated by a balanced global agreement involving several appointments (Charles Michel as President of the European Council, Josep Borrell as High Representative for Foreign Affairs and Security Policy, and Christine Lagarde as President of the European Central Bank), the European Council regained and reaffirmed its consensual instincts.

The basic instinct in the European Parliament, on the other hand, is majoritarian. Largely because of the majority requirements imposed by the Treaties, it can only assert itself as an institution if it can rally at least an absolute majority of its members. These majority requirements apply in the budgetary and legislative areas as well as for the approval of the candidate for the presidency of the Commission. But even when there is no exogeneous majority requirement, the Parliament knows that it has a better chance of being heard if it can pronounce itself on the basis of the greatest possible majority. Throughout the history of the European Parliament, such majorities have only been possible through the creation of more or less formal coalitions (no political group has ever been large enough to enjoy a majority on its own), and the formation of such coalitions has only ever been possible through centrism (as opposed to a majority on the left or right). Indeed, Parliament is as condemned to work on the basis of centrist coalitions as the European Council is to seek consensus. And when such coalitions can be built in a sustainable way, they guarantee stability, reliability, sustainability, continuity and coherence. A revolutionary in a hurry, always anxious to advance its cause and make up for a lost time, Parliament attaches great importance to this coherence.

For its part, the Commission is constantly moving towards more presidential governance. In 1985, at the beginning of the first of Jacques Delors’ three mandates, the governance of the Commission was basically the same as it had been during the mandate of Walter Hallstein (1958–1967), and even the presidency of Jean Monnet of the High Authority of the ECSC (1952–1955). The Commission/High Authority was a college. The president was *primus inter pares*. The general secretariat was a service designed to ensure collegiality. Jacques Delors, like Walter Hallstein and Jean Monnet before him, was a great President by dint of the strength of his intellect, his vision, his political prowess and his personal charisma. But the frequent waves of enlargement that followed quickly transformed

the Commission from a college to a mini-assembly. Repeated efforts to reduce the number of members of the Commission have failed or, even if successful—such as the agreement to reduce the representation of the larger Member States from two Commissioners to one, or to reduce the number of Commissioners to less than the total number of Member States—were almost immediately deprived of effect by further waves of enlargement (in the first case) or a suspension of the measure (in the second case), to convince a recalcitrant Irish electorate to vote in favour of the Lisbon Treaty in a second referendum in 2009 (Westlake, 2016).

Thus, another way of meeting the managerial and political challenge of continuous growth in the size of the Commission has been to strengthen the powers and role of its President, with the concomitant consequences of strengthening the President's political responsibility, on the one hand, and effectively undermining the collegiality of the Commission, on the other. For example, the Maastricht Treaty gave the President an advisory role in appointing other members of the college; the Treaty of Amsterdam stipulated that the Commission should work 'under the political direction of its President'; the Treaty of Nice gave the President powers over the internal organisation of the Commission, on the allocation of portfolios and the right to reorganise them, on the right to appoint vice-presidents and the right to request the resignation of a Commissioner. The Treaty of Nice also provided that the members of the Commission worked under the authority of the President. These treaty changes were accompanied by other less 'constitutional' measures, some of them highly significant. The most important by far was the decision of the José Manuel Barroso Commission in 2004 to transform the general secretariat of the European Commission from a horizontal body guaranteeing collegiality into a service attached to the President and working for him as President.

The reforms introduced by the Jean-Claude Juncker Commission in 2014, and largely carried over by the Ursula von der Leyen Commission in 2019, were either a continuation of what had been done before or the revisiting of old ideas: groups of Commissioners working collectively on specific policy areas, under the authority of sectoral vice-presidents; one or more first vice-presidents with filtering roles on legislative and political proposals; increased presidential control over administrative appointments and a more muscular approach to the creation of lines of command and 'loyal lieutenants' within the Commission's administration. Nor should it be forgotten, as mentioned above, that since the implementation of the Lisbon Treaty (2009), the President of the Commission is a full member

of the European Council. What is decided in a consensual way (that is, unanimously) by the European Council fully commits the President of the Commission, who must return to her institution and ensure that what she has accepted is properly and fully implemented. The inevitable counterpart of such presidentialization was a strengthening of the political responsibility of the chief executive. It is this trend that has led, almost inexorably, to the introduction of the ‘*Spitzenkandidaten*’ procedure. The college embodied and represented all interests; a president who chose and directed the college changed its nature. A *primus inter pares* president derived his authority from the common cause; a ‘presidential’ president has to draw his/her authority from popular electoral legitimacy; a majoritarian legitimacy, in a sense.

Another trend has become increasingly prevalent as the Union has steadily enlarged and coalesced: programming. In all areas, from budgetary to legislative to political, the Union has increasingly ordered its affairs on the basis of multiannual programmes, agreed between the institutions and the Member States and synchronised as far as possible with the five-year mandates of the European Parliament and the Commission and the two-term mandate of the President of the European Council (as well as the five-year term of the High Representative). Under Article 17 of the TUE, the Commission ‘shall initiate the EU’s annual and multiannual programming with a view to achieving interinstitutional agreements’. In the meantime, under Article 15 of the TUE, ‘the European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof’. And, in Article 126 of its internal regulations, the European Parliament requires the candidate nominated for the post of President of the Commission to ‘hold an exchange of views with the Conference of Presidents regarding the principal policy objectives and priorities for the new legislative term. This exchange of views will take into consideration, *inter alia*, the priorities presented by the President-elect of the Commission, as well as the replies given by Commissioners-designate during the hearings provided for in Rule 125’. Thus, increasingly, the newly-elected presidents of the Commission propose political programmes designed to ensure both their approval by the European Parliament by the largest possible majority *and* to respond to the priorities identified by the European Council, acknowledging that they will be judged on their ability to implement their programmes (Costa & Brack, 2017).

Table 1 Number and share of S&D and EPP MEPs between 1979 and 2019

<i>Year</i>	<i>S&D</i>	<i>EPP</i>	<i>Absolute majority</i>	<i>S&D + EPP</i>	<i>Total number of MPs</i>
1979	113	107	206	220 (53%)	410
1984	130	110	218	240 (55%)	434
1989	180	121	260	301 (58%)	518
1994	198	157	284	355 (62.5%)	567
1999	180	233	314	413 (66%)	626
2004	200	268	367	468 (75%)	732
2009	184	265	369	449 (61%)	736
2014	191	214	376	405 (55%)	751
2019	154	182	376	336 (45%)	751

As Table 1 shows, since 1979, the most effective way to obtain an absolute majority in the European Parliament has been to win the support of the European People's Party and the Social Democrats/Socialists.¹ It is true that, on three occasions, the establishment of alternative coalitions led to the election of Presidents of the Parliament itself who belonged to political groups other than those of the two large families (Simone Veil, a French Liberal, in 1979; Henry Plumb, a British Conservative, in 1987; Pat Cox, an Irish Liberal, in 2002). But, from 1979 to 2014, the combined numbers of the EPP and the S&D always gave them a comfortable absolute majority (75% of the house in 2004!). This coalition, expressed more or less formally in terms of working coalitions, provided the necessary support for the programmes of the Commission's successive presidents, while at the same time those presidents were becoming increasingly presidential and their programmes were becoming increasingly formalised—becoming, in effect, increasingly like manifestos.

But as can be seen in Chapter 7 of Table 1, in 2019, for the first time, owing to the decline in electoral support for traditional parties and increasingly fragmented political representation, the combination of the EPP and the S&D no longer represented an absolute majority. It is this fact, together with uncertainty about the destination of Emmanuel Macron's *En Marche!* MEPs, that gave the 2019 European elections their distinctive character—and not so much, as an overexcited media had speculated, the expected rise of a Eurosceptic right.

¹ For ease of reference, the current acronym for the Group of the Progressive Alliance of Socialists and Democrats, 'S&D', is used throughout this chapter.

But even if the alliance of the EPP and the S&D was no longer enough, the traditional centrist logic still held (and still holds). The question was more what *type* of centre and how *big* it would be. This is clear from Table 2. First of all, it is worth recalling that Ursula von der Leyen knew that she probably could not count on the support of all 16 German MEPs in the S&D (because of her former status as German Defence Minister); even though the group had pledged to support her, the vote was secret. A coalition that also included the ‘new’ Renew Europe group (in which, it will be recalled, the members of *En Marche!* had joined the former members of the ALDE group) would have given a theoretical maximum of 428 votes ($444 - 16$). A four-way coalition with the Greens would have given a theoretical maximum of 502 votes ($518 - 16$) but, despite von der Leyen’s espousal of a radical green agenda, the Green Group refused to pledge its support. On 16 July 2019, in the European Parliament’s plenary vote on Ursula von der Leyen’s candidacy for the presidency of the Commission, 383 MEPs voted in favour (374 votes were required), 327 voted against and 22 abstained. It was a new kind of centre, but the centre had held. In the European Parliament’s vote on 27 November 2019 on the Commission as a whole, the centrist logic was even stronger, with 461 MEPs voting in favour (157 voted against and 89, including the Greens, abstained).

Table 2 Number of votes by political group 2019

	<i>Absolute majority—376</i>
EPP—European People’s Party	182
S&D—Group of the Progressive Alliance of Socialists and Democrats in the European Parliament	154 ($182 + 154 = 336$)
RE—Renew Europe Group	108 ($182 + 154 + 108 = 444$)
Greens/EFA—Green Group/European Free Alliance	74 ($182 + 154 + 108 + 74 = 518$)
GUE/NGL—Confederal Group of the European Unitarian Left/Nordic Green Left	41
ECR—Group of European Conservatives and Reformists	62
ID—Identity and Democracy	73
NI—Non-registered	57

4 PLUS C'EST LA MÊME CHOSE...

It is perhaps difficult, in post-Covid-19 times, to recall quite how radical the initial von der Leyen programme was. In her 16 July 2019 opening statement before the European Parliament she pledged to make Europe 'the first climate-neutral continent in the world by 2050'; to 'reduce CO₂ emissions by 2030 by 50, if not 55%'. She proposed: 'a Green Deal for Europe'; 'the first ever European climate law'; 'a Sustainable Europe Investment Plan and (to) turn parts of the European Investment Bank into a Climate Bank'; a 'Carbon Border Tax'; and 'a Just Transition Fund'. All these proposals put the European Union at the forefront of efforts to address the challenges of climate change and global warming.

The purpose of this Chapter is by no means to minimise the importance of this green revolution (and, of course, the July 2020 Recovery Plan for Europe and the NextGenerationEU package have heavily consolidated the Commission's initial European Green Deal). Rather, it has attempted to show how these policies and commitments have occurred in the context of trends and dynamics that have been evident for some time. As seen in the previous section, the European Council has regained its consensual instincts; the European Parliament has continued to create centrist coalitions to support the Commission; the Commission has become ever more presidential²; and the institutional triangle is increasingly linked to strict programming. In this context, two questions arise: has the '*Spitzenkandidaten*' procedure failed? And has von der Leyen's promise of a European Parliament right of initiative changed the situation? In both cases, the answer is 'not really' or 'not entirely'.

It is true that the European Council did not propose Manfred Weber, the EPP's '*Spitzenkandidat*', as candidate for the presidency of the Commission. But it proposed a representative from the same political family, the EPP; and, as we have seen, this candidate was approved by the European Parliament by a majority that *included* the EPP. In her 16 July 2019 statement to the European Parliament, von der Leyen said: 'I want us to work together to improve the *Spitzenkandidaten* system. We need to make it more visible to the wider electorate and we need to address

² It is rumoured, for example, that von der Leyen herself interviewed the chiefs of staff of several commissioners before they could be appointed, and that she and her staff were very interested in the overall composition of the commissioners' private offices. The logic is clear: it is her Commission and her programme and she will be judged at the end of her mandate on how well she was able to deliver on what she had promised.

the issue of transnational lists in European elections as a complementary tool of European democracy'. It is true that the new group, Renew Europe, did not 'play the game' of the '*Spitzenkandidaten*' procedure by proposing a single candidate, but it did play a *similar* game, by proposing a number of candidates, including Margrethe Vestager, who became one of the three executive vice-presidents of the Commission, alongside the '*Spitzenkandidat*' of the S&D group, Frans Timmermans. This allowed some to argue that the *spirit* of TEU Article 17, paragraph 7 had been respected and that the results of the European elections in May 2019 had been well taken 'into account' in the choice of the President of the Commission.

In her 16 July 2019 statement before the Parliament, von der Leyen called for a Conference on the Future of Europe to be launched in 2020, and it was clear that her proposals regarding the '*Spitzenkandidaten*' procedure were intended to be high on the conference's agenda. At the time of the completion of this Chapter the Conference on the Future of the European Union has only just, finally, got underway, and it is too early to discern how the draft agenda might develop. But whatever the Conference might finally propose, it is nevertheless clear that even if the 'pure' version of the '*Spitzenkandidaten*' procedure failed in 2019, it is far from dead, and a somehow improved version can be expected to return in 2024. If this does prove to be the case, then another longer-term trend, the parliamentarisation of the European Union, will be further strengthened (Westlake, 2017).

As seen above, in her 16 July 2019 statement, von der Leyen committed herself to granting the European Parliament a sort of right of legislative initiative. It was undoubtedly an important commitment that will surely be 'banked' by the European Parliament and consolidated in its internal rules of procedure in due course. But it is really only the latest step in the diminution of the Commission's theoretical right of initiative, which has been increasingly restricted by the provisions of the Treaties and the previously-mentioned increased use of programming. Under TFEU Article 241, the Council, 'acting by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals'. And, under TFEU Article 225, 'The European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of

implementing the Treaties'. In both cases, if the Commission decides not to make a proposal, it must inform the Council or Parliament of its reasons. In any event, as discussed above, the Commission's proposals are often a direct response to the political orientations emanating from the meetings of the European Council (of which the President of the Commission is a full member). Thus, von der Leyen's commitment to Parliament is a significant gesture, but it does not fundamentally change the situation in terms of the basic inter-institutional balance.

5 ENTER BREXIT, COVID-19 AND LOOKING TO 2024

Table 3 shows overall voting figures in the European Parliament on a sample series of 'important' resolutions, starting with the election of the European Commission on 27 November 2019 and culminating with the 27 April 2021 resolution on the EU-UK Trade and Cooperation Agreement. Logically, a time of crisis, whether Brexit or Covid-19-related, could be expected to have encouraged greater solidarity between and within the institutions and hence to have consolidated the supportive centrist alliance in the European Parliament. So it has proved to be the case. Indeed, 2020 saw super majorities—91% in one case, and even almost 100% in another. Voting behaviour demonstrates that the centrist support in the European Parliament has been consolidated and that, for as long as the crisis continues (and the initial health crisis is now inevitably segueing into an economic crisis of incalculable dimensions and unpredictable duration), that support will endure.

The size and composition of the European Parliament have already been adjusted, post-Brexit, as shown in Table 4 (Sabbati & Grosek, 2020). There are now a maximum of 705 MEPs (compared to 751 previously). With the exception of the EPP and ID groups (both with slight gains of five and three seats respectively), all groups lost MEPs in 2019, with Renew Europe suffering the largest loss. At the same time, the absolute majority decreased from 376 to 353. And there have, of course, been group membership developments since then—not the least of them being Fidesz's March 2021 decision to take its 12 MEPs out of the EPP.

Table 4 shows calculations similar to those in Table 2. Assuming that the EPP and S&D groups do not perform significantly better in 2024 than in 2019 (which would seem to be a safe bet at the moment), then they alone will not represent an absolute majority. Indeed, a 4 May 2021 'Poll of Polls' published by *Politico* showed the EPP on just 158 seats (it

Table 3 Overall voting figures in the European parliament on a sample series of 'important' resolutions

<i>Resolution</i>	<i>For</i>	<i>Against</i>	<i>Abstentions</i>	<i>Required to pass</i>
Election of the Commission (27.11.19)	461 (65%)	157 (22%)	89 (13%)	310
Climate and environmental emergency (28.11.19)	429 (64%)	225 (33%)	19 (3%)	328
The European Green Deal (15.01.20)	482 (68%)	136 (19%)	95 (13%)	310
Withdrawal Agreement of the UK from the EU (29.01.20)	621 (91%)	49 (7%)	13 (2%)	336
Mandate for negotiations with the UK (12.02.20)	543 (83%)	39 (6%)	69 (11%)	292
Financial assistance to candidate countries (26.03.20)	684 ($\pm 100\%$)	1 ($\pm 0\%$)	2 ($\pm 0\%$)	343
Coordinated action to combat Covid-19 (17.04.20)	395 (57%)	171 (25%)	128 (18%)	284
New multiannual financial framework (15.05.20)	505 (73%)	119 (17%)	69 (10%)	313
Recommendations on the negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland (18.06.20)	572 (82%)	34 (5%)	91 (13%)	304
The Establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights (07.10.20)	521 (75%)	152 (22%)	21 (3%)	337
The EU-UK Trade and Cooperation Agreement (27.04.21)	660 (95%)	5 (1%)	32 (5%)	333

Source VoteWatch Europe

Table 4 Votes by political group in the EP post Brexit

2024?	<i>Absolute majority (post-Brexit) = 353</i>
EPP European Peoples' Party	178
S&D Group of the Progressive Alliance of Socialists and Democrats in the European Parliament	146 (178 + 146 = 324)
RE—Renew Europe	97 (178 + 146 + 97 = 421)
Greens/FTA—Green Group/European Free Alliance	73
GUE/NGL—Confederal Group of the European Unitarian Left/Nordic Green Left	39
ECR—Group of European Conservatives and Reformists	62
ID—Identity and Democracy	74
NI—Non-Attached	36

currently has 187) and the S&D down to 136 seats (it currently has 147), making a total of 294 seats—59 less than an absolute majority (353), and just 41% of the total membership.³ The same *Politico* poll would currently give Renew 96 seats (it currently has 98), so that, notwithstanding the probable continued decline of the EPP and the S&D, a coalition between the three groups would still provide a slender, if not comfortable, margin (37) beyond an absolute majority.

However, 2024 is still a long way ahead and it is far too early to tell whether the three central Groups, EPP, S&D and RE, will be able to muster an absolute majority between themselves. Any significant further loss for one of them (or all of them) would require the search for a fourth coalition partner, with a probable choice between the Greens, the left (GUE/NGL) and the right (ECR). Thus, if the essential narrative of 2019 was that the centre held, but that it was a new centre, the key question for 2024 will be: can the new centre hold? If this is not the case, more radical political choices will have to be made because, once again, in accordance with the spirit and letter of TEU Article 17, paragraph 7, the European elections will be taken 'into account' and this time

³ <https://www.politico.eu/europe-poll-of-polls/european-parliament-elections-2019/>.

probably with a strengthened ‘*Spitzenkandidaten*’ procedure, a better-prepared European Parliament and an incumbent European Commission President who will almost certainly be looking for a second mandate.⁴

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⁴ However, only a fool would try to predict what might happen in the German federal elections in October 2021 and the French presidential elections in April and May 2022. The only certainty is that Angela Merkel will no longer be German chancellor. This article used *ceteris paribus* reasoning to make its case, but of course it remains to be seen how the political landscape might change before the 2024 European elections.



The von der Leyen Commission: An Early Assessment

Hussein Kassim

The von der Leyen Commission made history from the very outset. Ursula von der Leyen, the Commission's thirteenth President, became not only the first German in fifty years to head the institution, but the first woman.¹ Von der Leyen entered the office under difficult circumstances that were not of her doing. She had not been a Spitzenkandidat, and therefore lacked the personal mandate that her immediate predecessor, Jean-Claude Juncker, had enjoyed, and she faced a fragmented European Parliament, where political groups were keen to extract concessions in exchange for their support. Due to the lateness of her appointment, the

¹ Indeed, she is one of only three women to lead a major EU institution. Simone Veil, who served as President of the European Parliament between 1979 and 1982, was the first. The other is Christine Lagarde, President of the European Central Bank, appointed the same year as von der Leyen.

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new President had only limited time to prepare for her administration. Moreover, she inherited a number of ‘big ticket’ items, including Brexit and the Multiannual Financial Framework, that remained outstanding from the previous mandate. Then, scarcely had the first hundred days of her term in office elapsed, she was confronted by the outbreak of the Covid-19 pandemic.

This Chapter looks at the first two years of the von der Leyen Presidency. Focusing in particular on the President’s approach to the leadership of the institution, it examines and compares with her predecessors von der Leyen’s conception of the role, her organisation of the College, and her leadership style. It considers the Commission’s performance on the major dossiers that she inherited, her response to the pandemic, and the delivery of her policy priorities. It also reflects on relations with the European Parliament and the Council of European Union, and with the European Council. The Chapter reflects on lessons from the von der Leyen Commission about the sources of presidential power in the Commission. Since Ursula von der Leyen was not a *Spitzenkandidat*, and the first President since Jacques Delors not to have held prime ministerial office, her Presidency is instructive on the question of the extent to which presidential power has become embedded in the office, almost irrespective of the political and European experience that an individual incumbent brings to it.

The Chapter makes four observations. The first is that, despite their different routes of passage, von der Leyen’s approach to policy and her conception of the Presidency are close to those of Juncker, even if her style is different. The second is that the policy performance of the von der Leyen Commission has been impressive, despite mishaps linked to the President’s leadership style, though the success of the administration can, of course, only be fully judged at the end of the five-year term. Third, while the Commission President has been effective in the European Parliament, her interaction with the European Council has been more mixed. Fourth, the experience of the von der Leyen Presidency demonstrates that the authority of the office has indeed become institutionalised.

This Chapter is organised into four parts. The first section looks at how the procedure for the Commission President’s selection has evolved over the recent past, how Juncker used his authority as a *Spitzenkandidaten* President and the questions that arose about the powers of a President chosen by a different method. The second discusses the appointment of

Ursula von der Leyen and the circumstances that surrounded it. Von der Leyen's approach to the Presidency is considered in the third. The fourth summarises the policy performance of the von der Leyen Commission and the challenges that lie ahead, in the context of the inter-institutional relations that have prevailed so far.

1 THE VON DER LEYEN COMMISSION IN CONTEXT

The office of the Commission President has changed dramatically over recent decades (see Bürgin, 2018; Kassim, 2021; Kassim & Laffan, 2019; Kassim et al., 2013). Until the Maastricht Treaty the Commission President was chosen by the unanimous vote of heads of state and government. The process was rarely dignified. The merits of various potential candidates and the protracted horse-trading which could include other EU as well as other non-EU appointments were widely discussed in the media before a compromise was eventually reached. By requiring consultation of the European Parliament, the Maastricht Treaty broke the heads of government monopoly. As well as the replacement by qualified majority voting of the unanimity requirement in the European Council, subsequent treaty reforms, discretion in rule interpretation (Hix, 2002), and institutional assertiveness have further extended the powers of the Parliament, leading to an elaborate scrutiny and investiture procedure of all members of the College (Wille, 2021).

The European Parliament's growing involvement has broadened the range of factors in play and seeded new lines of inter-institutional conflict in the Commission President's appointment. Since the Commission President's power over the Commission's policy programme, and therefore the EU's policy agenda, has also been increased (Kassim & Bocquillon, 2021), the stakes on all sides have grown. The European Parliament as an institution and political groups individually try to extract concessions from the nominee before she presents her Political Guidelines and thereby shape the Commission's policy programme. The European Council seeks to do similar through the Strategic Agenda (Cloos, 2019), and also works to ensure the appointment of a candidate whose preferences roughly align with those of heads and state of government. Would-be Commission Presidents, meanwhile, look for as much freedom of action as possible.

The introduction of the *Spitzenkandidaten* process in 2014 tilted influence towards the European Parliament, constrained the European

Council, and increased the power of the Commission President (Christiansen, 2016; Westlake, 2016; Tilindyte, 2019). In advance of the 2014 elections, several of the main European political groups, together with senior officeholders in the European Parliament, agreed that ahead of the election each political group should choose a candidate for the office of Commission President, who would be presented as such in the electoral campaign. They held that following Article 17(7) of the Lisbon Treaty, requiring the European Council to take the results of the elections into account when making their nomination, the European Council should choose the candidate of the group that had won the most seats. By linking the selection of the Commission President directly to the votes cast by EU citizens,² advocates of the process argued that the democratic accountability would be enhanced.

Heads of state and government rejected this reading, which reduced the European Council to an electoral college. The Lisbon Treaty called only for the European Council to ‘take into account’ the results of the elections, and that the European Council had at least as much legitimacy as the European Parliament. Due, however, to the pressure brought to bear on EU leaders in general and on the German Chancellor, Angela Merkel, in particular, the European Council conceded the case and in July 2014 nominated Jean-Claude Juncker, the chosen candidate of the European People’s Party (EPP), which had topped the polls in the May elections.

As a result of his election through the *Spitzenkandidaten* process, Juncker laid claim to a personal mandate (though see Hobolt, 2014), which he invoked when presenting his Political Guidelines to the European Parliament (European Commission, 2014) and later when governments were nominating their candidates for Commissioner. The *Spitzenkandidaten* process created a close bond between the incoming Commission President and the European Parliament, which in Juncker’s case was reinforced by a ‘grand coalition’ with the centre-left, Social and

² The full provision reads as follows: ‘Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure’.

Democratic Party (S&D) that commanded a parliamentary majority, and by his friendship with Martin Schultz, the leader and defeated candidate of S&D.

Juncker used his authority not merely to shape the Commission's political agenda, but to define it. The 'ten priorities' that would form the policy programme of his 'political Commission' were based on his platform as *Spitzenkandidat* (Kassim & Laffan, 2019). Whereas Juncker's predecessor, José Manuel Barroso had concentrated resources in the office, which he had used to pursue a personal style of presidential leadership, where he took or approved key decisions, treated Commissioners as more or less equals, and left the organisation of the College largely intact, Juncker restructured the College, introduced a hierarchical system, and charged each of seven vice presidents with responsibility for one or more of the ten priorities. Among the seven, Frans Timmermans was appointed First Vice President, and gatekeeper of the College agenda.

A key question in 2019 was whether the European Council, under pressure from the European Parliament, would follow the *Spitzenkandidaten* process and appoint the chosen candidate of the largest party. If not, could the Commission President have the same level of authority over the institution? Would he or she be able to define the Commission's policy agenda or would there be a return to a Barroso-style Presidency with a longer list of priorities? Could a non-*Spitzenkandidat* Commission President retain the vice presidential structure of the College structure, return to a President-dominated College in which Commissioners were otherwise equal, or revert to Prodi-style collegiality, where the Commission President was little more than *primus inter pares*? There was also an inter-institutional dimension. The *Spitzenkandidaten* process had allowed Juncker to be more independent of the European Council, as with the refugee crisis and the second Greek crisis. Would a non-*Spitzenkandidat* Commission President be able to do similar?

2 THE APPOINTMENT OF URSULA VON DER LEYEN

In the wake of the May 2019 elections, the European Council and the European Parliament were internally divided over the Commission President's nomination. French President Emmanuel Macron had voiced his criticism of the *Spitzenkandidaten* system. He had agitated for a role for the liberals who now held the balance of power among MEPs and expressed his reservations about Manfred Weber, the chosen candidate of

the largest political group (EPP). The German Chancellor Angela Merkel was loyal both to Weber and her political party (Barker et al., 2019), but her doubts about the system were well known.

The European Parliament was more divided than in 2014. Prior to the elections, the Parliament had reaffirmed its commitment to the *Spitzenkandidaten* system, and all but one of the main parties had advocated of the process,³ with the liberals proposing a slate of candidates that included Margrethe Vestager, Commissioner for competition in the Juncker Commission. However, the consensus changed after the elections, with a high turnover of MEPs. Although the EPP and the S&D remained the largest parties, they saw their overall majority disappear, while the liberals and the Greens added seats. The European Parliament lacked the unity that had helped it prevail at the previous election.

Since when it met on 28 May the European Council could not agree on a candidate, leaders authorised President of the European Council, Donald Tusk, to consult MEPs on nominations for four jobs, including Presidents of the Commission, the European Central Bank, and the European Council. They agreed on ‘the need for a balance between political forces and geographical regions in their choice of candidates, and most [said] they want to move towards gender parity as well’ (Barker et al., 2019). When discussions at the June European Council were inconclusive, a compromise proposal was launched by EU heads of state and government attending the G20 in Osaka, to explore the possibility of nominating the S&D candidate, Frans Timmermans. However, the initiative was blocked by the Visegrád group, who opposed the bias to candidates from western Europe and Italy because no Italians were named among the candidates (Gray et al., 2019; Janning, 2019).

Von der Leyen, whom Angela Merkel had drawn to his attention, was suggested by Macron in early July (Die Welt, 2019), as part of a cross-party compromise. EU leaders agreed to nominate Von der Leyen (EPP) for the Commission Presidency, Charles Michel (liberal) for the Presidency of the European Council, Josep Borrell (S&D) to head the External Action Service, and Christine Lagarde (EPP) for the Presidency

³ They were: European People’s Party—Manfred Weber, Party of European Socialists—Frans Timmermans; European Conservatives and Reformists—Jan Zahradil; Alliance of Liberals and Democrats for Europe—“Team Europe”, seven candidates for the top EU posts, including Margrethe Vestager; European Green Party—Ska Keller/Bas Eickhout; Party of the European Left—Violeta Tomić/Nico Cué.

of the European Central Bank, with senior positions also earmarked for Timmermans and Vestager. Merkel announced that the decision of EU leaders had been unanimous, although she herself had abstained from voting for a compatriot and fellow party member. Noting that the decision was now in the hands of the European Parliament, Tusk warned that von der Leyen ‘would have to ensure “geographic balance” with her vice presidential nominations’ (Die Welt, 2019).

Von der Leyen faced an uphill struggle to secure parliamentary approval. First, her political experience was limited. A CDU politician, von der Leyen had held a series of local and state offices in Lower Saxony, before her appointment as minister of family affairs, senior citizens, women and youth in Chancellor Angela Merkel’s first government. In this role, she had introduced parental leave in Germany, as well as measures intended to enable mothers to continue their careers (Marinić, 2019). Von der Leyen had also been labour minister, and the first woman to be minister for defence. In addition, von der Leyen needed the support of at least 374 MEPs, with liberals, the S&D and even her home political group, the EPP, which was divided on the merits of her candidature, eager to wrest concessions. Furthermore, von der Leyen had only two weeks between her nomination by the European Council and the vote of confirmation by MEPs. Meetings with ECR co-chairs on 9 July (Brzozowski & Rios, 2019) and socialist, liberal and Green MEPs the following day did not go well, with von der Leyen criticised for a ‘lack of specifics’ on climate protection, the rule of law, migrant rescue, and reform of EU institutions.

As a result, von der Leyen made a number of concessions, which, according to reports (Hutchinson, 2019; Valero, 2019), included:

- the nomination of two executive vice Presidents—the S&D’s Timmermans as first vice president, with the liberal Vestager on equal footing—with cabinets comparable to the High Representative’s to reflect their double function
- a stronger role for the European Parliament, including a right of legislative initiative, and improvements to the *Spitzenkandidaten* system
- a legal commitment to carbon neutrality, and the introduction of a ‘Just Transition Fund’, with public money completed by private finance, channelled through a ‘Sustainable Europe Investment Bank’

- a more social Europe, using the full flexibility within the Stability and Growth Pact for a more growth friendly fiscal stance, a European Unemployment Benefit Reinsurance Scheme, and full implementation of the European Pillar of Social Rights, and EU gender equality strategy
- a focus on rule of law, with a new European Rule of Law Mechanism
- a fresh start on migration, with a new pact on migration and asylum
- EU reform, informed by a two-year conference on the Future of Europe, resulting in legislative actions and other initiatives, including treaty change, a move from unanimity to qualified majority voting on climate, energy, taxation, social policy, and foreign affairs.

Although she won parliamentary approval by 383 votes (the EPP, S&D, and Renew had 444 seats combined), von der Leyen's support was lower than Barroso's (413 in 2004 and 488 in 2010) or Juncker's (422 in 2014).

In selecting members of the College, von der Leyen faced the same difficulties as her predecessors (see Kassim, 2021). A number of national capitals refused her request to nominate both a man and a woman. Only twelve of the 25 candidates von der Leyen presented to the European Parliament on 12 September 2019 were women. Then, the European Parliament rejected three of her choices. Only the liberal Sylvie Goulard, nominated by Paris, was a casualty of the parliamentary hearings proper. The EP's legal affairs committee would not allow Romanian socialist Rovana Plumb and László Tócsányi of Fidesz to proceed on the grounds that there was a conflict of interest. As a result of the delays, the von der Leyen Commission took office one month late on 1 December 2019.

3 WHAT KIND OF COMMISSION PRESIDENCY?

The circumstances of her nomination, and particularly the concessions she had been compelled to make in order to win the confirmation vote (European Parliament, 2019), raised the possibility that von der Leyen might not enjoy the same authority within the Commission as her predecessor. In fact, the authority of the new Commission President did not appear to have been adversely affected.

Policy Leadership

Ursula von der Leyen's approach to the office is closer to Juncker than to Barroso. While Juncker styles his administration the 'political Commission', von der Leyen christened hers the 'geopolitical Commission'. Like Juncker, von der Leyen (European Commission, 2019a) decided that the Commission should focus its work on a small number of key priorities, though six instead of Juncker's ten:

- a European Green Deal
- a Europe fit for the digital age
- an economy that works for people
- a stronger Europe in the world
- promoting our European way of life
- a new push for European democracy.

Unlike the Juncker Commission, which had been eager to differentiate itself from its predecessor, the von der Leyen Commission's priorities—most notably the European Green Deal and the digital agenda—built on or were prefigured by the previous Commission (European Commission, 2019b). Von der Leyen's description of her incoming administration as the 'geopolitical Commission', following Juncker's 'political Commission', only emphasised the continuity.

Organisation

Von der Leyen retained the core features of the model instituted by Juncker, though with some important adjustments (European Commission, 2019c) (see Fig. 1). Committed to a whole-of-government approach, which recognised the interdependence of policy especially in the areas of environmental and digital policy, the Commission President strengthened the cluster approach by assigning responsibility to two Executive Vice Presidents, respectively, Timmermans and Vestager. Von der Leyen also made another veteran of the Juncker Commission, Valdis Dombrovskis, a fellow member of the EPP, Executive President for political balance. Since Timmermans and Vestager had been imposed on the President by the European Council, the presence of Dombrovskis would ensure that von der Leyen had a political ally at the most senior level. Bestowing Executive Vice Presidents responsibility for coordinating

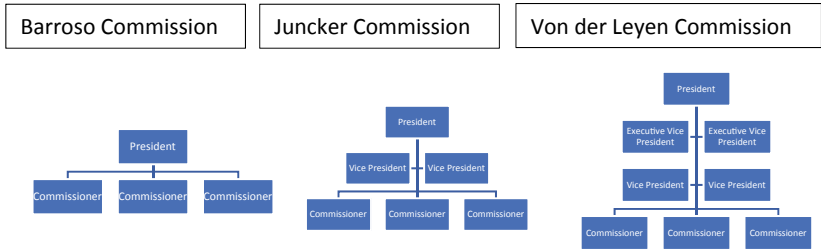


Fig. 1 College structures after presidentialisation: the Barroso, Juncker and von der Leyen Commissions

a core policy and managing a specific portfolio, with responsibility for the relevant Directorate General, represented a departure from the Juncker model, where Vice Presidents were generally supported by the Secretariat General.

Three further changes are important. First, as part of her commitment to gender parity, von der Leyen insisted on a fifty: fifty gender balance within the *cabinets* (European Commission, 2019d, 2019e). Although the Commission had made significant progress in increasing the number of women in senior positions (Connolly & Kassim, 2017), presidential fiat assured parity in practice. Second, von der Leyen replaced the in-house think-tank, the European Political Strategy Centre (EPSC), which under the Juncker Presidency had been used extensively to examine broad issues and consider future challenges, with I.D.E.A., a much smaller unit with more limited ambitions and staff. Third, the von der Leyen Commission vowed to become a paperless organisation.

Style

In contrast to her immediate predecessors, von der Leyen is associated with a hands-on and highly personal involvement decision making. She has a preference for immersing herself in policy detail and taking decisions. She has also further concentrated powers—for example, over senior appointments (Von der Burchard et al., 2020)—at the very top of the organisation. In addition, she is the first Commission President to live in the Berlaymont building. The Commission President does not have an official residence. Whether due to the desire to continue a tried and tested ministerial style that worked in Berlin, a lack of familiarity with the EU

or an absence of trust in the Commission machinery, the von der Leyen Commission is one where decisions are taken by a very small circle on the thirteenth floor of the Berlaymont, with Björn Seiber, the President's chef de cabinet, who accompanied the Commission President from Berlin, a central figure (Fleming et al., 2020).⁴ The Commission President also keeps in close personal touch with national capitals, especially while her mentor Angela Merkel was Chancellor, Berlin.

Some commentators have associated the Commission President's Olympian style with a number of mishaps. Examples include the threat in a draft decision in January 2021 to use Article 16 of the Northern Ireland protocol to impose an export ban on coronavirus vaccines to Northern Ireland. Although the error was corrected within hours, it led to criticism from several quarters, especially when it emerged that key players, including Belfast, Dublin and London, as well as the EU's own chief negotiator, Michel Barnier, had not been consulted (O'Leary, 2021). Then in 'sofagate', on an official visit to Turkey in April 2021 the two men in the room, the President of the European Council, Charles Michel and President of Turkey Recep Tayyip Erdoğan, were seated in armchairs, while the Commission President was relegated to a settee (Eder, 2021). A further protocol failure the same month saw von der Leyen's chef de cabinet rather than the Commission President herself respond to a formal letter from the Ukrainian President (Quatremer, 2021).

4 POLICY PERFORMANCE

Although her path to the Commission Presidency did not appear to inhibit her ability to define how the Commission would work or its policy agenda, it was not clear how well von der Leyen would succeed in translating the aims stated in her 2019 Political Guidelines or 2020 State of the Union address into policy proposals. Unlike her predecessor, who had promised a modest output in the first year of his administration, von der Leyen was committed to the early delivery of key proposals (European Commission, 2019b). This was on top of unfinished business in the form of Brexit and the MFF. There was also uncertainty about von der Leyen's ability to navigate legislation through a divided European Parliament, as

⁴ This style was also reported by three senior Commission officials interviewed by the authors as part of the research for this chapter.

well as the working relationship with the European Council and its President, Charles Michel—the first time since the Lisbon reforms that the two incumbents have come from different political groups. The challenge only increased with the Covid-19 pandemic.

Overall, especially given the circumstances and despite often fierce criticism of the President, particularly from her home country, the record of the von der Leyen Commission has been impressive on balance. However, there remain questions about whether the Commission's policy ambitions can be realised, the new organisational model, and the Commission President's relationship with her counterpart in the European Council.

Unfinished Business

The von der Leyen Commission assumed responsibility for two 'big ticket' items from the previous Commission, both of which it successfully brought to completion. The first was the Brexit negotiations. Michel Barnier accepted von der Leyen's invitation to continue in his role as chief negotiator and head of the Article 50 Task Force to oversee the conclusion of the Withdrawal Agreement. Although the main hurdle had been surmounted in October 2020, work remained before the formalities were completed in January 2020. Barnier then agreed to remain in post for negotiations on the future partnership. However, it is important to recall that, since the Commission as an institution had been mandated to conduct the negotiations, the Commission President had a key role to play. Von der Leyen monitored the progress of the talks, made decisions at key stages of the process—for example, to relax the EU's position on the level playing field in summer 2020—and interceded with the UK prime minister, Boris Johnson, at important points in the negotiations. She and her cabinet were very closely involved in the concluding phases leading to the Trade and Cooperation Agreement. Indeed, von der Leyen took personal charge during the final weeks of the negotiations in December (Kassim, 2023).

On the second issue, despite the efforts of the Juncker Commission to advance the negotiations on the EU budget—the Multiannual Financial Framework for 2021–2027 (MFF 2021–2027)—the European Council had made little progress (Bassot, 2021). As the scale of the pandemic

became clear the Commission proposed linking a recovery fund, the Next Generation EU instrument (NGEU), that was designed both to address the damage from the crisis and ensure readiness for future shocks, to the MFF discussions. One effect was to add a further set of contentious issues (the size of the recovery loan, the balance between loans or grants, rebates and repayments, conditionalities), to the perennial questions that divided member states—the size of the budget, the allocation between headings and rebates. Based on a Commission proposal, and with an impetus from Berlin and Paris, the breakthrough was made at a special European Council in July 2020. During the course of the five-day meeting, a series of compromises were reached, principally to accommodate the concerns of the fiscally conservative ‘frugal four’—Austria, Denmark, Sweden, and the Netherlands (Bassot, 2021).

The NGEU is unprecedented in scale—750 billion EUR, with 672.5 bn directed to the recovery and resilience fund (RRF), 315 billion in grants and 360 billion in loans—but it also involves a major pooling of debt that a number of member states, including Germany, had previously resisted on principle. Press reports suggest that Merkel’s trust of von der Leyen was fundamental to Germany’s support (Der Spiegel, 2020). Member states wishing to draw on the RRF duly submitted their national recovery and resilience plans for 2021–2023 (see European Commission, 2022b). The plans are subject to detailed scrutiny by the Commission to ensure that they comply with the green and digital transitions, and other conditionality mechanisms, before they pass to the Council for approval by qualified majority vote.

The Covid-19 Pandemic

The approach of the von der Leyen Commission to the pandemic has generally been successful, though some aspects, such as its early handling of the vaccines strategy, attracted criticism (Tilindyte, 2019; Kassim, 2022). While governments initially took unilateral action—for example, by closing borders—the Commission sought to reassert respect for EU rules and policy, and to develop a concerted response. The Commission undertook a number of actions in public health, where the EU has limited competence and had to persuade the member states of the added value of action at the EU level. The Commission took actions to address the public

health emergency, delivered humanitarian aid, and carried out civil protection missions. It tabled measures to protect the single market, promoted a coordinated response to restrictions on cross-border movements within the EU, and sought to promote a common approach to ensuring the supply of protective medical equipment. It also proposed measures to mitigate the socio-economic impact of the pandemic. It also encouraged member states to procure medical equipment jointly, waived customs duty on medical items, created green lanes to ensure the cross-border delivery of essential goods, and established an online tool to provide information on travel restrictions within the EU.

Following her advocacy of a collective response to the crisis, the Commission President argued that the Commission could get better terms if it procured a vaccine on behalf of all member states. Although von der Leyen was able to persuade member governments and a contract was signed with Astra Zeneca, delays in the delivery of the vaccine provoked criticisms, which became more intense when the UK and the US rolled out their vaccination programmes earlier. When von der Leyen, with the UK in mind, floated the idea of an export ban on EU-produced vaccines, her suggestion met a critical response. Downward projections of delivery by Astra Zeneca, as well as the issues that delayed approval for its vaccine in the US, did not help. However, as vaccination rates in the EU have risen, much of the criticism has abated.

The economic measures the EU introduced were less controversial. Responding to a Commission proposal, the Council set up a borrowing scheme to support short-term work (SURE), and created an investment fund to support businesses. The Commission also ensured that state aid rules were applied flexibly, and activated the escape clause of the Stability and Growth Pact to allow governments to counter the pandemic's effects. It also channelled 3 billion EUR through the ERDF, ESF and Cohesion Fund to help regional and local government. The NGEU, discussed above, was the centrepiece of its actions.

Based on the experience of pandemic, the Commission President has set out a vision for further action in her 2021 State of the Union (European Commission, [2021d](#)) which includes a plan for a European Health Union.

*The Six Priorities*⁵

The von der Leyen Commission did not abandon or retreat on the six priorities in the face of the crisis. Indeed, in the case of the Green Deal, digital Europe and ‘promoting our European way of life’, it built on them. Although there were some delays in bringing forward some measures envisaged for the digital agenda, ‘promoting our European way of life’, and ‘a new push for democracy’, of the 397 initiatives it had promised overall (Bassot, 2021, p. 1; European Commission, 2019b), the von der Leyen Commission had tabled 167 by June 2021.

*‘The European Green Deal’, ‘A Europe Fit for the Digital Age’,
and ‘An Economy that Works for People’*

Von der Leyen made good on her ‘first hundred days’ promise of key initiatives in these three priority areas that formed her new growth strategy. The industrial strategy, which outlined a new way forward for industry during the green and digital transition (European Commission, 2020a) arrived on day 101.

The European Green Deal roadmap, presented by the Commission only eleven days after it had taken office (Commission, 2019c), aims to make Europe the ‘first climate-neutral continent by 2050’. With far-reaching ambitions, it envisaged several dozen legislative and non-legislative measures to bring about sustainability in food systems, agriculture, industry, building and renovation, and mobility, protect biodiversity, develop clean energy, combat pollution, and take action on climate change. The funding—1 trillion EUR—will come from the EU budget and the EU Emission Trading Scheme, and from Invest EU. Private investment for sustainable economic activities will be sought from a Sustainable Finance Strategy.

Following the roadmap, the Commission adopted several key proposals in 2020. They included: the European Climate Law, which sets the aim of achieving climate-neutrality by 2050, the EU Renovation Wave, an EU Code on Food, an Action Plan on Zero Pollution for Air, Water and Soil, and a climate target plan, which replaced the original target

⁵ Due to space constraints, references are not provided for individual policy initiatives. For further information, see the Commission website, https://ec.europa.eu/info/strategy/priorities-2019-2024_en and the European Parliament’s Legislative train schedule, <https://www.europarl.europa.eu/legislative-train/summary/06-2021>.

of a reduction of 44 per cent of EU emissions compared with 1990 by 2030 with a new target of 55 per cent. The Sustainable Finance Strategy, a Circular Economy Action Plan, and a European climate pact that aims to bring together actors in civil society and local and regional government to change behaviour, were among further initiatives tabled by the Commission. As part of the NGEU, the Commission succeeded in including the requirement that member governments dedicate 37 per cent of spending under their national recovery and resilience plans to climate-positive initiatives.

Further measures followed in 2021. A Commission adopted a new strategy aimed at mainstreaming preparation for climate change in February 2021 (European Commission, [2021a](#)). In July 2021, the Commission launched its ‘Fit for 55’ package, which overhauled the whole climate and energy framework for 2030 (European Commission, [2021b](#)). It included proposals on emissions trading, a carbon border tax, as well as measures covering renewable energy, energy efficiency, land use, building, and emission standards for new cars and vans, and a plan to extend the emissions trading system to sea and air transport.

The Commission unveiled its strategy for shaping Europe’s digital future in February 2020 (European Commission, [2020b](#); see also European Commission, [2022a](#), [2022b](#)). Three key legislative proposals were adopted in November and December 2020: a Data Governance Act, which aims to create a framework for data-sharing, the Digital Markets Act, covering online platforms and intermediary services, and the Digital Services Act, aimed at very large online platforms or ‘gatekeepers’. It also set out an EU Cybersecurity Strategy. Other measures—an ePrivacy regulation, a Digital Compass Strategy covering skills, infrastructures, business and public services, a regulation on artificial intelligence, digital identity, and a digital levy—followed, together with other measures designed to deepen the single market.

The Commission has also adopted initiatives as part of its economic agenda. In line with the incoming President’s promise of a fair transition to a green social market economy, the Commission has launched consultations that will inform an action plan on social rights, employment, skills and social protection, and has proposed a directive on the minimum wage. It has also taken action to improve the integration of capital markets and on banking union. It has taken measures to improve investment and funding for SMEs. It has introduced a new customs union

action plan, designed to make EU customs more efficient, and launched a review of economic governance.

'Promoting Our European Way of Life'

Progress under this heading has been adversely affected by the pandemic, though the crisis did give an impetus to the Commission's ambition for a European Health Union, where it launched proposals on cross-border threats to health, initiatives to strengthen European agencies, and a pharmaceuticals strategy. In the field of education and research, it has tabled proposals on a European skills agenda and European education area. In July 2020, it adopted a new EU security union strategy (European Commission, 2020c), which it followed up with a series of legislative and non-legislative initiatives on combating online child sexual abuse, a new EU counter-terrorism agenda, and strengthening Europol's mandate.

In September 2020, later than planned, the Commission launched its new Pact on Migration and Asylum. The Pact, which builds on the Commission's 2016 package that stalled on the reform of the Common Asylum System, envisages action in three areas: relations with the countries of origin that aim to improve the conditions of life; the management of external borders as a shared responsibility, with obligatory screening procedures for all arriving third-country nationals without admission documents, effective return mechanisms for people without a valid residence permit in a member state, and a key role played by Frontex; and a new system of permanent and effective 'solidarity and burden sharing', where countries of first entry can trigger solidary mechanisms and other member states can select among different options to reduce pressure on the system. It proposes five regulations. The Commission Work Plan for 2021 added measures to address issues in legal migration, as well as a 'Schengen package', informed by the experience of recent crises.

A Stronger Europe in the World

The Commission adopted a strategy in February 2021 to strengthen the EU's contribution to rules-based multilateralism and promote global peace and security, and defend human rights, and international law (European Commission, 2021c). Following the election of Joe Biden, it launched a new transatlantic agenda for global change. More locally, accession negotiations have been opened with Albania and North Macedonia, and an investment plan was approved for the western Balkans in October 2020. However, in the Eastern Partnership countries, the

EU's reform agenda has made relatively limited progress. A renewed partnership with the Southern Neighbourhood has been agreed, and the Commission had proposed a comprehensive Strategy with Africa, and submitted proposal for a new partnership with the ACP countries. Continuing the increased focus on defence shown by its predecessor, the Commission includes proposals for funding of EU defence cooperation, including new European Defence Fund and European Peace Facility in the new MFF, and will develop its forecasting capacity through a Strategic Compass.

A New Push for European Democracy

The Commission has also followed up its commitments to convene a Conference on the Future of Europe, which the Commission advocated as a way to improve democratic participation on where the EU delivers and how it works, was launched in May 2021, following a series of delays and despite the differing levels of ambition of the EU institutions. The Commission has taken action on the rule of law, notably through the general conditionality regulation adopted as part of the MFF, which allows for the suspension or withdrawal of EU funding for member governments that are in breach of the rule of law. In pursuit of the Union of equality, it has also adopted strategies on gender equality, LGBTIQ equality, children's rights, and persons with disabilities. It also adopted a communication on the application of the Charter of Fundamental Rights by the member states.

In short, the von der Leyen Commission has been very active over its first two years in office. Its response to the crisis, except for the delays associated with the vaccine, has been impressive, and, although it has been slower in taking action in some areas rather than others, it has generally been delivering. As Table 1 shows, however, progress through the EU legislative process has often been slow. This is perhaps unsurprising given the technical complexity and political sensitivity of the measures the Commission is proposing in many areas, especially the Green Deal, the digital transition, asylum and migration, and the rule of law, as well as the impact of the pandemic on the EU institutions themselves.

However, concerns have been raised about the clarity of lines of responsibility in the von der Leyen Commission (Riekeles, 2021, p. 6). Questions had already been posed about Juncker's system of vice presidents, which created transaction and coordination costs, and led to turf battles, but the extra tier introduced by von der Leyen has added extra

Table 1 Delivery of the von der Leyen Commission's six priorities: state of play at 31 June 2021

	<i>A European Green deal</i>	<i>A Europe fit for the digital age</i>	<i>An economy that works for people</i>	<i>A stronger Europe in the world</i>	<i>Promoting our European Way of life</i>	<i>A new push for European democracy</i>	
Announced	87	71	77	49	68	45	397
Submitted	30	31	24	35	31	16	167
Submitted but yet to be adopted	20	19	24	14	23	8	108
• Proceeding normally	14	13	12	9	12	6	66
• Close to adoption	5	1	4	1	7	0	18
• Proceeding slowly or blocked	1	5	8	4	4	2	24
Legislation adopted	10	12	24	21	8	8	83

Source Derived from Bassot (2021, p. 4). Data from European Parliament Legislative train schedule, <https://www.europarl.europa.eu/legislative-train/summary/06-2021>

complexity. Collegiality and the involvement of other members of the Commission in policy and policy delivery has also been an issue, especially during the crisis where few figures other than the President have been visible (Riekeles, 2021, p. 5). The allocation of staff, and rigidities concerning the redistribution of personnel between departments, surfaced as a problem in preparation of proposals for the Green Deal (Guillot, 2020). A broader question is whether a strong personalised presidential style, where decision-making is limited to a small circle around the President, makes the best use of Commission resources.

Relations with the Council are a further area of concern, since the relationship between the Commission President and the President of the European Council has not yet settled. Since the creation of the permanent European Council Presidency under the Lisbon Treaty, inter-institutional friction has become a part of the system. In previous political cycles, however, the two incumbents were able to find an accommodation. After an initially difficult start, for example, Herman von Rompuy, a former finance minister, concentrated on economic matters, while José Manuel Barroso, a former foreign minister, took the lead on foreign affairs. The roles were reversed by Donald Tusk and Jean-Claude Juncker. The ambiguous construction of the treaty in foreign policy does not help, but von der Leyen and Michel have run into particular difficulties not only because the very idea of the ‘geopolitical Commission’ is internationally oriented, but because promoting the EU as a global actor is a priority of the Commission President.

5 CONCLUSION

Although von der Leyen was not appointed President through the *Spitzenkandidaten* process, neither the authority that she has exerted over the Commission nor her policy performance suggests that she has been disadvantaged. Despite the fact that she reached office through a different route, von der Leyen has adopted the same approach to the Presidency as Jean-Claude Juncker: her policy priorities have shaped the Commission’s policy programme and she has organised the College so as to ensure their delivery.

The fact that von der Leyen has been able to emulate Juncker suggests that the powers of the presidential office have to a large extent become institutionalised. Contrary to previous eras, and especially the pre-Barroso presidencies, the authority of the President does rely on the personal

capital or political experience of the individual incumbent. Indeed, the main constraints on the von der Leyen Presidency have been political or institutional—the balance between political groups in the European Parliament, and relations with the President of the European Council, especially in foreign policy.

In terms of policy performance, the record of the von der Leyen Commission has been largely positive, despite the occasional misstep. The Brexit negotiations and the MFF were successfully concluded, and the Commission's response to the coronavirus pandemic has been impressive, especially on the economic front, even if the vaccines procurement process did not run a smooth course. Although significant progress has been made on the delivery of the six priorities, a final assessment will have to wait until the end of the five-year term. The same is true of other ambitions set out in the Commission President's 2021 State of the Union address, including the European Defence Union.

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A “Geopolitical Commission”: Reaching a Point of Inflexion?

Dimitri Lorenzani and Manuel Szapiro

1 INTRODUCTION: NOMINA NUDA TENEMUS

Traditionally, geopolitical power and foreign and security policy are regarded as distinctive attributes of the nation-state, as opposed to

The views expressed in this document are solely those of the authors and do not represent the official views of the European Commission. Like all other chapters, the present one was finalised well before the start of Russia’s war of aggression against Ukraine. These events have substantially altered the world we live in, especially from a geopolitical viewpoint. Still, we are convinced that—even if not

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supranational structures.¹ In the context of the European Union, Member States cooperate and coordinate via the *Common Foreign and Security Policy* (CFSP), including the *Common Security and Defence Policy* (CSDP). However, the latter has yet to become “communitarised”, and the impact of the Commission in this area has thus far been rather limited.²

At the same time, geopolitics is also a matter of narrative and storytelling (van Middelaar, 2021)—and this is especially the case for supranational organisations, like the European Commission, which fall beyond the boundaries of Westphalian sovereignty. Political narratives raise legitimate expectations, *inter alia* on the part of the general public—and

specifically mentioned in the below chapter—the EU’s response to this conflict confirms and epitomises the main conclusions of the chapter. In particular, the Russian war against Ukraine can be argued to have played the role of “point of inflexion”, in so far as it drastically accelerates the described path towards a truly “geopolitical Commission”. As a matter of fact, while it can be argued that such process is—as much as the war itself—not yet concluded, numerous signals point to the below-mentioned structural discontinuity in the way the Commission considers the geopolitical tools at its disposal and their best use. De facto, the predicted “course towards greater geopolitical assertiveness [and] virtuous circle of positive spillovers in hard security areas” seems to now be largely taking place as a collective response to the ongoing war. Examples range from short-term measures—the unprecedented scale and speed of the comprehensive packages of sanctions adopted against Moscow, the intense diplomatic outreach and coordination (e.g. G7/NATO), financing and coordinating the sending of weapons to Ukraine—to more medium-to-long term objectives such as the EU’s energy security, deeply intertwined with achieving the twin transitions, the reconstruction of Ukraine, and the new enlargement policy vis-à-vis Ukraine, Moldova, and Georgia. All these aspects will be analysed in a forthcoming article by the authors (2023).

¹ In international relations literature, classic realism (H. Morgenthau, 1949) provides the foundations of a state-centric international system, where (internal and external) Westphalian sovereignty is justified by self-reliance in facing the “security dilemma”. Important critiques include K. N. Waltz’s *Theory of International Politics* (1979), which, as the foundation of neorealism, emphasizes the importance of the structure of the international system and of the position of the nation-state in it; and J. A. Vasquez’s *The Power of Power Politics* (1983) which stresses the role of domestic factors in foreign policymaking, often ignored by classic realism.

² For a recent account of the EU’s complex relation with “power politics”, see, for instance “How the EU Can Survive in a Geopolitical Age?” (Carnegie Europe, 2020).

academia—as regards the ensuing political actions. This justifies investigating the actual matching of those narratives with policy strategies and their delivery.

A recent narrative from the European Commission’s leadership, which to some seems to have left a trail of ambiguity as regards its exact meaning and implications,³ is that of a “*geopolitical Commission*”. In her speech before the European Parliament in November 2019 (European Commission, 2019), the new President-elect, Ursula von der Leyen, stressed that “*my Commission will not be afraid to speak the language of confidence. But it will be our way, the European way. This is the geopolitical Commission that I have in mind, and that Europe urgently needs*”.

This narrative has opened at least two theoretical debates. The first one concerns the new President’s willingness to mark some continuity (Kassim, Chapter 9 of this book), as opposed to a step change (ECDPM, 2019), with respect to the formerly self-labelled “*political*” Commission of Jean-Claude Juncker, her predecessor. In both cases, the semantics concur in conferring, from the outset, a higher standing—or *authority*—to their institution, based on its political aura. However, an important distinction is to be made: as *Spitzenkandidat* and former Prime Minister of a small country, Jean-Claude Juncker decided to speak the language—or to offer upfront a model—of “*power by (enhanced) legitimacy*”. Instead, we argue that President von der Leyen, who was not *Spitzenkandidat* and had a different political profile (*inter alia* as former German Defence Minister) coined the term “geopolitical Commission” to move from a model of “power by legitimacy” to one of “*legitimacy by power*”. In other words, the adoption of a narrative of geopolitical power and “confidence” was likely functional to the need to continue asserting the Commission’s political authority, while making it dependent upon the *delivery* of global leverage as a major source of legitimacy⁴—as opposed to an election procedure presented as legitimising per se (Fotopoulos, 2019).

It follows that this “geopolitical” lens will be used as a measurement of success. President von der Leyen’s “legitimacy by power” narrative entails that, by the end of her mandate, the litmus test will be whether the Commission has indeed managed to speak the “*language of confidence*”

³ See, for instance, the open questions in Gstöhl (2020) and Emiliani (2020). See also the reference to the “communication trap of geopolitics” in Valenza (2021).

⁴ On the importance of “output legitimacy”, see for instance Vivien Schmidt (2020).

on the world stage—or, as the High Representative for Foreign Affairs and Vice-President of the Commission put it in his confirmation hearing, the “*language of power*” (Borrell Fontelles, 2019).

This links to the second theoretical debate, namely about the scope and connotation of this *geopolitical* ambit, based on the levers of power it operates. So far, most observers seem to have interpreted it quite narrowly as related to the Commission’s “external action” in terms of CFSP, if not, even more narrowly, CSDP (Politico, 2019; Scazzieri, 2020 Subotić, 2019). By all evidence, this might have been influenced by: (i) the President’s background, including her previous role as Germany’s Minister of Defence; and (ii) various clues left by the President herself on the way to frame that label, including in the read-out of the first College meeting about the new working methods of the Commission,⁵ where she referred upfront to the following issues:

1. strong collegial ownership of (and, by extension, direct presidential involvement in) external affairs, via the creation of a new “External Coordination” body EXCO, co-chaired by the President’s diplomatic advisor and the High Representative’s deputy Head of Cabinet—supported by the Commission’s Secretariat General as the President’s direct service—and gathering members from all Cabinets to bridge external and internal policies⁶;
2. related, a continued strong role for the High Representative, including via his chairing of a Commissioners Group under the headline ambition “a *stronger Europe in the world*”, as well as a permanent point on the state of external affairs in the College weekly agenda⁷;

⁵ See https://www.facebook.com/EuropeanCommission/videos/press-read-out-of-the-first-college-meeting-by-president-von-der-leyen/1420353024964834/?__so__=permalink&__rv__=related_videos and “Political Guidelines for the next Commission”; “Main principles of the working methods”; “Mission Statements” letters.

⁶ De facto, this means better alignment between the external agenda and the overall Commission agenda, ensured through compulsory passages of related acts through the Group of Interinstitutional Relations (GRI).

⁷ Publicly available at https://ec.europa.eu/info/about-european-commission/organizational-structure/how-commission-organised/political-leadership/decision-making-during-weekly-meetings_en (see Agenda of Commission meetings-item 5. Coordination of external action).

3. renewed attention to accession policy for Western Balkans—likely also due to the perceived increased influence of external actors and systemic rivals in the area.

Mid-way through the current mandate, it is difficult—and probably too early—to assess the Commission’s delivery on that *geopolitical* ambition, strictly based on the meaning mostly attributed to it. At first glance, however, the media headlines around the High Representative’s difficult mission to Russia in February 2021 (Borrell Fontelles, 2021), the infamous “*sofa gate*” of April 2021, and the September 2021 “Aukus” security pact between Australia, the United Kingdom, and the United States for the Indo-Pacific region would all seem to lend little support to the idea that, to quote a famous movie, “*a (geopolitical) star is born*”.

While it is a fact that, under the headline ambition “*a stronger Europe in the world*”, the Commission has already spearheaded a number of flagship initiatives and partnerships,⁸ mostly in tandem with the High Representative, a strengthened communitarisation of CFSP has largely stayed at a declaratory level,⁹ and the EU reform agenda has made relatively limited progress on the Eastern Partnership, due also to a general stagnation or even backsliding of national reforms in recent years (EUobserve, 2019).

⁸ To name a few, in no particular order: (i) a comprehensive Strategy with Africa and renewed partnership with ACP countries; (ii) the EU’s contribution to rules-based multilateralism; (iii) an assertive “Trade Policy Review”; (iv) a new strategy for Europe to play a leading role in global economic and financial governance; (v) first use of EU’s new global human rights sanction regime; (vi) the launch of a new transatlantic strategy; (vii) sequential completion of negotiations on the Withdrawal Agreement and Future Partnership with the UK; (viii) a comprehensive investment agreement with China, while (ix) putting forward a regulation to control distortive subsidies granted by foreign governments to companies active in the EU; (x) green alliance with Japan; (xi) strategic partnership on raw materials and high-level health dialogue with Canada; (xii) opening of accession negotiations with Albania and North Macedonia; (xiii) an economic and investment plan for the Western Balkans backed by EUR 9 billion of funding for investment; (xiv) a new agenda for the Mediterranean to strengthen the strategic partnership between the EU and its Southern Neighbourhood; (xv) funding for EU defence cooperation in the new MFF, via the European Defence Fund and European Peace Facility.

⁹ Defence will merit specific attention in our analysis, as it was relaunched as a priority under the previous Commission, after the Brexit Referendum.

Our article aims to **review and nuance the position that the Commission has so far failed to deliver on its “geopolitical” narrative**, arguing that the latter should be read—and thus assessed—in a much broader sense than originally construed. Rather, the Commission’s *geopolitical awakening* can be witnessed by the emerging focus on a new concept, that of Europe’s “*open strategic autonomy*”. The latter has established itself¹⁰ as a new crosscutting strategic priority, amplified by the implications of the COVID-19 crisis.

Interestingly enough, when broadening the scope of action of a truly geopolitical Commission to furthering an “*openly and strategically autonomous*” Europe, available evidence points to two aspects:

- i. a recent **positive track record of delivery**—starting from the resounding figures and “*language of power*” used to qualify EU leadership in the global vaccine race: “*against all critics, Europe is among the world leaders. More than 70% of adults in the EU are fully vaccinated. We were the only ones to share half of our vaccine production with the rest of the world. We delivered more than 700 million doses to the European people, and we delivered more than another 700 million doses to the rest of the world, to more than 130 countries. [...] We delivered to Europe. We delivered to the world. We did it the right way, because we did it the European way. [...] This is one of the great geopolitical issues of our time*” (European Commission, 2021a);
- ii. a noticeable **inflection point** at political level towards the Commission’s increased awareness of the need for more assertiveness and coherence between its domestic and external policy agendas and across time horizons. In this sense, the Commission’s geopolitical leadership is also a *strategic foresight* exercise of leadership, to pave the way towards more coherent and forward-looking policies.

This article is structured as follows: Section 2 provides the context, in terms of relevant megatrends, underpinning the need for a “geopolitical Commission”. This lends support to the consideration that the Commission’s geopolitical awakening is as much of a need as a “make or break” issue that will define the EU’s relevance in the future. Section 3 provides an analysis of Europe’s progress and delivery under this *geopolitical* label

¹⁰ See 2021 Strategic Foresight Report—the EU’s capacity and freedom to act.

read as “open strategic autonomy”: this new crosscutting concept can help reconcile several policy areas, in line with the “whole of government” approach heralded by the Commission. Section 4 concludes, stressing relevant policy implications. In particular, while real progress towards a truly European defence system under CSDP is unlikely in the short term, the new prioritisation of the concept of “open strategic autonomy” charts a course towards greater geopolitical assertiveness. On this basis, one could also expect a virtuous circle of positive spillovers in “hard security”¹¹ areas, among others.

2 GEOPOLITICS START AT HOME: COVID-19 AS THE “GREAT ACCELERATOR”

A number of studies (Armano, 2020; Inside Big Data, 2020) have stressed that the COVID-19 crisis will go down in history as the “*Great Accelerator*”. For instance, the Commission’s 2020 Strategic Foresight Report (European Commission, 2020a), after drawing early lessons from the COVID-19 crisis in the summer of 2020, concluded that it was already accelerating seven key “*megatrends*”, i.e. those long-term driving forces that have a significant influence on the future of Europe and the world, not least by:

- i. Spurring hyper-connectivity and technological transformations, with related implications on the way we work, learn, and live;
- ii. Deepening inequalities and demographic imbalances, whereby the COVID-19 crisis will also be remembered as a “*great divider*” between, for instance, the rich and the poor, the young and the elderly, the vaccinated and those not;
- iii. Exacerbating changes in the security environment, also via a shift in the balance of power,¹² higher use of hybrid threats, space and cyber warfare, and disinformation, as well as a growing role of non-state actors.

¹¹ “Hard security” pivots around defence policy and refers to the response to security threats that are primarily external, inter-state ones. [See A. Fatić (2002)]

¹² At the time, the Commission concluded that the shift of power to the East and South was a strong global megatrend, which, although temporarily decelerating at the height of COVID-19 crisis, would likely continue.

This Section suggests that the foretold end of the Commission's "*age of innocence*", i.e. the phase in which it "ignored power politics and concentrated on economic integration" (Carnegie Europe, 2020), has also been accelerated by the COVID-19 crisis to the point of becoming a product of its times. In this context, the "geopolitical Commission" is much more than a narrative: it emerges as a necessary adjustment of EU foreign and security policy to the now deeply rooted reality that, especially in the aftermath of the COVID-19 crisis, *geopolitics starts at home*.¹³

This last assertion could be described as a "*metatrend*", meaning the combination of a set of interlinked "megatrends" of great relevance to a "geopolitical Commission". A snapshot of its components is offered in the recent 2021 Strategic Foresight Report (European Commission, 2021b). Here, the Commission identified four megatrends¹⁴ as defining features of Europe's capacity and freedom to act "geopolitically" on its path towards 2050:

- i. *Climate change and other environmental challenges;*
- ii. *Digital hyper-connectivity and technological transformations;*
- iii. *Pressure on democracy and values;* and, but not least,
- iv. *Shifts in the global order and demography.*

Taking the first megatrend: the challenge of **climate change** calls on Europe to lead by example globally with the European Green Deal. Only coordinated action, beyond Europe's efforts to contain its meagre 8% share of global greenhouse gas emissions, can help tackle an issue marked by strong transnational spillovers. Extreme events like floods and wildfires, raising pressure on water and food safety worldwide, the proliferation of conflicts, higher population displacement, and migration pressure are only some of the implications at stake in the long term. For instance, by 2050, 200 million people will be in need of humanitarian assistance yearly, an area where the Commission remains an undisputed leader (European Commission, 2021c). A "geopolitical Commission" must thus be ready to lead global coalitions on climate and environmental action by: (i) using the EU trading weight to push more sustainable standards worldwide, as

¹³ As Thomas Friedman put it: "Geopolitics is all about leverage. We cannot make ourselves safer abroad unless we change our behavior at home".

¹⁴ This selection is based on a 9-month foresight exercise with all Commission services, Member States, external experts and other Institutions, including in the context of ESPAS (EU institutions' foresight network).

a sort of “green Brussels effect”; (ii) strengthening EU-led green diplomacy, particularly in the framework of multilateral organisations like the United Nations Climate Change Conferences¹⁵; and (iii) leveraging its *Team Europe* approach to international development cooperation to accelerate sustainable private financial flows and technical assistance towards third countries, particularly low and middle-income ones.

Another example is **demographic trends**, whereby the EU is expected to fall from 5.7% currently to an even more negligible share of 4% of an ever-growing world population by 2050. The EU population will also be older, raising age-dependency ratios and putting pressure on public finances and on finding the right mix of active ageing and labour market policies. In parallel, the world’s economic centre of gravity is shifting eastwards: based on nominal GDP, for instance, the economic weight of the “*emerging 7*”¹⁶ is projected by 2050 to shift from the current 66% to an impressive 150% of that of G7 countries,¹⁷ with Europe losing ground from an 18.3% share in world GDP in 2019 to 11.3% in 2050.

In this context, a “geopolitical Commission” must draw lessons from a long-lasting trend that will be reducing Europe’s relative weight in the world compared to the lion’s share of the post-war period. De facto, it means acting on **new levers of power** for its external projection, reinforced by, but not limited to, sheer economic weight, such as: (i) leading the way out of the crisis through the successful implementation, in partnership with Member States, of NextGenerationEU (NGEU) as a recovery instrument of unprecedented nature and scale; (ii) building international partnerships around trust and common values (European Commission, 2021c); (iii) ensuring a first-mover global position in standard setting, also using trading weight as an amplifier; and (iv) heralding a mind shift towards a holistic definition of resilience and “beyond GDP”, i.e. more focus on people’s wellbeing at large, including in the upcoming revision of the European Semester.¹⁸ The latter will be a key challenge: nominal GDP and demographic projections suggest that Europe may be

¹⁵ See also J. D. Sachs (2021), *The G20 and the Means to Climate Safety*.

¹⁶ Brazil, China, India, Indonesia, Mexico, Russia, and Turkey.

¹⁷ Canada, France, Germany, Italy, Japan, the United Kingdom, and the USA.

¹⁸ See COM(2021) 662, “The EU economy after COVID-19: implications for economic governance”, whereby the European Semester “will need to be adapted to new challenges arising from the green and digital transitions and to the need for stronger resilience”.

slightly losing ground by 2050 also in terms of GDP/capita, as a rough approximation of individual wellbeing. The Commission's ongoing work on *resilience dashboards*¹⁹ offers a twofold answer: (i) the measurement of long-term resilience provided by this new tool can help understand *ex post* whether the implementation of NGEU has succeeded in raising it; and (ii) it can be a springboard towards a new wellbeing framework, where Europe would be a natural leader. All this is at the core of one of the flagship priorities of the Commission: *an economy that works for the people*.

The **competition among political models** has become yet another defining feature of our time: Europe remains the beacon of a political model, democracy, which is declining worldwide.²⁰ The COVID-19 crisis has given renewed strength to those advocating for the effectiveness of autocracies, and reinforced hybrid warfare tools for state and non-state actors alike, not least through hyper-connectivity and disruptive technologies. Geopolitical leadership in a democratic setting is not only a scarce resource but also increasingly at risk in a world dominated by the spread of disinformation and misinformation, as well as hybrid warfare. The novelty of the latter is that it mixes not only military and non-military means, but also very diverse types of actors at war: an example is offered by autocratic nations conducting malicious cyber-attacks against major economic actors like private or state-owned enterprises—and vice versa. In this context, the dialectic between “interests” and “values” is bound to remain a *crux* of EU foreign policy for a long time to come, as shown by the 2015 migration crisis (*The Guardian*, 2021). It is also bound to increasingly develop in novel fields such as the uptake of human-centred technologies.²¹ In these areas, a “geopolitical Commission” must be able to show the direction of travel, thus acting as a “*moral compass*”, by striking the right assertive balance between interest and values. This is an integral part of promoting the *European way of life* flagship priority.

Finally, in the context of our “*metatrend*”, the elephant in the room is **hard security**, which links back to the increasing salience of power politics

¹⁹ <https://ec.europa.eu/info/resilience-dashboards>.

²⁰ 80 countries are estimated to have grown democratically weaker because of the pandemic. See Freedom House (2020)

²¹ For instance, storing, extracting and processing data while satisfying security requirements and fundamental rights; and developing an artificial intelligence that is both trustworthy to people and a strategic means for countering and anticipating hybrid threats.

and CFSP against the backdrop of the return of great power competition, the American “disengagement” from the transatlantic alliance and corresponding “pivot” towards the Indo-Pacific (Simón, 2017; Simón & Fiott, 2016), as well as a tendency away from multilateralism, via multipolarity, towards “*polynodality*”. In contrast to a multipolar system, where states gravitate around various “power poles”, countries have recently tended to connect to “relational nodes”, whose power is defined less by classical measures such as the size of the population, economy or military, and more by the *influence* they exert over others *inter alia* through trade, alliances, and connectivity. For instance, China has surpassed the United States in terms of number of embassies, has secured majority supporters in the United Nations Human Rights Council, and now heads 4 of the 15 agencies or groups of the United Nations (The Wall Street Journal, 2020). At the same time, the United States has not only formed a—for Europe somewhat surprising—alliance (“Aukus”) for the Indo-Pacific with the United Kingdom and Australia but also called for a Summit of democracies, which will “*bring together leaders from a diverse group of the world’s democracies*”. Together, this confirms that American strategic priorities will be set in Asia, and that its Allies will no longer just be in Europe. Even with a return to constructive transatlantic relations, Europe will have to shoulder more of its own security and defence, as the United States’ military focus will move east. Displayed as a “new cold war” strategic pursuit to counter China in the Indo-Pacific, “Aukus” has in fact: (i) laid bare the US ambivalence vis-à-vis NATO and the European’s hope of its continuous security provision (Les Echos, 2021); (ii) stressed the expectations-reality-gap in the hard security field for Europe, as Australia sought US capacity to offer a line of protection against China (Politico, 2021); and (iii) led the Commission to flex its muscles beyond hard security, leveraging EU-level trade talks with Australia and China based on the EU’s geoeconomic weight, with the High Representative stressing that “*the EU has more than twice as much investment in the Indo-Pacific as the US*”.

In this context, a “geopolitical Commission” is also a Commission that can help establish the EU as a “*security provider*”, in a broad sense. This means intensifying the work to develop a European defence ecosystem in close cooperation with NATO and taking steps towards a European Defence Union able to deploy battlegroups or EU entry forces. However, here again, this is not only about hard security. While the Commission President’s 2021 State of the European Union address refers to more

integrated intelligence services (towards a *Joint Situational Awareness Centre*) and interoperability in the defence fields, it also puts cyber security on top of the agenda (*Cyber Resilience Act*) and points to a *European Chips Act* crucial for both civil and defence applications.²² In this context, the *EU Strategic Compass*, prepared by the EEAS in cooperation with the Commission, is set to be adopted by the Member States in 2022. This will be a key step in setting the instruments—including foresight—and strategies for the EU to counter rising threats and challenges, protect its citizens, enhance its open strategic autonomy, and become a stronger global partner. The Commission President has also announced a landmark *Summit on European Defence* in the same period, under the French Presidency.

All this goes to show that a “geopolitical Commission”—like geopolitics itself—*starts at home* but is also, and ultimately, a *Commission that protects*. The battlefield where the fight for global geopolitical leadership is being deployed extends beyond the conventional realm of armaments and hard security, to encompass other related existential issues of security, at the basis of Maslow’s Pyramid of Human Needs, like food, health and, to quote current headlines, the energy prices defining our heating bills. All this is encapsulated in the 10 areas of action defined by the 2021 Strategic Foresight Report, as analysed in the Section below.

3 OPEN STRATEGIC AUTONOMY AS A “GEOPOLITICAL AWAKENING” 10 AREAS OF ACTION

The interaction of various megatrends and their post-COVID-19 dynamics have brought the classic “*internal–external security nexus*” of international relations (Trauner, 2011) to a completely new level for the Commission. As a result of this *metatrend*, whereby *geopolitics starts at home*, a truly “*geopolitical Commission*” is both a necessary and a “make or break” issue. In other words, it defines the relevance and effectiveness of the Commission’s external and domestic policies, starting from their capacity of coordination and mutual reinforcement.

²² <https://www.defensenews.com/global/europe/2021/10/10/how-will-europes-planned-semiconductor-strategy-affect-its-nations-military-ambitions/>. However, a crucial issue here in the medium term might be the extent of the budgetary constraint weighing on this initiative, at least in relative terms vis-à-vis systemic rivals.

In line with the Commission’s Strategic Foresight Report of 2021, we argue that the Commission’s response to this *metatrend* is best captured by the concept of “*open strategic autonomy*” (OSA). An analysis of the genesis and definition of this concept allows to better grasp the Commission’s thinking around this “*geopolitical awakening*”.

Interestingly enough, the concept of OSA was first used by the Commission in the Next Generation EU (NGEU) Communication (European Commission, 2020b). Here, it was defined as “*shaping the new system of global governance and developing mutually beneficial bilateral relations, while protecting ourselves from unfair and abusive practices*”, not without some prior semantic discussions and *distinguo*.²³ This was also epitomised by the European Council conclusions of October 2020, stressing the need for “*achieving strategic autonomy alongside an open economy*” as a key objective of the Union. In parallel, the concepts of “strategic autonomy”, “open strategic autonomy”, “sovereignty” and *similia* found their way in a number of Commission documents,²⁴ without full clarity about the overall strategic direction of travel.

The Commission’s 2020 Strategic Foresight Report identified *geopolitics* as one of four quadrants of resilience (together with the green, digital, and social and economic dimensions). Spillovers from this can be seen already in the 2021 Annual Sustainable Growth Strategy (European Commission, 2020c), indicating that “*resilience and competitive sustainability are two sides of the same coin*”, as well as in the Recovery and Resilience Facility, the centrepiece of NGEU. In parallel, the Commission developed a tool to monitor *geopolitical resilience* within its resilience dashboards, with a broad CFSP focus and providing a novel comparison

²³ See for instance the College public minutes PV(2020) 2348 final, where the President proposed to find a new expression instead of OSA; and PV(2021) 2376 final, where the President Flagged the importance of sending out a clear signal regarding the EU’s desire to strengthen its strategic autonomy while remaining open to trade and international cooperation. This led to “regarding the concept of ‘open strategic autonomy’ as the EU’s calling card”, while respecting the “shared desire to avoid a rigid and overly simplistic debate defined in terms of strategic autonomy versus openness”.

²⁴ For instance: COM(2021) 32 final, European economic and financial system: fostering openness, strength and resilience; JOIN(2021) 3 final, Strengthening the EU’s contribution to rules-based multilateralism; COM(2021) 66 final, Trade Policy Review—An Open, Sustainable and Assertive Trade Policy; COM(2021) 70 final, Action Plan on synergies between civil, defence and space industries; COM(2021) 118 final, 2030 Digital Compass: the European way for the Digital Decade; COM(2021) 350 final, Updating the 2020 new industrial strategy: Building a stronger Single Market for Europe’s Recovery.

between Europe and third countries. Finally, in the 2021 Strategic Foresight Report, the Commission zoomed in on the *geopolitical dimension of resilience*, asking what it takes to bring Europe's open strategic autonomy and global leadership to the next level. By proposing *10 priority areas of action*, where the Commission should step up its game in order to become a strong geopolitical player, this strategic document connects the dots to overcome the long-standing debate "autonomy vs. openness" and looks into how to pave a more concrete path towards an "*openly and strategically autonomous Europe*".

The 10 priority areas, where a geopolitical Commission should move into a higher gear, are: (i) sustainable health and food systems; (ii) decarbonised and affordable energy; (iii) capacities in data management, artificial intelligence, and cutting-edge technologies; (iv) supply of critical raw materials; (v) a first-mover global position in standard setting; (vi) future-proof economic and financial systems; (vii) skills and talents that match our long-term ambitions; (viii) enhancing our security, defence, and space capacities; (ix) nurturing our global partnerships; and (x) strengthening the resilience of our public institutions.

By including "existential issues" like food and health, but also energy security as well as resilient supply chains, these 10 areas of action attempt to provide a holistic response to the "*metatrend*" mentioned above. In terms of concrete illustrations of spillovers to the Commission's broader policymaking, it is worth noting that some important initiatives have already explicitly responded to the geopolitical path set by the 10 areas of action.²⁵ Moreover, one could reasonably expect that the new *Better Regulation foresight toolbox*—stressing that impact assessments shall include due and proportional considerations of future trends—will become a conveyor belt of open strategic autonomy into future Commission Work Programmes. While the path towards a full geopolitical awakening is still long and treacherous, the fact that the Commission has started to clearly move in this direction is quite remarkable.

To give some telling examples: take the EU's strategic dependencies on third countries for critical goods, in particular pharmaceuticals, which

²⁵ For instance, the recent draft Decision COM(2021) 574 final establishing the 2030 Policy Programme "Path to the Digital Decade" is presented as a response to strategic action 3 of the 2021 Strategic Foresight Report; the same goes for the recent review COM(2021) 580 final of Solvency II rules for insurers/reinsurers, which explicitly refers to strategic action 6.

have become evident early on in the COVID-19 crisis. Out of 5200 imported products, the EU is highly import-dependent in relation to 137 in “sensitive ecosystems”, of which 14 in the health ecosystem. Many active ingredients used for generic medicines, as well as the majority of raw materials and intermediates used in pharmaceuticals, come from India and China (European Commission, 2021d). This calls on the Commission to assume its geopolitical role by securing a supply of critical off-patent products through alternative sources, in order to tap into its strong capabilities to produce innovative medicines. The 2021 Strategic Foresight Report thus calls for *selective reshoring* as a possible diversification path.²⁶

Another concrete example is the topical issue of soaring **energy prices** (European Council, 2021). Beyond the impact of higher prices on national budgets and debates over the persistent nature of the shock, a key issue for a “geopolitical Commission” in the longer term was raised by France²⁷: “*achieving energy independence by investing in all decarbonised means of energy production*”. For the EU, reducing its energy dependency from around 60% today to 15% goes hand-in-hand with reaching its climate neutrality objective by 2050. Reducing the EU’s fossil fuel dependency requires increasing the use of renewable energy, rapidly diversifying the energy supply, substantially increasing energy efficiency, deploying alternative fuel infrastructures, smart grids, and new low-carbon and environment-friendly technologies and solutions in the EU and with key third-country partners. Lastly, it calls for significant progress on the circular economy and preventing carbon leakage: greater energy efficiency is key to avoid rebound effect as renewable energy becomes cheaper and more intensively consumed. The same applies to the security of the supply of raw materials, the demand of which is expected to double by 2050²⁸ and is currently provided by a handful of countries—first among them China. As a geopolitical actor, the Commission has identified clear strategic paths to: (i) diversify supply sources, including

²⁶ “Establishing or re-establishing the production of some critical medicines and medical countermeasures in the EU might be supported by innovation in manufacturing processes to compensate for possibly higher production costs in the EU and to strengthen leadership in green and digital pharmaceutical manufacturing”.

²⁷ Letter by French Finance Minister B. Le Maire to the Eurogroup, September 2021.

²⁸ Under a host of factors, ranging from population growth to the technologies needed for the green transition.

via *friend-shoring*²⁹; (ii) mobilise largely untapped potential; (iii) help build industrial alliances throughout the value chain; and (iv) prioritise circularity, low-carbon emission and resource efficiency as a source of competitive sustainability. Without a forceful long-term strategy based on sustainable pathways, Europe’s industrial revolution risks replacing our high dependency on fossil fuels with one on non-energy raw materials. In this light, the statement that “*raw materials are becoming our new oil*” (Euractiv, 2018) is geopolitical in essence.

Ultimately, a geopolitical Commission will also be one that succeeds in leading the way in **achieving substantive progress to overcome fossil fuels and raw materials over-dependencies** on a limited number of external suppliers. *Inter alia*, the new resilience dashboards should allow for close monitoring of those vulnerabilities.

4 CONCLUSIONS: POLICY IMPLICATIONS

The new “*metatrend*” whereby “*geopolitics starts at home*” has brought the classic “*internal–external security nexus*” to a whole new level for the European Commission.

It is in that context that the broad definition of “open strategic autonomy” and its 10 priority action areas, as identified in the Commission’s, 2021a, 2021b Strategic Foresight Report, can serve as a political compass to strengthen the EU geopolitical leverage, while substantially improving coherence between the EU’s domestic and external policy agendas. The Commission’s position as the front-runner in the global “vaccine race” and in a recovery strategy centred on resilience and the acceleration of the twin transitions epitomises this new geopolitical leadership. On both fronts, the success of a “geopolitical Commission” will ultimately be assessed on effective—as well as collective and inclusive—delivery.

In fact, geopolitical leadership cannot be developed in silos. It is necessarily shared with the Member States and other EU institutions alike. The Commission’s geopolitical role thus relies heavily on its ability to organise such collaborative frameworks as the European Semester, the Resilience and Recovery Plans, the National Energy and Climate Plans, as well as private-public-partnerships such as the European Battery

²⁹ Deliberately sourcing critical materials, goods or services with allies or partners who share the same values.

or Raw Material Alliances. The Commission as a geopolitical actor is thereby increasingly acting as **system integrator**—or **coalition builder**—engaging Member States and non-state organisations, with leverage acquired through cooperation and the collective definition and ownership of long-term objectives, plus the delivery on project-based partnerships. This is supplementing—not supplanting—the traditional normative or more regulatory role of the Commission and extends to all 10 action areas to deploy Europe’s *open strategic autonomy*, as set out in the 2021 Strategic Foresight Report.

At the EU level, the high political salience and broad coverage of geopolitical issues also mean that the European Council is bound to remain a “*passage obligé*” and its “competitive cooperation” with the Commission is also here to stay (Szapiro, 2018). Without EU Heads of State and Government’s endorsement of the long-term strategies proposed by the Commission, it will prove politically very difficult to move from reactive crisis management mode to a forward-looking geopolitical agenda.

Finally, one of the most interesting novelties of President von der Leyen’s “geopolitical Commission” has been, from the outset, a firm commitment to systematically embedding strategic foresight into EU policymaking. This endeavour echoes the initiatives of some Member States, for instance Finland, France, Greece, and Spain, to set up “fore-sight cells” directly attached to the Heads of State or Government, to provide a holistic picture of the long-term challenges ahead and their interconnection, and thereby shed light on the strategic direction of travel.³⁰ Strategic foresight is thus becoming an important factor in this “geopolitical awakening”, which also entails a capacity—and the freedom—to challenge the current state of affairs and share some “inconvenient truths” (Gore, 2006; Rieckes, 2021)³¹ when needed.

³⁰ A similar idea is currently being discussed in other Member States.

³¹ https://www.epc.eu/content/PDF/2021/Commission_reset_DP_v2.pdf.

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Balancing the Unbalanced? An Ongoing Rivalry Between European Parliament and European Council

Andrea Sabatini and Wolfgang Wessels

1 INTRODUCTION: THE POLITICAL AND ACADEMIC RELEVANCE OF A KEY INSTITUTIONAL ISSUE

Since the 1970s the institutional rivalry between the European Parliament (EP) and the European Council (EUCO) can be considered a—or even *the*—key token of the European Union’s (EU) in-built tension

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between intergovernmental and supranational forces. Omnipresent in the daily business of decision-makers in the EU institutions, this constellation has also attracted ample attention from scholars studying the underlying features of the bloc's internal 'balance of power' (Fabbrini & Puetter, 2016; Hoffmann & Wessels, 2013; Puetter, 2014). After critical junctures in the history of European integration, such as major treaty revisions, academics have been eager to determine 'who won' and 'who lost', delicate questions indeed in a setting that requires both institutions to cooperate on a broad range of vital issues (Müller Gomez & Reiners, 2019). Given that the EP and EUCO epitomise the two principal sources of legitimacy of the EU's constitutional system (Art. 10 (2) TEU), namely the representation of citizens and that of Member States, the study of their relationship and interaction is highly pertinent. Zooming in on the EP–EUCO relationship at the dawn of the 2020s, in light of a decade of revamped interinstitutional dynamics after the entry into force of the Lisbon treaty in 2009, this chapter contributes to this continuous discussion. We hypothesise that the developments of 2019/2020 are a critical juncture in the relationship between these institutions leading to a new stage in their relations with both institutions on equal footing and reaching a higher level of integration. To prove this, we analyse cases of treaty-based procedures over the past decade—especially the elections of the President of the Commission, test cases for the *de facto* extension of the EP powers via the Spitzenkandidaten procedure, and of crisis management—especially the relative roles of both institutions in the Covid-19 crisis.

In 2019, the rollback of the 'Spitzenkandidaten' procedure and the back-room nomination of Ursula von der Leyen as the new President of the European Commission represented a major shift in favour of the EUCO, at the disadvantage of a fragmented EP. While this particular process will undoubtedly impact the discussions on the election of the Commission's President in 2024, the predictive power of the election year to chart the interinstitutional dynamics in the new decade decreased under the effect of the Covid-19 outbreak in Europe in early 2020. The economic, financial, and societal ramifications of the 'Covid crisis'—predicted to become Europe's worst recession since World War II—reverberated through the EU's institutional architecture and will, in all likelihood, be at the top of the bloc's agenda in the foreseeable

future (European Commission, 2020). While the interinstitutional ‘battlegrounds’ of 2019 will not disappear, the management of the Covid crisis must therefore be the main locus for any analysis of EP–EUCO relations at this moment in time. In this regard, we argue that, in a medium-term perspective, the European Council itself extended the legal powers and the procedural influence of the EP.

Moving from theory to analysis and then to projection, this contribution aims at developing three mid-term scenarios for the power dynamics between EP and EUCO for the time frame 2020–2024. In the first part, three well-established theory-led models of EP–EUCO relations will be outlined in order to identify, explain, and project pivotal interinstitutional developments: the Union of Sovereign States model in which the EUCO is the dominating institution; the Federal model in which the EP is the central institutional actor; and the Cooperation–Competition model, where the two institutions share legal powers on equal footing but regularly compete for more relative power vis-à-vis the other institutions and ongoing balancing thus remains the dominant feature for the period to come.

In the second part, the chapter’s three main empirical reference points will be analysed from an EP–EUCO point of view: [a] their interinstitutional trajectory along pivotal ‘battlegrounds’ in the post-Lisbon decade; [b] the nomination of the new Commission in 2019; [c] the EU’s reaction to the Covid crisis. By contrasting [a] with [b] and [c], this section will corroborate the claim that 2019/20 was a critical juncture in the EP–EUCO relationship hinting at a move towards a more cooperative institutional agreement. To explain the developments between these models we rely on three indicators developed by Müller Gómez et al. (2019):

1. *internal coherence*, as the most important factor for one institution to assert its positions vis-à-vis the other one;
2. *the Treaty provisions on the institutional role and internal decision-making procedure of each institution*, which, in case of ambiguous or lacking definitions, invite both institutions to extend their relative influence. The EUCO then predominates when internal provision for direct interactions with the EP is absent, while the EP has an active posture when its role or position is defined unambiguously;
3. *Any situation of urgency*, that pushes the EUCO to the front and disturbs the institutional balance. This is, as we will see, a feature of

every period of crisis management, where the EU leaders, sitting in the European Council, take the lead to provide a joint initial answer.

In the third part of the chapter, these findings will provide the empirical basis for the development of three different mid-term scenarios: the first and most likely one confirming the establishment of a cooperation model between these two institutions, and the other two foreseeing a fall back to a more predominant role of the EUCO or, but more unlikely, of the EP.

In order to determine the extent to which the years 2019/20 are a critical juncture in the EP–EUCO relationship, it is essential to grasp the two players’ interinstitutional trajectory *ex ante*, by revisiting some key ‘battlegrounds’ of the post-Lisbon decade, 2009–2018, before turning to the aftermath of the 2019 EP elections and to the financial mega deal of the European Council in July 2020. In this vein, the chapter follows a comparative approach that builds on a qualitative interpretation of primary sources (mostly EU legal texts and official documents), a synthesising classification of insights derived from the vast but scattered secondary literature on the topic, and a closer look into the Brussels maze based on anecdotal evidence.

2 CONCEPTUAL FRAMEWORK: ‘UNION OF SOVEREIGN STATES’, FEDERAL, AND COOPERATION–COMPETITION MODEL

In this section, we will set the chapter’s conceptual framework by revisiting—and expanding on—three models of interinstitutional balancing, formulated by Müller Gómez et al. (2019) and based on Wessels (2016) as well as Diedrichs et al. (2011), that will provide the analytical lenses for the second part of the chapter, and the ‘projective vocabulary’ for its third part.

Embedded in and informed by the intergovernmentalist paradigm of European integration, that encompasses both the corresponding ‘academic schools’ of EU scholars (e.g., Hoffmann, 1966; Moravcsik, 1993) as well as political forces and actors, the first model can be dubbed ‘*Union of Sovereign States*’ and highlights three main characteristics of this analytical lens:

- The pivotal players in the EU's institutional architecture are the EU political leaders speaking as and for the Member States as the 'Masters of the Treaties' (or the concept of Staatenverbund expressed, inter alia, by the Federal Constitutional Court of Germany in 2009 (BvE 2/089));
- Pursuing their respective national interests, they can be considered as rational actors that (try to) act as the 'principals' of the entire system;
- The Heads of State and Government channel their decisional prerogatives through 'their' institution, i.e., the EUCO, that must therefore be considered the key locus of power in the EU.

While the use of this particular lens for the EUCO relations with the European Commission (EC) and the Council of Ministers—acting as 'executing agents' of the chiefs—is relatively straightforward (Pollack, 2003), some conceptual nuancing is required as regards the EUCO–EP dimension. Following the model of Müller Gómez, Wolters, and Wessels (Ibid., p. 57), the role of the EP in the 'Union of Sovereign States Model' can be best described as that of a 'discussion forum' without actual (or legitimate) clout concerning pivotal political decisions.

The *federal model* can in this regard be considered as the opposite pole and is informed by analogies between national federal systems and a presumptive state-like, supranational political system at the EU level. The three following features summarise the model's main assumptions:

- Directly representing the Union's citizens (Art. 10 (2) TEU), the Parliament is equipped with a unique legitimacy;
- This entails normative implications of EP involvement in EU decision-making that may go beyond the Treaties' 'written word';
- If the corresponding, far-reaching competences are not or only partially provided for by the Union's formal rules, it is up to the EP to assert itself vis-à-vis other institutions and (try to) impose its positions.

In this model, the 'EP decisively shapes the EU's political agenda and has a strong or even the final saying in EU policy-making' and should also enforce its authority in system-relevant questions (Ibid., p. 57). The role of the EUCO is here—mirroring the previous model—reduced to that of

a (preparatory) ‘discussion forum’ in the realm of policy-making or that of a symbolic validator of EP-driven decisions concerning system-relevant questions.

Inspired by the Fusion thesis of European integration (Wessels, 1992), and as an extension of the Cooperation model introduced by Müller Gómez et al. (2019, p. 58), we develop—as a third lens—the *Cooperation–Competition model* that groups the EU’s institutional dynamics around the direct EP–EUCO interaction. This analytical angle is based on the following core components:

- Given respective treaty rules the necessity of mutual consent prevents and excludes attempts at domination from either side;
- Compromise can only be achieved through genuine collaboration on equal footing, even in questions for which this would not be formally necessary.
- In a ‘repeated game’ setting the mutual dependence leads to an ongoing EP–EUCO competition for strategic leadership; no final settlement of their rivalry in exercising shared competences can be expected.

Implicitly assumed in this model is the idea that the positions of the European Commission or the Council of Ministers can be inscribed in the cooperation-competition landscape between the two poles of the EP and EUCO, respectively.

3 BALANCING WITHOUT BALANCE: EP AND EUCO IN THE POST-LISBON DECADE, 2009–2018

The Treaty of Lisbon, which entered into force on 1 December 2009, reframed both the intra- and interinstitutional dynamics of the EU’s institutional architecture. With the extension of co-decision under the Ordinary Legislative Procedure (OLP) and additional rights regarding—inter alia—international agreements (Art. 218 TEU) as well as the Union’s MFF (Art. 312 TFEU) and the annual budget (Art. 314 TFEU), the EP was put on equal footing with the Council of Ministers in what

could be called ‘regular Brussels’ business’ along a ‘two chamber’, (quasi) federal model.

The Lisbon Treaty defined the EUCO as one of the seven EU institutions (Art. 13 TEU) with more defined tasks and powers and created the position of permanent president in charge of coordinating and representing this institution (Art. 15(5) TEU). As regards the legally imposed cooperation between the EP and the EUCO, three main revamped settings of potential institutional confrontation can be identified: (i) the EP’s increased leverage in the nomination process of the Commission President (Art. 17(7) TEU, see Document 1); (ii) its right of veto over the expenditure side of the Union’s Multiannual Financial Framework (MFF) (Art. 312 TFEU); and (iii) its veto right regarding the withdrawal agreement with a member state that intends to leave the EU (Art. 50(2) TEU, ‘Brexit procedure’).

Often considered as the two winners of the post-Lisbon formal system of checks and balances (e.g., Monar, 2011), both the EP and the EUCO found new ground to assert their role as the symbolical and practical ‘champion’ to guide the way forward on strategic questions—beyond the legal word of the Treaties. The scholarship on the EP–EUCO interaction uses a broad variety of concepts and theories to track the ‘real world dynamics’, and thus identifies a plethora of patterns and explanations. However, one observation shines through—and often within—the different case studies: the Treaty of Lisbon has not established *one* balance of power between the two ‘not inherently antagonistic’ institutions (Dinan, 2018, p. 1) but rather has broadened and deepened the sphere of a continuous and context-dependent rebalancing (Müller Gomez & Reiniers, 2019; Wessels, 2016). By revisiting key ‘battle-grounds’ of this intensified institutional competition between 2009 and 2018, this section will develop the argument that, taken as a whole, the first post-Lisbon decade can be best understood through the lens of the Cooperation–Competition model. Nevertheless, one can witness contextual swings between the ‘Union of Sovereign States’ and the ‘federal model’ in particular moments of (1) legal ambiguity, (2) unforeseen developments (crises), and (3) intra-institutional incoherence which can be noted throughout the period under observation. While this will be shown by three examples, the argument is probably best understood by

considering two ‘ordinary cases’: the election of the President of the Commission and MFF 2014–2020.

Document 1 Article 17 (7) Treaty of the European Union

Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

As regards the ambiguity of the Treaty formulations, the 2014 European elections, and the election of Junker as President of the European Commission following the *Spitzenkandidaten* (lead candidate) process, represented the epitome of this new procedure (Schultz, 2014). The concept of *Spitzenkandidaten* stems from the EP’s expansive interpretation of the dispositions of Art. 17 of the Treaty on the European Union. In its 2012 Resolution (EP, 2012/2829 (RSP)) the EP urged European political parties to nominate candidates for the Commission’s presidency. In this regard, and following its consolidated (institutional) practice, the EP managed to shape its own role as creeping institutional architect (Nasshoven, 2011). If, on the one hand the *Spitzenkandidaten* process answered the need for a greater democratisation of the EU executive, to detach the European elections from national ones, and reduce the EU’s democratic deficit (e.g., Føllesdal & Hix, 2006), on the other it was vital for the EP to reassert its institutional role. As Hobolt (2014) pointed out, despite its higher goals, the major effect of the *Spitzenkandidaten* process was creating an interinstitutional battle for power between the EP and the EUCO.

Capitalising on the vague formulation of Art. 17 (7) TEU (see Document 1), the parliamentary groups in the EP were able to impose the results of their *Spitzenkandidaten* procedure on the EUCO in 2014. With both the European People’s Party (EPP) and the Socialists and Democrats

(S&D) credibly threatening to veto any other nominee than Jean-Claude Juncker, the Parliament—as a creeping institutional architect—was able to exert decisive pressure on the EUCO in this central personnel decision, impose its expansive interpretation of Art. 17 and thereby shift towards the Federal model.

Regarding MFF 2014–2020, a mixed picture emerges. While a ‘fusion of responsibilities’ has become visible during these first negotiations under the new rules of the Lisbon Treaty, equipping the EP with a veto right on planned expenditure categories of the MFF (Art. 312 (2) TFEU), the Cooperation model only provides a partial picture (*Ibid.*, p. 70). The determination of the ‘own resources’, the first and more fundamental step of the Budget negotiations, strictly followed the intergovernmental logic foreseen by the Treaties (Art. 311 TFEU), with the EP being only consulted and in fact largely ignored as it was not at the table when the final deal was struck during a ‘marathon summit’ of the Heads of State and Government—a case in point of the ‘Union of Sovereign States’ model’.

When discussing the European reaction to crises, namely the economic and the migrant ones, most scholars observe that intergovernmental logics mostly prevail, given the ‘high politics’ nature of the fields in question (Fabbrini, 2017; Hofmann, 1966; Müller Gómez et al., 2019; Schimmelfenning, 2018). This leads to a predominant role of the European Council to the detriment of a weaker EP, which acts mostly as an agent, or approval-giver, of the political decisions taken by EU leaders sitting in the EUCO, and who is unable to act in a united way to claim its place on the political stage.

Taking in mind the substantial difference between the previous crises and the COVID-19 one it is possible to identify a common ‘chronological’ path in the first reaction of the EU to the crises it has faced, including the COVID-19 one:

1. A first phase of chaos, where extraordinary measures need to be taken to fill the (legislative) gap created by the lack of clear EU competences;
2. A second phase in which the EUCO assumes a leading role and tries to set a framework to tackle the crisis.

With this in mind one must however note that, compared to previous crises, and in particular to the institutional and legal measures taken to manage the Euro crisis in the first years of the last decade, the European Council has indirectly strengthened the powers and role of the European Parliament—as has been done by European leaders in all the treaty revisions from the Single European Act onwards. Whereas in the sovereign debt crisis the Heads of State and Government installed with the European Stability Mechanism (ESM) and the Fiscal Compact two satellite intergovernmental treaties outside the Lisbon Treaty, with no or very limited powers for the EP, the conclusions of July 2020 and the follow-up negotiations and final agreement, in line with this approach, extended the influence of the EP *de jure* and *de facto*.

4 THE NOMINATION OF THE NEW COMMISSION IN 2019

The core element of the creeping competences of the EP is the ability of the institution to consolidate a new practice—developed through an extensive interpretation of the Treaties dispositions—into a rule. In this context, the 2019 elections represented the perfect scenario for the EP to assert its predominant role over the EUCO concerning the election of the EU Commission and its president. This EP–EUCO struggle for power became clearly evident during the 2019 electoral campaign with Spitzenkandidaten identifying a common rival in the European Council (Gotev, 2019) and the then President of the EP, Antonio Tajani affirming that the (Spitzenkandidaten) process and the Treaties had to be respected (Rios, 2019). A sharp response came from the then President of the EUCO Donald Tusk, who questioned the automaticity of this process (Herszenhorn & De La Baume, 2018) while several EU leaders, first and foremost, Emmanuel Macron, expressed their concerns over its effectiveness (Barbière, 2018). Certainly, it was not in the interest of both sides to start an open conflict between the two institutions. Nevertheless, the final choice of Ursula von der Leyen by the EUCO inevitably led to a peak in interinstitutional tensions. In choosing von der Leyen, European leaders have been accused not only of disregarding the EP as an institution, but also of undermining the future development of the European democratic system by returning to closed-doors mechanisms (Brzozowski, 2019). Whether or not the EUCO disregarded the institutional role of the EP, difficulties during the negotiations stemmed from

clear political divides over the main *Spitzenkandidaten*, between European leaders as well as within European Parties. Among the former, the most vocal was French President Emmanuel Macron. Already during the political campaign, the French President had been known for his clear opposition to the *Spitzenkandidaten* process. This eventually led to *La République en marche* not supporting any leading candidate (De La Baume, 2018) and to Macron rejecting the EPP candidate, Manfred Weber, fearing his lack of experience in government (Euractiv, 2019). Within the EUCO, Member States of the Visegrad Group (Czechia, Hungary, Poland, and Slovakia) took a strong stance against the socialist candidate, Frans Timmermans, making a compromise on a *Spitzenkandidat* particularly difficult if not impossible. A major factor was the internal incoherence of the EP with major divides emerging among pro-European Parties, with on the one hand no *Spitzenkandidaten* being able to secure a majority (Hennessy, 2019), and on the other, the European People Party strongly pushing for the election of Manfred Weber as the representative of the party with the most votes, following a restrictive interpretation of the *Spitzenkandidaten* procedure.¹ Leaving considerations about the lack of clarity of the *Spitzenkandidaten* procedure aside, as well as about the EP's internal dissent, the EP clearly perceived the final choice of von der Leyen as the EUCO taking back control of the election of the Commission President and therefore undermining its institutional position.

Feeling that its position was undermined by its own weakness, the Parliament needed to reassert its institutional role, in particular in relation to the appointment of the new College of Commissioners. The first sign of this came with the opening statement of von der Leyen to the EP, where the President-to-be pledged to work together with the Parliament for a new push for European democracy. Among her points, she promised to work together with the EP to improve the *Spitzenkandidaten* system (von der Leyen, 2019). In doing so, von der Leyen tried to secure the support of the EP for her election while at the same time reaffirming the role of the institution not only in the election of the Commission

¹ The EPP interpreted the *Spitzenkandidaten* rule as the candidate of the largest European Party, while the rule should be understood as the candidate best positioned to gather sufficient parliamentary support (Tilindyte, 2019).

President and the College of Commissioners, but also in the entire institutional framework.² Another key moment was the election of the College of Commissioners. Over the years, the EP developed the practice of scrutinising the proposed Commissioners during a public hearing, with the possibility of rejecting them, a practice that the Lisbon Treaty had not included in the text of Art. 17. In a move that has been interpreted as a clear blow to the European Council, and to Macron most of all (Rankin, 2019), the European Parliament vetoed two candidates, the Hungarian and Romanian ones, even before their public hearings and then rejected the French candidate, Sylvie Goulard, after her public hearing. At first this move seemed to put von der Leyen's election at the head of the European Commission at risk, given the tight majority she relied on. However, far from creating an obstruction in Brussels, the European Parliament managed to send a clear signal that its institutional role should be taken seriously by the members of the European Council.

5 THE EUCO AND THE EP IN THE CORONA CRISIS: MORE POWERS NOT ONLY FOR THE EUROPEAN COUNCIL

As discussed, EP–EUCO relations in times of crises have been mostly comparable to a Union of Sovereign States model with a predominant leading role of the European Council at the expense of a weaker EP. The latter's role is evident only in the last phase of a crisis, when, after having agreed on a first extraordinary answer at the level of the EU leaders, a common interinstitutional agreement needs to be negotiated.

Does then the COVID-19 crisis fall under this same logic, with the EP's role limited to rubber-stamping the framework agreed by EU leaders, or has the EP found a way to reassert its institutional position facing the EUCO?

Contrary to previous crises, there are two main factors that make the COVID-19 crisis a peculiar one: (1) the way in which the role of Parliaments has been reduced to the bare minimum in favour of the executive branches in most European countries; (2) the close links and interconnections between the new MFF and the recovery package envisaged to relaunch European economies.

² Another point von der Leyen made was her support for the EP's right of legislative initiative.

At first look, the COVID-19 crisis is not particularly different from previous ones, with the political balance strongly shifting in favour of European leaders. This trend closely follows the political dynamic in Member States that saw a shift towards a political centralisation of the main competences for managing the health crisis, the withdrawal of Parliaments from executive bodies, and the limitation of parliamentary scrutiny (Fourmont-Ridard, 2020). Crises are the time of the executives, and the political system of the European Union was not immune to this dynamic. For instance, it is worth noting that in the EU's integrated political crisis response mechanism (IPCR), activated in January 2020 by the Croatian Presidency, the EP was not even considered as a partner in the political dialogue. Instead, the final decision on EU action is to be taken either by the Council of the EU or the EUCO (Council of the EU, 2020a).

Moreover, notwithstanding the global nature of the COVID-19 pandemic, the political response to the crisis has retained a strong national dimension, with a spike in consensus for National Governments driven by the 'rally-around-the-flag' effect (Morelli, 2020). National governments, with the strength of their national support, then played the field of European Politics, in the European Council, to find a common response to the crisis along with a new recovery fund included in the MFF. These were some of the most tense and lengthy discussions ever to take place in the EUCO, which eventually reached a ground-breaking agreement in the Council Conclusion of 21 July 2020 (European Council, 2020a). The core points of these conclusions were: (a) the creation of a Recovery Fund of € 750 billions borrowed on capital markets, composed of € 360 billions in loans and € 390 billions in grants, to support Member States' economies; (b) the adoption of a 1074.3 billion € MMF for the years 2021–2027.

In this negotiation process, the EP retained a very limited, if not absent, political role. For example, in the entire text of the July Conclusions, the Parliament is barely mentioned (10 times in total), and most of the time, only to be exhorted to take up negotiations with the Council to ensure the 'finalisation of the work'. However, taking into account how the European Council has ultimately indirectly extended and reinforced the powers of the EP in a longer-term perspective, at a closer look one can notice how the EP used its hard legal powers quite extensively compared to previous crises.

When observing the main resolutions of EP plenaries, declarations of MEPs, and the press conferences of EP President Sassoli,³ before and after the July deal, the EP's main focus has been the only aspect of the crisis which falls directly within its competences according to the Treaties: the recovery fund as part of the negotiations of the new MFF. In this regard, and contrary to what appears from the Council Conclusions, the EP first took a strong position in advocating for a comprehensive recovery package (European Parliament Press Office, 2020a), and then, once a deal was agreed by EU leaders, reiterated, in strong terms, its budgetary position together with its commitment to be involved in the decision-making process:

[the] Parliament will not rubber-stamp a fait accompli and is prepared to withhold its consent for the MFF until a satisfactory agreement is reached in the upcoming negotiations between Parliament and the Council. (Resolution (2020)0206—EP, 2020a)

Here we can notice the first element of dissonance compared to previous crises. As observed, in the past, the EP has been relegated to the role of an agent, with Heads of State or Government pressing their respective party groups to accept the EUCO position and watering down the EP's proposals, as in the case of the financial crisis (Müller Gómez et al., 2019), or taking the lead in fostering a readmission agreement with Turkey (European Council, 2015), eventually accepted, despite many concerns, as a *fait accompli* by the EP (Resolution (2016)0133—EP, 2016).

In the case of the COVID-19 crisis, the EP has instead been more vocal and assertive of its institutional position from the start (Ibid., 2020a) and even more so after the EUCO deal on the new MFF/recovery fund (e.g., Resolution (2020)0206), thanks to its renewed and strengthened internal cohesion. This commitment of the EP has characterised the intense trialogues that followed, under the German Presidency of the European Union in the second half of 2020, between the Council, the Commission, and the EP, to find common ground on the recovery plan. Core points of the EP position were a stronger long-term budgetary perspective, in

³ Based on the analysis of plenary debates, press conferences and political declaration in the period March 2020–September 2020. Main source: <https://www.europarl.europa.eu/news/en/press-room> (last accessed on: 11/09/2020).

particular on flagship EU programmes for climate protection, digital transition, health, youth, culture, and research; a clear mechanism linking EU financial aid to the respect for the rule of law principle; and a reform of the EU's resources system.

The negotiations, which started at the end of August 2020, were concluded at the beginning of November 2020, with a common agreement between the Parliament and the Council. Welcomed by all three institutions involved in the trialogues (EP, COM, EUCO), this agreement laid the ground for a compromise that meets most of the EP requests such as the link with the rule of law principle and an increase in long-term funds for flagship programmes. However, the most remarkable novelty is the new control mechanism, as well as the EP's enhanced role in the surveillance of the Recovery Instrument, introduced on the basis of article 122 TFEU (Council of the European Union, [2020b](#); European Parliament, [2020b](#), [2020c](#)).

With this new mechanism, the EP secured a 'new procedure setting up a "constructive dialogue" between Parliament and Council on the basis of an assessment of the Commission' (European Parliament Press Office, [2020b](#)) to evaluate the implementation of the Next Generation EU funds and the legal implications of any deviation from previously agreed plans.

Document 2 Article 122 treaty on the functioning of the European Union

1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measure appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.
2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by a natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.

As MFF co-rapporteur Margarida Marques (S&D) noted: ‘The EP has come out of these negotiations with a stronger role in the Next Generation EU. An important achievement to increase transparency and democratic accountability’ (EP Press Room, 2020d).

While this agreement was an important achievement within the budget negotiation, it seemed to be doomed to fail when two MS, Poland and Hungary, vetoed the final adoption of the Own Resources decision on the basis of a different (political) interpretation of the rule of law conditionality than the one agreed upon by the EP and the EUCO, and the lack of express legal guarantees on the link between rule of law and conditionality.

An agreement was finally also reached at the level of the EUCO, in the Conclusions of 10 and 11 December 2020. This document retained what the EP and the Council had negotiated, while also clarifying the procedure linking the respect of the rule of law principle to conditionality (European Parliament, 2020b), in what has been called a win-win result for both institutions (European Parliament Press Office, 2020d).

At this point, we can already draw some conclusions from the analysis of the EP’s proactive role, which may stem from a combination of several factors: first and foremost, the recent failure of the Spitzenkandidaten system which has strengthened the EP’s resilience opposite the EUCO; secondly, the nature and gravity of the COVID-19 crisis, with its multifaceted impact, which called for a more assertive response from the EU than any other previous crisis. Also, we cannot ignore that the lessons from the two previous crises have been learnt and that the EP has been building up internal ‘expertise’, coupled with the development of supra-national features and competences for the EU (such as the introduction, in the Own Resources Decision [ORD], of the borrowing capacity of the Union).

6 WHAT’S NEXT? DIFFERENT SCENARIOS FOR THE COMING DECADE

When comparing our findings with our expectations some major points deserve attention.

First of all, of the three core factors identified above only two appeared to be validated by our case studies: the internal coherence and the Treaty provisions. The internal (in)coherence around the 2019 elections/leading candidates played a decisive role in sinking the Spitzenkandidaten process

in a major setback for the European Parliament. As a result of this incoherence, the EP was not able to take advantage of the ambiguity of the Treaty provisions to assert its position and allowed the EUCO to take the lead. At the same time, the EP was able to have a more assertive position during the Recovery and Resiliency Facility (RRF)/MFF negotiations thanks to its renewed internal coherence, brought about as a reaction to the previous setback(s), the specific political dynamics linked to the pandemic, and the Treaty provisions, which, as restated several times in all the recent EP resolutions under analysis, provide the EP with the necessary competences to act as a co-legislator in the budget negotiations.

However, our findings on the COVID-19 crisis do not corroborate the assumption behind the last indicator, the degree of urgency: despite the EUCO's initial apparent predominance in organising the EU's common response, the EP was still able to assert its role and positions in providing a European response to the health crisis. This would confirm our assumption that, compared to the pattern observed in previous crises, the 2020 COVID-19 crisis is a critical juncture in (re-)shaping the interinstitutional balance.

Secondly, a different pattern to the one identified by the authors in the previous cases can be observed: while, in the short term, the federal model prevailed in the 2014 election, the Union of Sovereign States one dominated in 2019. However, the long-term perspective hints to a mixed scenario of cooperation: even if the EP has failed to automatise/institutionalise the Spitzenkandidaten process in these elections, it has nevertheless reasserted its institutional position and obtained many concessions from the newly elected Commission President, most of all the agreement to work together to improve the Spitzenkandidaten system.

Similarly, while the EP was side-lined during the previous crises and MFF negotiations as a consensus-giver to a political decision taken mostly (if not entirely solely) by the EUCO, the close interconnection of the COVID-19 crisis and the budget negotiations pushed the EP to look for a more active and central role, reasserting its essential part as the representative of the European citizens' interests and opening up the possibility of a cooperation between the two institutions, on the basis of the November budgetary compromise, in line with the Cooperation–Competition model.

Looking at further developments, while it is still hard to know what will be the future of the Spitzenkandidaten, despite a slight hint of a

more cooperative scenario, the outlook on the budgetary negotiations gives room to three possible scenarios (ordered by likelihood):

1. The November agreement and the deal reached in December set the tone for a future cooperation between the two institutions on an equal footing, thus confirming the path towards a strengthened Cooperation–Competition model. This model will be reconfirmed and strengthened in the major political battles of the upcoming years (starting with the Green Deal all the way to the election of the next President of the Commission) and will eventually produce a balanced institutional system, which, in any case, will be characterised by the increased political role of the European Parliament at the expense of the traditional predominance of the European Council and in line with an institutional trend initiated by the EUCO itself.
2. The MFF and Recovery Package deal is but an isolated case, shaped by the extraordinary intensity of the crisis, and the model of cooperation between the two institutions will fall back into the previous path of principal (EUCO) and agent (EP), according to the Union of Sovereign State model. One can then expect the political role of the EP to diminish considerably, in particular should it not be able to reaffirm the Spitzenkandidaten rule. Eventually this scenario would lead to the EP being reduced to a legislative/scrutiny body, with a very limited capacity to shape the political agenda of the Union.
3. A third and most unlikely scenario, in which the EP, based on the expertise and coordination it has developed over the years, and in particular during these last negotiations, gradually asserts its leading position within the EU architecture thus normalising the relationship between the two institutions within the Federal model. In this last scenario, European leaders will be relegated to a secondary role and lose a great part of their political initiative in shaping the European agenda. This scenario seems however the most unlikely to happen as the EP would not only need to show a high degree of political coherence and unity, but also as it would require at least two other elements. The first would be an increase in its democratic legitimacy, in particular regarding the participation in European elections (which eventually brings us to the debate over the creation of a European demos); and, the other, that the constant divides within the EUCO and between the Member States, coupled

with an increasingly high need to speed-up decisions, undermine the authority and role of the Leaders' institutions, thus moving the balance towards the EP.

7 CONCLUDING REMARKS: DO NOT EXPECT A SIMPLE ANSWER

Overall, the political history of the European Union has been shaped by crises which helped (re-)define and perfect a complex institutional system based on an intricate network of actors, institutional or not. While it is possible to find patterns in the events that led to the current institutional system, this should not be taken for granted. It is too early to say whether this most recent crisis has been a key moment in the European Union's history. However, it has undoubtedly laid the basis not only for the development of new EU competences in areas such as health or fiscal policies, but also for the development of a more cooperative interinstitutional system, where solutions go beyond a minimum common denominator. In particular, the outcome of the negotiations for the RRF confirms and strengthens the path towards a slow but steady strengthening of EP competences and political weight, hinting to a new and reshaped role for the EP in the institutional architecture.

Even if the negotiations around the new budgetary deal seem to have defined the tone for the future relationship between the EP and the EUCO going forward, one has to look at the upcoming 'political battles' such as the Green Deal and the development of the EU strategic autonomy, or, in a longer-term perspective, the negotiations around the next Commission designation and the post-2027 MFF, to draw a final line.

While it might be too early to draw any conclusion on the future institutional balance of the EU, it is however true that observing these last two years in the broader spectrum of the history of European integration a pattern can be seen, one that has shaped and continues to shape the future of the EU: solutions to crises and further steps in EU integration are a direct consequence of interinstitutional tensions (rivalry vs cooperation) and the need to maintain a balanced equilibrium in a changing environment. As shown by the example of the Spitzenkandidaten process and the EUCO–EP deal on the MFF–RFF, it is thanks to these inner tensions that the institutions, boldly and creatively, push the limits set by

the Treaties and contribute to shape new prospects for the institutional and political development of the Union.

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The European Parliament's Practice in Scrutinizing the Commission's Delegated Acts Before and After the 2019 EP Elections

Sabina Lange and Michael Kaeding

1 INTRODUCTION: THE LOGIC BEHIND THE COMMISSION'S DELEGATED POWERS AND THE POWER OF LEGISLATORS TO EXERCISE THEIR VETO

This chapter focuses on the EP's use of the legislative veto over the Commission's rule-making powers in the case of delegated acts (DAs). DAs were introduced in the EU's legal system with the Treaty of Lisbon

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(2009) as legal acts adopted by the European Commission to supplement or amend acts adopted jointly by the European Parliament and the Council or by the latter only. The term ‘quasi-legislative’ is frequently used to refer to these acts. Many contemporary governments couple broad delegations of rule-making powers to administrative bodies with a scheme allowing the legislature to veto or disapprove administrative rules (Mullan, 2001; Pearce & Argument, 2005; Wade & Forsyth, 2004). From the legislature’s perspective, this pairing has some logic. On the one hand, legislatures have well-documented incentives to delegate broad powers to administrative agencies in part because of the greater time, flexibility, and expertise of dedicated administrators, and in part because it allows the legislature to avoid direct accountability for hard choices (Epstein & O’Halloran, 1999). On the other hand, a scheme for legislative scrutiny allows the legislature an institutional means to assert control over the vast law-making activities that their delegations have set in motion.

While the power to adopt such acts was not a new power of the Commission introduced by the Treaty of Lisbon, the legislator’s power to exercise scrutiny was significantly augmented by the introduction of new procedures (Hardacre & Kaeding, 2011). The power of the Commission to adopt acts on the basis of a delegation provided in an act adopted by the Council, and, following the introduction of co-decision, by the European Parliament and the Council, has grown steadily since the 1960s. By the early 2000s delegating broad powers to the European Commission was a well-established practice (Bergström, 2005). This originated from the initial conferral of such implementing powers by the member states to the Commission in the context of the Common Agricultural Policy (CAP), when ‘uniform conditions of implementation’, as it stands today in Art. 291(2) TFEU were deemed to be required. Such a conferral of powers, at the point of introduction in the 1960s still outside the founding Treaties, contributed to the efficient management of the CAP. The member states were reassured by the system of Committees, composed of member states’ representatives, set up to control the Commission in its exercise of the newly acquired powers. At the same time, the conferral of powers to the Commission was possible also because it was based on an understanding that the powers in question are of a technical nature and do not represent political choices.

What was initially intended to be an inherently technical decision-making, whereby member states exercise oversight over the Commission via the said Committees, soon turned into a source of regular institutional tensions in the EC/EU. With the increasing interest and powers of the European Parliament, the issue of the Commission's delegated powers became a 'battlefield in EU governance' (Hardacre & Kaeding, 2010, p. 4). Finally, in 2006 concerns about comitology's democratic accountability resulted in both EU legislators obtaining a legislative veto—the power to nullify the Commission's actions. This creation of the so-called 'regulatory procedure with scrutiny' (RPS) via a revision of the 'Comitology decision' was symbolically important because it granted the EP powers over the formulation of the Commission's administrative acts that more accurately reflected its powers in co-decision (Vaccari & Lintner, 2009). The Treaty of Lisbon (2009) introduced major changes in this respect by introducing DA in Art. 290 TFEU and the following decade was marked by the consolidation of these changes and the search for a shared understanding in their everyday application (Brandsma & Blom-Hansen, 2017; Christiansen & Lange, 2021).

Moreover, questions were also raised about whether the topics of decision-making were truly merely technical and whether the oversight over the Commission in the process of adopting these decisions is only part of the Commission's institutional accountability or should those exercising it also consider and have power over the policy and political choices of the Commission. The Treaty of Lisbon eliminated the requirement that the legislative veto be based on one of a designated number of grounds in force since the 2006 reform of comitology first brought the EP's formal role of oversight closer to an equal footing with the Council (Blom-Hansen, 2011). Article 290 TFEU puts the EP and Council on a virtually equal footing with regard to the legislative scrutiny of the Commission's quasi-legislative acts. With the growing powers of the European Parliament and the elimination of the grounds on which the legislative veto over DA can be exercised, the partisan political element in the exercise of the legislative veto can be observed and analysed through the European Parliament's practice in exercising these powers.

This chapter contributes to this book's objective to take stock and assess the impact of the 2019 European elections as well as of the COVID-19 pandemic on the EU's politics, institutions, and policies by analysing the European Parliament's practice in controlling the Commission's exercise of its delegated powers. The research questions we pose in

the chapter are: (a) What has been the EP's practice of objecting to the Commission's DA in quantitative terms and (b) How is the partisan political logic of the European Parliament's practice reflected in its exercise of the legislative veto over the Commission's delegated acts?

Drawing from the political economy literature and based on the costs of collective action within the EP, the Commission's institutional interest in avoiding conflict with the EP, and the relatively low costs for individual Members of Parliament (MEPs) to bargain informally with the Commission in response to interest group monitoring and pressure, this chapter hypothesizes that the EP will rarely invoke its power to veto DAs. Furthermore, given that the successfully passing the veto requires an absolute majority in the EP and considering the political group constellation in the EP in the last decade, we hypothesize that a successful veto on the basis of political preference alone will be rare.

This chapter tests these hypotheses with regard to the EP's actual exercise of veto rights between December 2009 and December 2020. Data illustrate an extremely modest formal use of legislative vetoes in the case of post-Lisbon DAs. By providing a political economy analysis as well as data on recent experience, we are able to explain this practice. Furthermore, by isolating the importance of the informal negotiating of amendments to the Commission's draft measures, we expose that a critical aspect of understanding the relationship between the Commission and the EU legislative bodies lies in understanding the efficacy of individual legislators, committees, or representatives in the EP (and the Council) in obtaining adjustments in secondary legislation from the Commission outside of formal legislative vetoes.

In the first part of the chapter, we describe the rules governing the scrutiny of DAs and the EP's own internal procedures in the adoption of DA. This allows us to create our research design for analysing the data on the EP's practice. In the second part of this chapter we draw on the literature on legislative scrutiny and bargaining in the US context to generate expectations. While our analysis of the practice focuses on the EP, when explaining the governance system for DAs post-Lisbon we also include the Council's powers. In the third part, we provide the data on the EP's practice gathered in the period since the DAs were introduced. The conclusion discusses the practice in view of the literature on legislative scrutiny and bargaining and assesses the impact of the 2019 elections on the EP's practice of legislative veto.

2 LEGISLATIVE VETOES IN THE EU: RULES AND PROCEDURES

The rules on DA adoption as established by Art. 290 TFEU are a sharp departure from the pre-Lisbon RPS two-tier procedure practice. Overall, the process has been simplified. The Commission presents its DA directly and simultaneously to both legislators, treating the Council and EP equally in this respect. Another stark difference to the RPS procedure is the fact that the Commission submits an adopted DA, whose entry into force is suspended until after the legislators are given a chance to exercise their control. The legislative veto of such act therefore presents a higher cost for the Commission than in the case where the Commission would submit a draft act only. For an objection to pass in the EP an absolute majority of its members is required, whereas the Council needs to reach the so-called super qualified majority bringing together 72% of member states and covering 65% of population of the EU to object to a Commission DA (Art. 290(2) TFEU). The new one-tier DA procedure is simpler, but each basic act specifically defines the ‘objective, content, scope and duration’ of a delegation (Art. 290(1) TFEU) on a case-by-case basis, while allowing objections on any grounds, as opposed to only on the three legal grounds for objection specified by the RPS. The legislators both have the same time allocated by the basic act to object. The period of objection is defined ‘on a case-by-case basis in each basic act [and] should in principle be of two months, and not less than that, extendable by two months at the initiative of the European Parliament or the Council’.¹

With the new powers in place the EP adapted its Rules of Procedure. First, in November 2009, ahead of the entry into force of the Lisbon Treaty, it introduced a rule to guide the EP in the scrutiny process.² This new rule provided that the committee responsible for the basic act examines the delegated act and may submit a motion for resolution to the Plenary. The procedural details from the existing arrangements on the scrutiny of the RPS measures applied, therefore ensuring continuity in

¹ Common Understanding on Delegated Acts, 14 April 2011, 8753/1/11. The formula is kept in the revised version of the Common Understanding, attached to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making *OJ L 123, 12.5.2016, pp. 1–14*.

² In the November 2009 version of the EP’s Rules of Procedure this was introduced as Rule 87a. With later changes it was renumbered to Rule 105 in 2016 and Rule 111 in 2019.

the EP. A major revision of the EP's Rules of Procedure followed in May 2012. Through this revision the EP extended the right to examine and propose an objection to a delegated act to associated and joint committees and to political groups and groups of at least 40 members.³ As observed by Christiansen and Lange (2021) this 'has not only widened the range of possible actors to propose objections, it also opened up the possibility of reasons for such objection to be advanced on the basis of political preferences'. However, the committee procedure remains the privileged route, with other actors having a possibility to table the motion only if the responsible committee does not do so until ten days before the last Plenary session during which, respecting the objection period, the EP could still vote on such a resolution. Finally, a small but significant change in the Rules of Procedure in 2016 allows a motion for a resolution which has been withdrawn 'to be taken over and retabled immediately by a group, a committee or the same number of Members as is entitled to table it' (Rule 132(8) in 2021 ROP). The significance of this rule is in the recognition of the plurality of actors in the EP and of their different political preferences. By allowing various actors to retable a withdrawn resolution this rule directly affects the Commission's efforts to avoid conflict and the MEPs' informal bargaining power.

The literature on the delegation of powers to the Commission, and the various phases of comitology reform since the 1960s is rich (Héritier et al., 2013). The Comitology committee workings (Brandsma, 2013; Brandsma & Blom-Hansen, 2010; Christiansen et al., 2009; Dehousse, 2003; Dehousse et al., 2014; Pollack, 2003), the questions of inter-institutional balance (Brandsma & Blom-Hansen, 2017; Christiansen & Dobbels, 2013; Christiansen & Lange, 2021; Héritier, 2012; Hofmann, 2009; Moury & Héritier, 2012), and the post-Lisbon comitology regime as it regards reduction of the democratic deficit of the EU (Georgiev, 2013) have all been the subject of research. The delineation between the DA and implementing acts has also been addressed (Tauschinsky & Weiss, 2018; Volpato, 2018). The practices of the exercise of the legislative veto on the other hand remain less researched (Hardacre & Damen, 2009; Kaeding & Hardacre, 2013; Voermans et al., 2014). This chapter sheds

³ The number changed to the 'low threshold', i.e. 5%, with the 2016 changes to the EP's Rules of Procedure. Following the reduction of the MEP numbers as of 1 February 2021 the number of MEPs required to table or retable the motion on the basis of the low threshold is 36.

light on the EP's practice of the legislative veto over a decade since the entry into force of article 290 TFEU, by providing empirical evidence of the practices of delegated quasi-legislative powers in the EU.

3 THE POLITICAL ECONOMY OF LEGISLATIVE VETOES

Political economy literature provides a useful reference point to generate expectations about how these processes might work in practice. We draw on the literature on legislative scrutiny and bargaining in the US context because it is well developed (Volden & Wiseman, 2011) and because the US has also had a long experience with legislative veto provisions. Even though party dynamics and committee structures are different in the EP and the US Congress, the political economy literature and US experience under the legislative veto is useful because, like the EU, the US is a system of separated powers with a dual legislature and executive, with each body representing a different constituency (Bignami, 1999, pp. 466–469).

Two sets of dynamics which operate together—the relative lack of incentives of members of legislatures in systems of separated powers to invest resources to engage in oversight, and the bargaining dynamics between the legislature and a risk-avoiding bureaucracy—suggest that legislative vetoes will be used very infrequently. First, let's consider the incentives of members of the legislature in exercising a legislative veto. As a general matter, legislatures face notoriously high transaction costs to engage in collective action (Moe & Wilson, 1994).

Legislative action, particularly in the EP, faces multiple veto points. It can be thwarted at the EP committee level, in disputes over jurisdiction between multiple EP committees, or by those who set the agenda for floor consideration. Even if a veto measure were able to make it onto the legislative agenda, it would need to obtain support from an absolute majority (AM) of MEPs and a super qualified majority (QMV) of member states (MS) in the Council in order to pass either legislative body. Just as important, like the RPS measures, DAs tend to be more technical in nature and thus require significant investment to understand. Moreover, the existence of multiple parties and cleavages in Parliament further raises the cost of reaching an agreement. Individual MEPs must mediate between allegiance to their parties and national delegations which also increases the difficulty of finding issues that will gain coalition support.

This suggests that the costs of oversight for members of the legislature, educating others about the Commission's action in question, and assembling a coalition are likely to be very high relative to their rewards.

The timing requirements for legislative action to override the Commission's act exacerbate these issues. To veto any of the Commission's regulatory policy, the EP or the Council must normally act within four months maximum. This reduces the time for legislators to master the files once they have attracted their interest and imposes a very short timeline for assembling a coalition. Furthermore, it makes external research very difficult to assemble, especially given the still small number of secretariat and MEP support staff (Egeberg et al., 2016) despite EP's successes in increasing the staff and tightening the work processes (Christiansen & Lange, 2021; Marissen, 2019).

With the objection period aligned for both actors and the grounds for objection no longer limited, the Lisbon Treaty sought to enhance the oversight powers of the EP (van Gestel, 2014). However, as explained above, even the four months maximum window to object to a DA is a rather short time for action in the EP. Further, the choice of the grounds on which the EP acts, even if they are no longer limited, is affected by the high level of support required to object to a DA, the technical nature of the DA, as well as experience with the RPS. The objection to an RPS measure was possible on the grounds of the Commission acting *ultra vires*, failing to respect the principles of subsidiarity and proportionality, and acting in contradiction with the objective of the basic act. While the Lisbon Treaty lifted the limitations, it is still more likely that objections which do not cut across the political lines in the EP, but rather offer an institutional perspective to the EP as a body to which the Commission is accountable, will be promoted rather by the Committees, while the objections based on (partisan) political preferences will be more likely promoted by the political groups.

Turning to the second set of dynamics—that of the forces at work in the bargaining between the legislature and the risk-avoiding bureaucracy reveals that the Commission is notoriously averse to prompting public conflict with the EP (Gornitzka & Sverdrup, 2008; van Gestel, 2014). Its thinner political legitimacy might be at play here, but, as explained above, so is the fact that post-Lisbon the legislative veto is exercised over an act that has been adopted. This means that the political level in the Commission, i.e. the College, already approved the act, making any objection

to it particularly costly for the Commission. As a result, the MEPs (and the Council) will have an especially strong capacity to extract concessions from the Commission, and, over time, to create a climate in which the Commission will anticipate legislative policy. Indeed, in the 2015 revision of the 2011 Common Understanding, the EP and the Council secured standing invitations to the Commission's expert groups preparing the delegated acts. Consequently, several EP Committees regularly invite the Commission's representatives to their meetings 'in order to have a further exchange of views on the preparation of a delegated act'.⁴ Effectively, because the Commission places a high value on avoiding confrontation and sanctions, the EP and the Council exercise 'latent control' over the Commission without having to use the veto (Calvert et al., 1989, p. 605). Changes to EP's Rules of Procedure which disperse the possibility for parliamentary action, as explained above, seek to address this tendency, but the constraints of the collective action cost in the EP nevertheless remain in place.

In sum, the burdens and obstacles to collective action in the EP, despite being addressed via changes in the Rules of Procedures, will frequently outweigh the benefits that members of the EU legislatures will receive from the formal use of the veto, and the Commission's right of initiative will strengthen the hand of individual bargaining with the Commission to obtain concessions. Further, despite the possibility of objecting to a DA on any grounds and the procedural adaptations in the EP allowing political groups (among others) to table and retable the motion for a resolution to object to a DA, we will rarely see political group actions on the basis of political preferences succeed in passing a legislative veto.

4 RESEARCH DESIGN

To assess the experience and impact of legislative vetoes in EU policy-making, the dependent variables are (a) a count variable representing the frequency of successful and unsuccessful legislative vetoes and (b) qualitative and quantitative analysis of the authors of the resolutions to object to DAs. This means we distinguish between the Committee, the political group, and the required number of MEPs as possible actors behind the tabled objection to a DA. We investigate the complete period

⁴ European Parliament (2018) *Handbook on Delegated and Implementing Acts*, July 2018, p. 39.

from December 2009 until December 2020. While it is too early (in late 2021) to assess the impact of 2019 elections and the COVID-19 pandemic on this practice, we nevertheless indicate the pre-2019 election and post-2019 election practice to allow for future comparative research.

To test the hypotheses, we extracted data from the websites of the EP's horizontal units in charge of, among others, DAs. We complemented it with information from the European Parliament's Unit for Reception and Referral of Official Documents. For cross-checking purposes and the procurement of additional data, we conducted interviews with civil servants from the secretariats of the EP.

Table 1 summarizes the total number of concluded legislative files including provisions for DAs (so-called basic legislative acts). It took about a year after the entry into force of article 290 TFEU before the EP and Council started adopting the first legislative files including provisions for DAs.⁵ A decade later, 43% of the total number of concluded legislative files provided for DA empowerment.

Table 2 reports on the full list of DAs submitted to Parliament and the Council between 2009 and 2020.

These figures show that the number of DAs submitted to EU legislators grew steadily after its introduction in 2009, with an all-time peak in 2019 (160) and reaching an overall total of 1078 by the end of 2020.

5 THE PRACTICE: INFREQUENT USE OF LEGISLATIVE VETOES BY THE EP

The results are presented in Tables 3 and 4 displaying the frequency of (un-)successful vetoes in the framework of DAs. In Table 3 we use short reference names for individual DAs. In brackets following the name of the DA is the author of the motion for a resolution to object to a DA. It indicates either the Committee—we use the abbreviation 'Cte' followed by an abbreviation of the Committee's name—or the political group—we indicate it by 'PG', followed by the acronym of the group which tabled the motion—or (the required number of) MEPs.

⁵ The first basic acts including DA provision were Regulation 438/2010 on pet animals, Directive 2010/45 on human organs transplantation, Directive 2010/30 on energy labelling, Regulation 973/2010 on customs tariff Azores and Madeira, and Regulations 1092 to 1095/2010 and Directive 2010/78 on financial supervision package.

Table 1 Number of concluded legislative files including provisions for DA (2009–2020)

<i>Year</i>	<i>Number of concluded legislative files including provisions for DA</i>	<i>Number of paragraphs empowering DA</i>	<i>Total number of legislative acts</i>	<i>Share between number of concluded legislative acts and those including provisions for DA (%)</i>
2010	22	62	66	33
2011	26	91	64	41
2012	22	207	87	25
2013	62	383	79	78
2014	76	350	192	40
2015	22	79	57	39
2016	34	273	67	51
2017	33	156	74	45
2018	33	172	73	45
2019	57	323	126	45
2020	18	54	63	29
Total	405	2150	948	43

Source Based on the information from the European Parliament's Unit for Reception and Referral of Official Documents

Table 2 DAs submitted to the Parliament and the Council (2009–2020)

<i>Year</i>	<i>Delegated acts submitted</i>
2009	–
2010	4
2011	7
2012	38
2013	57
2014	177
2015	106
2016	139
2017	130
2018	119
2019	160
2020	141
Total	1078

Source Based on the information from the EP's Unit for Reception and Referral of Official Documents

Table 3 Number of (un-)successful vetoes over DAs by the EP (2009–December 2020)

<i>Result</i>	<i>Number of cases</i>	<i>Details of cases (in chronological order)</i>
Plenary—Objection adopted in plenary (absolute majority)	10	Definition of ‘engineered nanomaterials’ (Cte—ENVI), Exemption for cadmium in illumination and display lighting applications (PG—Greens/EFA), Licence for imports of ethyl alcohol of agricultural origin (Cte—AGRI), specific compositional and information requirements for processed cereal-based food and baby food (Cte—ENVI), PRIIPs (Cte—ECON); high risk 3rd countries; terrorist financing (Cte—ECON/LIBE), fish. conservation measures (Cte—PECH), Internal Security Fund (Cte—LIBE), Asylum, Migration, and Integration Fund (Cte—LIBE)
Plenary—Objection rejected in plenary	17	Scheme of generalized tariff preferences ($4 \times$, $3 \times$ PG—GUE/UNL, 1×40 + MEPs), arrangements for products from some ACP countries (Cte—INTA); Insurance and reinsurance (Solvency II) (Cte—ECON), EU guarantee to EIB (Belarus) (PG—EFDD), minimum requirements for own funds (PG—Greens/EFA), regulatory technical standards for the application of position limits to commodity derivatives (PG—S&D), direct payments (Cte—AGRI), info requirements for diet control C (PG—ECR), high risk 3rd countries (Guyana, etc.) (PG—GUE/NGL), projects of common interest (PG—Greens/EFA + MEPs), Iran (PG—EFDD), ITS (Cte—TRAN), [9th term] classification, labelling, packaging of substances (PG—ECR), Union list of projects of common interest (PG—Greens)

(continued)

Table 3 (continued)

<i>Result</i>	<i>Number of cases</i>	<i>Details of cases (in chronological order)</i>
Plenary—withdrawn before the vote	4	OTC derivatives (Cte—ECON); PPP (Cte—CONT/BUDG), Union Customs Code (Cte—IMCO), Market Disturbance (COVID-19) (Cte—AGRI)

Source Based on the information from the EP's Unit for Reception and Referral of Official Documents

Table 4 Committee-level votes rejecting the objection and withdrawn resolutions (December 2020)

<i>Result</i>	<i>Number of cases</i>
Committee—Objection rejected in committee (simple majority)	18
Committee—Withdrawn before the vote	5

For DAs, the figures are revealing. Out of a total of 1078 DAs submitted to the EU legislator, EP Committees and EP in Plenary considered objections in 54 cases (5%) out of which 10 files were eventually vetoed. Out of these, only 3—clearly a subaverage number—were tabled in the 9th legislature and none received the support of an absolute majority of the MEPs.⁶

In addition to the motions tabled and voted on in the Plenary it is worth noting that there were three cases in the early days where the motions were tabled but withdrawn before the vote took place, one more such case occurred at the height of the COVID-19 pandemic. For a complete picture of the activity in the EP we are including in Table 4 the numbers of unpassed or withdrawn resolutions to object to the DAs at the level of Committees. In all these cases the author of the resolution was the Committee.

A comparison of who tabled the resolution to object to a DA shows numbers that are not significantly in favour of the Committees. Out of the total 31 cases which reached the Plenary 17 or 55% were tabled by Committees and 45% by political groups and the required number of

⁶ In the same period (2009–December 2020) Council opposed to five DAs.

MEPs. In 27 cases that underwent a plenary vote, the Committees tabled the motion to object to the Commission's DA 13 times (48%), with political groups also tabling 13 objections (48%), and a required number of MEPs tabled one (4%). It needs to be borne in mind, however, that Committees put 23 further objections to the vote within the Committee which were stopped at that level. They voted down 18 of these, while the remaining 5 were withdrawn.

The picture is starkly different when we look at the outcome of a vote and compare between objections tabled by the Committee or by the political groups and MEPs. Of the 10 objections which received the support of the absolute majority in the EP only one, or 10%, was tabled by a political group, while 13 out of the 17 rejected by the plenary or 76% were not tabled by the Committee, leaving only 24% of rejected motions tabled by the Committee. 69% of all objections tabled by the Committee received the absolute majority of the Parliament, while only 7.6% of those tabled by the political groups did so (the number is 7.1% for those tabled by the political groups or the required number of MEPs).

From the EP's perspective, the two previous tables lead to two central conclusions: firstly, Parliament rarely exercised its veto power to overrule quasi-legislative regulatory decisions between 2009 and 2020. In 1% of all cases it successfully opposed quasi-legislative instruments. Secondly, the political groups used their power to table resolutions to object to DAs, however resolutions to object to a DA which are tabled by the Committee are much more likely to pass than those which are tabled by the political groups or a required number of MEPs.

6 CONCLUDING DISCUSSION

The delegation of rule-making powers has become a nearly universal feature of many modern legal systems. As broad discretionary power is vested in administrative actors, such as the Commission within the EU governance structure, there is a strong mandate of legitimacy for the legislative oversight of administrative action to ensure that it achieves the commonly agreed upon objectives of the member states and ultimately of the people. One of the most touted EU mechanisms for the oversight and respective accountability of the Commission's decisions (Brandsma, 2013) is the legislative veto, whether in the context of the RPS or post-Lisbon DA.

As it turns out, the EP has rarely invested in taking formal measures to override the Commission's exercise of its delegated powers when it comes to DAs. Over the period between 2009 and 2020, the EP considered legislative vetoes for meagre 5% of all DAs submitted to it for scrutiny, and eventually opposed less than 1% of all possible cases. These figures may not match the EP's energy for including legislative veto provisions in legislation in the first place, and the initial 'fear that Parliament would be tempted to (ab)use the new power too often, thus frustrating the smooth implementation of legislation' (Hardacre & Damen, 2009, p. 3). However, they are in line with the expectations of the principles of political economy.

The relatively minimal difference between the vetoes of RPS and DAs (cp.) also suggests that the easing of the formal requirements for exercising a veto under article 290 TFEU has had only a very modest impact on the patterns of their use.

However, these results do not imply that Parliament has been sitting on its hands. Parliament's ECON (economic and financial affairs) Committee, for example, set up so-called corrective scrutiny and preventive scrutiny slots. About once a month, one or two delegated acts dossiers, selected by the political groups' coordinators, are publicly discussed in the ECON Committee. Officials from the Committee secretariats frequently attend the meetings of the Commission's expert groups preparing DAs as observers. Their reports inform the Committee members and may lead to a discussion with the Commission on the upcoming DAs in the Committee meetings. In addition, the creation of three European Supervisory Authorities (ESAs), which conduct public consultations and make text proposals for DAs, which are then endorsed by the Commission, has been used intelligently. If the Commission wants to introduce non-substantial changes to the text proposals, it is free to do so and then adopt the DA. But if the Commission wants to introduce substantial changes to the agencies' drafts, they need to consult the agencies again.⁷ That is when the EP can intervene as a go-between.

⁷ For more details on the EU agencies' role in drafting quasi-legislative acts see Costa, M. and Kaeding, M. 'The conferral of powers to EU agencies: the case of delegated and implementing acts', Paper presented at the Workshop 'Legislative Choice between Delegated and Implementing Acts' at the Deutsche Universität für Verwaltungswissenschaften in Speyer on 20 March 2017.

The EP would then work with the information gleaned during the time-consuming public consultations. In practice, it is the stakeholders who inform the interested MEPs. Using the preventive scrutiny, the EP (or more precisely the selected MEPs) can intervene in a subtler way than the ‘nuclear weapon’ of an accept/reject situation. In fact, the weight of the EP in these negotiations is strengthened by the possibility of using the ‘nuclear weapon’. The rationale behind the withdrawn resolutions may be viewed in this way. After receiving concessions from the Commission, the EP retreated from its ‘nuclear threat’ (Christiansen & Lange, 2021). In essence, the EP acts as a transmission mechanism for stakeholders’ views.

Consequently, despite the limited formal use of the legislative scrutiny of the Commission’s quasi-legislative acts, the legislative veto has been a significant tool of oversight impacting the Commission’s actions. Because members of the Commission can anticipate legislative opposition and accommodate it when it is raised, these new EU legislative veto mechanisms may still have a significant influence over the content of the Commission’s actions. In view of its own weaker political legitimacy, the Commission has a strong institutional interest in avoiding a direct, open confrontation with either European legislator. Moreover, as a repeat player in drafting quasi-legislation, whether in the form of the RPS procedure or DAs, the Commission has a strong incentive to avoid establishing a practice of frequent legislative override of its actions (Stack, 2014, p. 84). As a result, there are particularly strong reasons to expect that the Commission will frequently be willing to compromise on specific substantive policy to avoid a political confrontation with either European legislator (Calvert et al., 1989), or negotiate to make concessions to the EP and Council (Stack, 2014, p. 84).

This ‘latent oversight’ is notoriously difficult to observe, even if its ‘role in implementing political control over the [bureaucracy] is in principle just as important as that of active control’ (Calvert et al., 1989, p. 605). While it is beyond the scope of this chapter to theorize or document the practice of negotiations between the Commission and the EP, there is some evidence that a ‘de facto legislative right of amendment’ (Ponzano, 2008) through individual negotiations rather than the formal use of the veto has taken hold (Christiansen & Lange, 2021; Kaeding & Hardacre, 2013). These negotiations are not always public and are therefore difficult to uncover. However, there were two cases under RPS, whereby parliamentary committees for environmental affairs (on the use of animal

testing) and for transport and tourism (on the use of seatbelts for children in air-planes) drafted objecting resolutions which were withdrawn even before the committee vote (see Hardacre & Damen, 2009, for a more detailed discussion) after the Commission indicated that the modifications required by the EP would be taken into account in a subsequent revision of the implementing measures. In the post-Lisbon system there have been five such cases.

Our expectation of a low success rate of objections based on political preference alone, which we operationalized as objections tabled by political groups (or a required number of MEPs), unlike the objections tabled by Committees, was confirmed. The high cost of collective action, primarily the high level of support required in the EP to pass an objection in a parliament without a clear majority is the most obvious explanation for this. What we did not expect, however, was the high level of activity by political groups, even if they were eventually unsuccessful in formal objections. When it comes to tabling objections to the plenary, political groups are almost on par with the Committees in terms of numbers.

We have discussed above how the formal number of scrutinized DAs does not mean that the EP is not engaged and successful in the oversight earlier in the process. Through the Committee's official participation in the Commission's expert groups and the Commission's participation in Committee discussions, channels have been opened for the Committees, and the Commission, to engage in a bargaining process. Such channels are not open to political groups, resulting in them resorting more frequently to the formal tabling of an objection.

It also needs to be pointed out that the negative result of a vote does not mean that the action has been in vain. With the Commission being reluctant to engage in conflict, even a low likelihood of an objection passing in the EP will require the Commission's attention and may weigh on the future considerations of the Commission.

This chapter revealed the grounds for the formal exercise of the legislative veto in the EU and documented its infrequent use in the first decade after the reforms of Lisbon. It also shows that, in addition to the formal procedures, the EP developed strategies to engage with the Commission at earlier stages in the process. While political groups use the possibility to formally engage in the scrutiny process, the inter-institutional practices established as part of the consolidation of the Treaty of Lisbon favour a cross-party, Committee-based action.

Where does this leave us with the view to assess the impact of the 2019 elections on the EP's scrutiny practice? With Committee-level action being in the forefront and the inter-institutional practices and bargaining having been consolidated in the decade following the entry into force of the Lisbon Treaty, the political group constellation in the EP following the 2019 elections would require a deeper look at the Committee-level deliberations, but our assumption would be that the effect will be small. The formal scrutiny activities we have observed have in fact decreased in the time since the 2019 elections, however this is rather due to the special circumstances of the pandemic than to the election results.

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The Empowerment of the General Secretariat of the Council: A Growing Challenge for Rotating Presidencies?

Oriane Gilloz

1 WHO IS AT THE HELM? ONE QUESTION AND TWO STORIES TO BE TOLD

Wrong notes are rare and everyone is playing blindfolded. Rehearsal sessions start years before the day of the performance. Rhythm must prevail, and every member is necessary for the overall harmony. And, yet, the conductor is replaced every six months. It is not a performance of Ludwig van Beethoven's Ninth Symphony we are discussing here, but a leading European institution: the Council of the European Union and, more specifically, its rotating presidency supported by the General Secretariat of the Council (GSC). However, since the Treaty of Lisbon, another

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conductor has taken over: the permanent President of the European Council (EC). The rotating presidency, meanwhile, seems relegated to the pit. Since then, the academic literature has been full of nagging questions (Kaczyński, 2011; Riedel, 2014; Szczerba, 2016): where is the leadership of the EU's institutional framework? Is there room for manoeuvre left for the Council's Presidency in the aftermath of the Lisbon Treaty?

Although not uninteresting, these questions stem from a flawed ontological assumption about the core functions of the European Council and the Council of the EU. The former sets the strategic interests of the Union and plays a central role in managing crises, whereas the latter is the EU's primary mechanism for adopting and coordinating policies. The Treaty on European Union (TEU) clearly identifies these distinctive natures: the EC "shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof" (article 15 TUE), while the Council of the EU "shall carry out policy-making and coordinating functions as laid down in the Treaties" (article 16 TEU). Therefore, comparing the EC and the Council in terms of leadership reveals little about ongoing processes and changing power dynamics. What needs closer examination is how institutional and political dynamics have impacted the relationships between the rotating presidency and the GSC in leading the day-to-day EU decision-making.

Public policy scholars broadly acknowledge that institutional and political reforms do not only impact the institution they seek to (re)structure (Demailly et al., 2019). Like a shock wave propagating out sideways, a particular reform of one institution impacts the other institutions and individuals gravitating around it. Therefore, successive revisions of treaties and enlargements not only affect the rotating presidency ('the political sphere') but also the internal life of the Council ('the administrative sphere'). The relationship between both spheres has been a long-standing theme in political science since the early writings of Wilson (1887), Weber (1968 [1922]), and Waldo (1948). Surprisingly, scholars of European integration still neglect such an ecosystem approach. Dealing with the EU's institutional reforms while crowding out administrative effects only touches the tip of the iceberg since it does not grasp the processes of administrative and political adjustments (Jensen & Nedergaard, 2019). As a result, most studies on EU institutional change fail to capture a trend

that has lingered beneath the surface for years: the progressive empowerment of the General Secretariat and its influence on the Presidency. These preliminary reflections raise particular questions, and answering these questions is more complex than it seems at first glance: what are the political and administrative adjustments within the Council? How do these changes impact the relationships between the rotating presidency and the GSC? Which actor(s) set(s) the tone? There are at least two stories to be told to use Hollis and Smith's famous words.

The first story relates to the dominant epistemological paradigms composed of classical approaches and their respective levels of analysis, such as neofunctionalism, (new) intergovernmentalism, or rational choice and historical institutionalism. Besides grand and middle-range theories, academics have developed additional methodologies and models to assess the influence of rotating presidencies through normative indicators (Schout & Vanhoonacker, 2006; Toneva-Metodieva, 2020), their agenda-shaping power (Tallberg, 2003; Thomson, 2008), or their political leadership (Batory & Puetter, 2013; Veleva-Eftimova & Haralampiev, 2020). However, these contributions apply a primarily institutional lens leaving behind the social organisation of power and people working in or around EU institutions "as an independent variable that would explain [...] change" (Smith, 2019). In addition, Pollack suggests that engaging in grand meta-theoretical debates "encourage[s] scholars to be method-driven rather than problem-driven in their research", thus leading them to "ignore important questions or answers that do not fit easily into the grand debate" (Pollack, 2006). Therefore, these approaches seem insufficient for any in-depth exploration of the relation between the political and the aforementioned administrative dimensions. Despite being an interesting story, this first one does not help us answer our main questions.

The sociological approach is the second story. At first sight, it seems more difficult to tell since it does not provide a turnkey analysis. It consists in systematically (re)integrating an object of study within a network of power relationships and complex intertwining behaviours. In his early work, the sociologist Elias skilfully illustrated this necessity to reach higher levels of synthesis:

One does not understand a melody by considering each of its notes in isolation, unrelated to the other notes. Its structure too is nothing other than the structure of the relations between different notes. [...] One must start by thinking about the structure of the whole in order to understand the form of the individual parts. These and many other phenomena have one thing in common: to understand them, it is necessary to give up thinking in terms of single, isolated substances and to start thinking in terms of relationships and functions. (Norbert Elias, 1939)

Sociological theories, therefore, focus on the study of positional configurations of actors and social processes. Another central tenet in the field of sociology is that every institution is made up of formal and informal rules setting regulative, normative, and cognitive frameworks (Scott, 2008). Reforms transform both rules and frameworks that are the “central building blocks of institutional structures, providing the elastic fibres that guide behaviour” (Ibid.). Sociological approaches have the advantage of overcoming the classical antinomies macro/micro, collective/individual, or structure/agency. Exploring the Council through this lens can help explain the GSC’s gradual empowerment and why the Presidency is everything but a stubborn relic of the Council in the renewed EU institutional system.

This article is not about simply replacing the first story in favour of the second. It is more a matter of re-establishing the nobility of the second and of offering reflections for further studies on the Council and its administration. It seeks to defend the complementarity of these approaches rather than insisting on their oppositions. The first part of this paper will examine the Council, its Presidency, and its administration in light of the existing scholarly work. The second part seeks to unveil the dynamics of the GSC and the Presidency by reflecting on the links between political, administrative, and sociological changes that have characterised the Council’s sphere over the last fifteen years. This study follows a three-fold methodology consisting of, firstly, a literature review to integrate different perspectives and show the limits of previous research. Secondly, it includes a content analysis of three rounds of interviews with GSC officials conducted between 2019 and 2021. Thirdly, it is based on an extensive archival work to explore how the GSC managed to “move away from a small-scale administration to become a machine at an industrial scale” (Hommel, 1976).

2 THE COUNCIL OF THE EU AND ITS SECRETARIAT: THE UGLY DUCKLINGS OF EUROPEAN STUDIES

The Council and the Rotating Presidency: Literature Review

The Council of the European Union and the rotating presidency system are somewhat of a UFO, both institutionally and academically. Firstly, from an institutional point of view. The Council is a double-faced institution in its functions (legislative and executive), dimensions (European and national), competences (multi-issue/sectoral), and its way of working (both a forum for negotiation and for decision) (Hayes-Renshaw & Wallace, 2006). Although the Council is intergovernmental in its composition, it operates both as an intergovernmental body (when it discusses intergovernmental issues such as foreign and security policy) and as a Community institution (when it discusses EU legislation under the ordinary legislative procedure). Apart from the European Council, no other institution better embodies the intergovernmental and supranational features of the EU than the Council of the EU (Lewis, 2003).

Furthermore, it is the only institution at the international level that changes its Presidency every six months, following a pre-established order.¹ The Presidency's main task consists of garnering consensus or, failing that, facilitating compromises by skilfully articulating the positions of member states. In this respect, the functioning of the Council is peculiar. Despite meeting in ten different policy configurations, any of these configurations can adopt an act that falls under the remit of another configuration as the Council is a single entity. Hence, both in its nature and its operating rules, the Council genuinely differs from other EU institutions and bodies.

Secondly, the Council and its Presidency are a UFO from an academic point of view. Despite being acknowledged as the "central constituent in the EU's working procedure" (Naurin & Wallace, 2008) or even "the most powerful of all the EU institutions in terms of day-to-day politics" (Warleigh-Lack, 2008), the Council of the EU has remained a blind spot in the literature for most of its existence. There has been growing

¹ The Treaty that conceived the system of the rotating presidency is the Treaty of Paris in 1951 (article 27). The Treaty of Lisbon codifies the conditions under which the rotation system shall occur and formally introduces the 18-month trio presidency system already set up in 2006.

academic interest in the Council over the past twenty years, but theoretical approaches are somewhat fragmented and their epistemological contributions remain modest (Riedel, 2014). How to explain this low academic profile compared to studies on the European Commission or the European Parliament? A preliminary answer can be found in the theoretical foundations of European integration. Until the mid-'70 s, the European Economic Community (ECC) was mainly analysed through a supranational lens relying on neofunctionalist assumptions. The Council was seen as going against the supranational logic of European integration (Tsebelis & Garrett, 2001; Westlake & Galloway, 2004). Furthermore, the first studies on the ECC were conducted by International Relations scholars equating European integration to a subject of little relevance for a wider public (Costa & Brack, 2019). In 1967, Siotis evoked an "emerging European system", i.e. a system characterised by "a limited balance of power subsystem subordinate to a larger bipolar system" (p. 8). The very few studies published at the time on the Council's Presidency primarily focused on its functional, legal, and administrative dimensions (Ayrat, 1975).

A change occurred with the signing of the Single Act in 1986. The perspective of an area without internal frontiers raised substantial interest for academics, especially on foreign policy issues (Ifestos, 1987; Weiler & Wessels, 1988; Lodge, 1989). This renewed interest was further reinforced with the signing of the Maastricht Treaty in 1992. The formal establishment of the EU and the extension of its competences correspond to a growing and diversified body of literature on the Council and its rotating presidency from the mid-'90s onwards. In most cases, studies provide empirical accounts of Presidency performance from a normative perspective, either through case studies (see, for example, Duke on the UK, 1998; Morata & Pasarín on Spain, 2003), or through comparative analysis (Elgström, 2003). A more integrated and systemic lens is applied, thus reinscribing the Council in the broader EU institutional landscape.

Since the early 2000s, the Council and its Presidency are given greater attention, notably through rational choice theories (RCT) and sociological institutionalist frameworks (Häge, 2004). Building upon the main assumptions of intergovernmentalism, RCT rapidly became the leading conceptual paradigm (Tallberg, 2006). This approach mainly seeks to explore the Presidency's leeway in setting its own priorities. The sociological institutionalist framework attempts to clarify how institutions and

normative systems shape actors' preferences. Through this lens, the Presidency is described as "an identity-driven actor, who tries to determine what is the appropriate response to a given situation" (Elgström, 2003). Depending on the context, the Presidency is expected to endorse one of the roles identified in the literature: honest broker, agenda manager, initiator, defender of national interests, interinstitutional representative, chair of meetings, and point of contact (Riedel, 2014).

The Treaty of Lisbon: The Thorn in the Side of the council of the EU?

One radical novelty brought in by the Treaty of Lisbon is the permanent and full-time President of the European Council. It dispossesses the rotating presidency of the Presidency of the European Council. Additionally, the rotating presidency lost the chairing of several working groups. This is the case for the Foreign Affairs Council chaired by the High Representative of the Union for Foreign Affairs and Security Policy and for some working parties chaired by the GSC (e.g. on legal information, or on the codification of legislation). By reshaping the institutional balance of power, the Treaty of Lisbon has given new impetus to academic debates. From the 2010s onwards, studies on the Council explore the role and position of the Presidency by making a clear distinction between the pre- and post-Lisbon configuration (Batory & Puetter, 2013; Dinan, 2013; Kajnič & Geyer, 2011; Riedel, 2014). Most of them conclude that the rotating presidency has lost its legitimacy and political influence (Kaczyński, 2011).

This is where the paradox really comes in. Empirical evidence goes somewhat against the academic literature: holding the Council's Presidency still represents a pivotal moment for a member state. For instance, the 2020 German Presidency has been characterised as a "decisive Moment for the Future of Europe" because "the stance that the German government will take during the six-month period at the helm of the EU will profoundly shape the future of Europe. [...]. The presidency of the Council of the EU gives [Germany] a unique opportunity to bring leadership and energy into the effort to strategically think about the future of Europe, and reform the EU accordingly" (Fabbrini, 2020). Slovakia is another example in the same vein. The 2016 Slovak Presidency referred to its office as "the culmination of [its] integration journey" (Miroslav Lajčák, Minister for Foreign and European Affairs of the Slovak

Republic, 2016). How to explain that the Council Presidency has maintained itself despite its alleged loss of power after Lisbon? By claiming that “nothing is left for the rotating Council presidency under the Lisbon rules” (Kaczyński, 2011), institutionalist approaches tend to neglect a crucial player that contributes to strengthening the rotating presidency: the General Secretariat of the Council. Yet, already in 1979, the ‘Report on European Institutions’ stated that the GSC “possesses a knowledge of procedures, an overall view of the machinery, and an opportunity for neutral assessment of other State’s attitudes which even the largest national administration cannot match” (p. 34). However, as we will see in the following section, the GSC’s role and resources still remain an academic blind spot.

The General Secretariat of the Council: A Dynamic (Although Neglected) Administration

The GSC can be referred to as the ugly duckling of European studies. A rapid search query in leading journals of European studies confirms this gap: research on the Council’s administration is scarce. Its status within the EU institutional system can partially explain this lack of academic interest. Until 1992, the GSC is only briefly mentioned in treaties. It acquires legal recognition with the Treaty of Maastricht and political recognition with the Treaty of Amsterdam. In the latter, the Secretary-General of the Council incorporates the function of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP). For a decade, there is substantial interest in the Secretariat’s leadership (Beach, 2008). In 2009, however, the Secretary-General of the Council and the HR/VP are split into two distinct functions, and henceforth, Europeanists lose interest in the GSC.

These institutional changes led the Secretariat to initiate a broad reflection on its identity and its structure. For example, one can mention the GSC code of good administrative behaviour (2001), the granting of public access to Council documents (2001), or the code of conduct to improve the COREPER preparation and running of meetings (2003). Upon his appointment in 2015, the Secretary-General Tranholm-Mikkelsen further engaged with organisational reforms by starting a collective reflection process within the GSC. The outcome was the 2016 Action Plan entitled ‘For a more dynamic, flexible and collaborative GSC’. Tranholm-Mikkelsen recalled that the Secretariat had adapted to many

significant changes over the last years, namely, enlargements, new Treaties, and the European Council's increasing visibility. While the need to "continue to perform the traditional role of the GSC" is stressed, the Action Plan clarifies that, in order to remain relevant, it is also crucial to adapt quickly to changing environments.

Despite these internal dynamics, the GSC remains academically neglected. Some research briefly touches upon the distinction between the GSC's traditional and new roles (Westlake & Galloway, 2004), but most are descriptive or rely on a purely legal perspective. Even more striking, the GSC has never been the topic of a book, except for a single descriptive monograph published in German (Egger, 1994). This lack of interest in the Secretariat reflects the predominant view for a long time within the Council. According to former Secretary-General Ersbøll (1980–1994), "the Member States seemed to me dominated by the view that the Secretariat's basic role was to do as it was told and to 'know its place' in the order of things, (...) i.e. meant being efficient and largely invisible" (Ersbøll, 1998, p. 2). Therefore, the GSC was not seen as a relevant research subject since it lacked visibility within the Council itself.

There is one notable exception to this state of research. In the early 2000s, Mangenot shed light on the Secretariat through a sociological lens. In several articles, he explored to what extent the GSC has acted as a policy entrepreneur in accelerating the Europeanisation of public policies (2003, 2011). The following section will examine how the GSC has gradually gained influence by opening successive windows of opportunities, thus profoundly changing the relationship between the political and the administrative spheres.

3 THE GENERAL SECRETARIAT OF THE COUNCIL: THE POWER BEHIND THE THRONE?

A Series of Institutional Changes as Windows of Opportunity for the GSC

Although the Lisbon Treaty has brought in significant changes to the EU institutional structure, the current version of the Presidency and the Council's administration is, in fact, rooted in a series of cumulative trends (Westlake, 2020). A first incremental change is the successive waves of enlargement. As a Union of 15 member states, countries were well equipped to take on the Presidency. However, the larger the EU, the

longer the time span between individual presidencies. Over time, capitals have lost tight ownership of the Presidency as the time span between the national and the European spheres has increased. In an EU with 27 members, each country can expect to hold the Presidency approximately every 14 years. While the newly joined Member States are less familiar with the Council's way of working, the same is also true for 'older' member states. Most national civil servants who have worked for a Presidency are unlikely to still occupy their functions by the time the next one rolls around. The 2016 GSC Action Plan clearly acknowledges this issue:

In today's Union, a Member State holds a presidency approximately every 14 years. Unlike in the past, each presidency is actually a new presidency, with relatively limited institutional memory. This increases even more the importance of the GSC's role in providing adequate and coherent advice across sectorial areas, presidency preparations and support of the presidencies.

As a result, Member States increasingly rely on the expertise of the Secretariat and its role as the Council's institutional memory, thus creating new windows of opportunity for the administration. The expertise and permanence of the staff become the GSC's primary mode of legitimacy. Looking at the academic background of the staff overtime epitomises this enhanced professional capabilities: whereas in 1995, 33% had a master's degree or equivalent, this proportion had risen to 64% in 2010 (Kassim & Connolly, 2017). This number even climbs to 84% within the Directorate-General for General and Institutional Policy (GIP). Commenting on these figures, an Antici Senior Advisor acknowledges that "the GSC has clearly become more professional [and] is increasingly recruiting brilliant people who could easily work for big companies".²

Moreover, the variety of national administrative cultures plays a significant role in the relationships between the Secretariat and the Presidency. In this respect, studies often refer to the dichotomy between capital-based and Brussels-based coordination (Jensen & Nedergaard, 2019). For instance, the Polish or the French Presidencies are known for being primarily based in their capitals with less use of the Council's Secretariat (i.e. capital-based presidencies). On the other end of the scale, Cypriot or Danish civil servants have considerable leeway during negotiations and

² Interview with an Antici advisor, phone call, 17 March 2020.

rely more on the assistance of their permanent representations and the GSC (i.e. Brussels-based presidencies). Schout and Vanhoonacker note that “countries [who, for the planning of meetings, drafting of agendas and circulation of documents, rely upon] on the Council general secretariat will generally have a smooth presidency as concerns organisation” (2003, p. 8). A senior GSC official confirmed that the more capital-based Presidency is, the more difficult it is to work with them: “We tell them at the beginning to be ‘try to be the much perm-based as your capital allows it’. The UK Presidency was used to having broad room for manoeuvres. The French had none, the German had some. Eastern countries have little because they come from control-oriented bureaucratic cultures”.³

A second incremental change is the growing role of the European Parliament in the decision-making process (Costa & Maignette, 2003; Costa, 2009, 2013). The generalisation of the Ordinary Legislative Procedure (OLP) in 2009 changed the institutional balance. The Council lost its privileged access to the Commission and was put on equal footing with the Parliament in the legislative process. Negotiations in trilogues and early agreements have become the new normal. The growing number of texts agreed upon during the first reading epitomises this situation: from 30% between 1999 and 2004 to almost 80% between 2014 and 2016 (Costa & Brack, 2019). Although the Handbook of the Presidency of the Council mentions that officials from the institutions concerned may attend political trilogues, their involvement is quasi-systematic. GSC staff possesses a clear understanding of the rules of the game and the challenges at stake. Apart from the Chair of the Council working group (or the Chair of the Committee of COREPER at a higher level) and the Council’s Secretariat, no one else from the Council is involved in trilogues. Therefore, EU officials are acting not only as a support for the Presidency but also as political advisors. They map out the interests of Member States in a ‘spirit of compromise’, help the Presidency reach consensus positions and ensure those are reflected in the compromise legislative texts. This awareness is also essential to defending the interests of the Council, thus maintaining an equilibrium *vis-à-vis* other EU institutions.

Here, one can easily argue that the GSC does not have a political agenda. However, the fact that the Secretariat is not granted any legislative or executive power does not mean that its influence is non-existent.

³ Interview with a GSC senior level official, Brussels, 14 January 2020.

One needs to move away from an intuitive and narrow idea of power, i.e. the idea that “A has power over B to the extent that he can get B to do something that B would not otherwise do” (Dahl, 1957). Political sociology indeed defines influence as the combination of three main sources: (1) numbers of people, (2) social organisation, and (3) resources, such as knowledge or competence (Bierstedt, 1950). Contrary to the Presidency, the Secretariat combines all three. Not only are EU civil servants numerically superior to national officials involved in a six-month Presidency, but the GSC is also a permanent and structured organisation built on formal and informal rules. In addition, its staff accumulate various social resources such as specialised knowledge on different legislative dossiers and durable networks within EU institutions. This combination of resources provides the GSC with an undeniable asset. It exerts an influence because of its role as an advisor both to the Presidency and the President of the European Council, because of its involvement in trilogues, because of its role in preparing briefings for the Presidency, and because of its strong and independent Legal Service.

Lastly, the Council’s secretariat also benefits from institutional timeframes, as a Trio of Presidencies often overlaps with institutional change. This was the case for the Romania–Finland–Croatia Trio (January 2019–June 2020): one part of the Trio Program was carried out during the Juncker Commission, the other under the Von der Leyen Commission. Anyhow, a six-month Presidency office does not cover an entire negotiations process which, on average, spans 18 months. Consequently, at least three Presidencies are needed to carry out a legislative file. On sensitive dossiers such as fishery or agriculture, the negotiations can even last up to three years (Smith, 2013). In such a configuration, the Presidency’s influence and its resources are severely reduced. The Council’s Secretariat remains the main actor ensuring continuity.

To sum up, a series of institutional changes has prevented the Presidency from cumulating social resources. Presidencies do not have the capacity to set their routines and even less capacity to institutionalise them, i.e. to establish them as part of the Council’s system and culture (Martha & Barnett, 2004). Yet, it is this institutionalisation that establishes new normative and cognitive frameworks and shapes actors’ relationships. Political sociology particularly emphasises the importance of time-related factors (Georgakakis, 2013; Goetz, 2014): the more permanent an actor is within a structure, the more it will be able to anchor its own rules, norms, and beliefs (Boltanski, 1973). While the Presidency

deploys its national administrative apparatus for six months (of which only five are fully operational), the GSC endorses the role of institutional memory. Therefore, the Council does not have the same significance for officials who have spent most of their careers in national ministries and for civil servants who are experienced Brussels insiders. For the former, the six-month Presidency usually represents a stage in a nationally oriented career, while the latter primarily build their career in the EU sphere (Kassim & Connolly, 2017). Assessing the Council through this lens reveals that the GSC and its staff benefit from resources linked to their permanence.

The GSC's Strategic Reframing and Organisational Institutionalisation

To further strengthen its role as “chancellerie du prince” (Mangenot, 2003), the Secretariat has strategically reframed its position within the Council. Firstly, the GSC's offering of tailor-made trainings for future presidencies has significantly improved over the years. The Secretariat has always known well ‘how to run the Council’: this knowledge is an undeniable asset with most of the legislative work done in trilogues. New pieces of training have been created to strengthen the Presidency in informal negotiations like, for instance, the recording of trilogue simulations. The overall guidance provided to the Presidency has also been improved. A ‘GSC service package for the Presidency’ has been issued, “outlining the standard services provided by policy DGs in preparation of Presidencies” (GSC, 2016).

Secondly, the GSC has established a clearer division of labour in the preparation of future presidencies. Until the early 2000, training programmes were mainly provided by think tanks, independent institutes, or national high-level structures such as the *Ecole Nationale d'Administration* in France or the Vienna School of International Studies in Austria (Charl  ty, 2011). Progressively, however, the GSC has sought to grant itself an exclusive competence on technical processes and legal procedures related to the functioning of the Presidency. In 2010, a team composed of highly skilled civil servants was created within DG GIP: the PYP team for ‘Prepare your Presidency’. This alone epitomises the willingness to retake control of Presidency preparation by (re)internalising the training offer.

Thirdly, organisational adjustments have become crucial with the creation of the permanent President of the European Council (PEC).

Although the PEC has its own cabinet, it lacks the administrative capacity to “effectively maintain overall guidance of machine room processes” (Smeets & Zaun, 2021). Therefore, the GSC has redeployed itself in offering enhanced administrative support to the PEC cabinet. The 2016 Action Plan acknowledges the following:

Rotating and other permanent presidencies rely on their own administrations in addition to the services of the GSC. The President of the European Council has his own cabinet, but we, in the GSC, constitute his only and unique administration. Many efforts have already been undertaken to take account of this fact since the introduction in 2009 of the permanent President of the European Council. But more can and should be done.

The willingness to reinforce further contacts between members of the PEC cabinet and GSC staff clearly appears in the actions taken: thematic meetings organised by DG GIP and policy DGs, thematic papers provided by DGs to the PEC, document tracking implementation, and peer-to-peer training sessions on PEC briefings are just a few examples.

Lastly, the ‘Handbook of the Presidency of the Council of the European Union’ merits closer examination. Released from 2011 onwards, the Handbook exemplifies the trend towards organisational institutionalisation. The main objective of the hundred-page manual is to offer “both an overview of the role of the Presidency and practical advice on how to best fulfil it” (p. 7). It provides the rotating presidencies with a written and detailed (though informative) guideline. As Tranholm-Mikkelsen points out, the Handbook is “an internal document summarising the practices and knowledge accumulated by the Secretariat in supporting the efficient conduct of the 6-month Presidencies – a role that has become increasingly complex over the years”. The Handbook’s chapters gather information on getting ready for the Presidency, the EU decision-making process, and the Presidency’s relations with other institutions. Although the Handbook has no legal value, it contributes to the institutionalisation of the Secretariat’s normative and cognitive frameworks within the Council. Dalton notes that informal practices and knowledge constitute, for the administration, both its “biggest intangible asset and its touchiest open secret” (Dalton, 1959). Experienced administrators “know that things get done informally”, thus allowing them to “win unofficial ends without raising questions” (Ibid.). He underlines that administrators

value informal processes and practices because they can be integrated into the daily routine of the institution without being officially formalised.

These internal reforms and organisational adjustments have granted the GSC an increasingly central role. It is no longer a mere transmission belt. Schout and Vanhoonacker even state that the “rotating presidency system would have been impossible without the active support of the Council General Secretariat” (2003, p. 16). In the same vein, Bátora suggests that the effectiveness of Presidencies is “strengthened by tapping into resources of the GSC be that the institutional memory, personnel capacities or procedural expertise. (...) Their autonomy might also be strengthened via the linkage with the GSC”. Thus, by empowering itself over time, the Council’s administration also empowers the Presidency.

Towards a Progressive Bureaucratic Ascendancy Over the Political Sphere?

One can legitimately wonder what these changes imply for the relationship between the GSC and the Presidencies. Schout and Vanhoonacker underline that “we have the unclear situation where the Secretariat fills a vacuum in the decision-making without having the mandate to do so. While some [presidencies] are all too happy that the Secretariat alleviates its work, other stress that the Secretariat officials should stick to their purely supportive role” (2003, p. 16). Does the Secretariat’s empowerment generate tensions *vis-à-vis* some Presidencies? It is a reasonable question since distinct frameworks and timeframes coexist within a single institution.

On the one hand, there are the permanent GSC officials, whose main tasks are to support the Presidency while ensuring the consistency of the Council’s work. On the other hand, there is the individual member state holding the Presidency for six months and that may want to prioritise specific items on the Council’s agenda. To put it in Kaczyński’s words: “One expects the wolves (politicians) to dance the waltz (be an honest broker) in a situation where there is no reward for complying” (2011, p.341). However, one should not forget that the Presidency must act as a neutral and honest broker that does not serve individual interests. The neutrality principle prevents any member state from deviating (too much) from its honest broker role. Kaczyński stresses that any Presidency failing in this duty immediately loses both its credibility and its reputation. In

this respect, the 2018 Austrian Presidency pushed forward Austria's hard-line on migration policy in the Council's meetings and agenda. According to some GSC officials,⁴ this attitude resulted in a great deal of frustration among member states. However, tensions between European and national officials remain rare. Neither the GSC, nor the Member States have any interest in placing a strain on their relationship.

Moreover, it is in the member states' interests to adapt to the functioning of the GSC—and not the other way around. Frameworks and routines set by the Secretariat prevail for the above-mentioned reasons. At first glance, this broad acceptance might seem surprising as the Council is the “house of the member states” (Tranholm-Mikkelsen, 2016). However, this paradox is easily solved when considering, again, time-related factors. A six-month office is a short window of opportunity for a Presidency. It requires some time to get familiar with all the technicalities of the decision-making process, thus making it practically impossible for any national administration to set its own routines. Furthermore, one cannot imagine the GSC adapting its practices and ways of working to each national administration every six months: “if Member states start to reinvent the wheel and try to reorganise their work from their capital rather than Brussels, chaos will be the result” (Schout & Vanhoonacker, 2003, p. 8).

4 CONCLUDING REMARKS

This article sought to explore the positional configurations of actors within the Council of the EU. After decades of institutional change, one can legitimately wonder who, in the Council, is actually in the driver's seat. Many seasoned observers have claimed that the Lisbon Treaty delivered the final blow to the Council's Presidency. This is a myth based upon two false assumptions.

First, there is a persistent confusion around the exact nature of the EU institutional setup. The rotating presidency occupies a specific position that is neither fully intergovernmental nor supranational. Indeed, one of its main tasks “goes beyond arriving at a synthesis of national positions. A good chair defends the general European interest and tries to ensure that decisions provide a basis for a viable EU in the long term”

⁴ Interviews with two GSC officials, Brussels, 20 January and 14 February 2020.

(Schout & Vanhoonacker, 2003, p. 5). Secondly, the much-criticised reduction in the Presidency's leeway and visibility since Lisbon does not mean that the Presidency no longer exercises influence. Although the EC's strategic agenda and the Trio Program reduce each Presidency's room for manoeuvre, it is still possible for the Presidency to shape the agenda by prioritising specific issues.

From an institutional and legal point of view, no one can deny that the rotating presidency is at the helm of the Council. However, due to successive institutional changes, national administrations have progressively lost a firm grip on and overview of the Council's routines. From the nature of its coordinative position and institutional memory, the Secretariat acts as the central nervous system of the Council. Yet, the GSC has gone well beyond its traditional role. Although devoid of political, legislative, and executive power, the GSC has gradually empowered itself by structuring loose areas with its normative and cognitive frameworks. Over time, it has strategically deployed new resources to strengthen its supportive role, especially during the preparatory phase of the Presidency. Political sociology stresses that influence comes from an enhanced capacity to accumulate social resources (Bourdieu, 1980; Lin, 1995). GSC's social resources include, *inter alia*, its permanent structure, its role in compromise-building and in preparing the Presidency, its durable and strong network within EU institutions, its privileged access to information, and its expertise on technical, regulatory, and policy issues. This accumulation of resources has increased the legitimacy of the Secretariat *vis-à-vis* the rotating presidencies.

One should not fall into the trap of insisting upon the dichotomy between normative politics and administration, i.e. governments involved in the design of public policies, on the one hand, the administration concerned with their execution on the other. Instead, one should insist on the complementarity of politics and administration: the GSC ensures the smooth and effective running of the Council's work, whereas the Presidency aims to broker compromises. Interdependency and reciprocal influence between national and European officials within the Council are indisputable. Going further, one can even talk about symbiotic relationships between national and EU officials. Thanks to the empowerment of the GSC, the Presidency is more capable of pursuing the Council's interests in the interinstitutional game, whatever the stage of the EU

legislative processes. Hence, the GSC has effectively maintained and even strengthened the rotating presidency system over the past decades.

One may legitimately wonder whether the COVID-19 pandemic has threatened this equilibrium. A GSC senior official interviewed in February 2021 observed that "the Council is almost empty. It reigns an eerie atmosphere as the few meetings taking place are held by video conference".⁵ As the Secretary-General Tranholm-Mikkelsen insisted on the need to "keep the diplomatic machinery going",⁶ only the COREPER never stopped meeting physically, thus shifting the "locus of Council decision-making to COREPER throughout the Covid-19 crisis" (Russack & Fenner, 2020). As a result, the GSC staff has a narrow margin of manoeuvre when it comes to its role of political advisor. A member of Tranholm-Mikkelsen's cabinet observes that "before Covid, we were used to passing by the different offices, we had many informal meetings with national civil servants and colleagues from other DGs. With Covid, I think we all suffered from the fact that there was no such informal talk anymore. We work a lot by e-mail, which is completely sub-optimal".⁷ Hence, several questions arise based on the previous findings: What will be the renewed relationships between officials based in Brussels, those based in capitals, and the GSC staff? Will we witness a shift of power from Brussels towards a more capital-based way of functioning? What will be the impact of the temporary solutions and informal practices on the permanent structures? Further research is needed to assess the effects of COVID-19 on adjustments between the administrative sphere and the political sphere. As stated by a senior official, "[the GSC] exerts influence because it remains invisible".⁸ Therefore, the primary challenge for the Council's administration lies in remaining visible enough to further support and strengthen the Presidency throughout the crisis.

⁵ Interview with a senior level official, phone call, 21 February 2021.

⁶ Interview of Jeppe Tranholm-Mikkelsen, "Jeppe Tranholm-Mikkelsen played a leading role when the EU rose in the midst of a historic crisis: It cannot be said that when it becomes dangerous, the EU shuts down" (own translation), in: Berlingske.dk, Tuesday 20 October 2020, available at <https://www.berlingske.dk/europa/jeppe-tranholm-mikkelsen-spillede-en-hovedrolle-da-eu-rejste-sig-midt-i-en> (accessed: 17 August 2021).

⁷ Interview with a senior level official, Brussels, 19 May 2021.

⁸ Ibid.

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The European Parliament Under COVID-19: Institutional Adaptation in Times of Pandemics

Ariadna Ripoll Servent and Alfredo De Feo

1 INTRODUCTION

With the COVID-19 pandemic, the European Parliament (EP) has faced one of the most serious crises in its history. The need to reduce contacts forced the EP to close its physical premises and move, without any previous preparation, to remote working. The cessation of activities disrupted the core function of a legislative Institution, namely that of ‘parleying’—holding debates and fostering dialogues among different political views. The EP faced even more challenges than many other parliaments,

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since its multinational structure made it particularly complicated for its members and staff to move around Europe. Despite these difficult conditions, the EP has shown a great capacity for resilience that has translated into concerted efforts to maintain ‘business continuity’ and offered an opportunity for technical and organisational innovation. However, we argue that the ability of the EP to adapt rapidly to the changing circumstances is closely linked to pre-existing processes of digital innovation as well as the multinational character of the institution, which makes a move to remote work more natural than in national parliaments.

This chapter discusses how adapting to the new situation forced a change in culture not only in the EP’s internal procedures but also in the roles of different actors—from members of the European Parliament (MEPs) to EP staff. It draws on original data from an online survey with MEPs, MEPs’ assistants, EP political groups’ staff and EP Secretariat staff as well as semi-structured interviews with 28 EP actors. The survey asked respondents about their experiences with remote working, the quality of contacts and the impact it had on the influence and internal dynamics of the EP. The results of the survey were complemented with 25 online interviews (some covering more than one interview partner) with a wide range of services within the EP Secretariat as well as the Political Groups Secretariats and two MEPs. A list of interviews is provided at the end of the chapter. The names and functions have been anonymised to protect our sources and prevent any professional or personal harm. These data allow us to explore both the administrative and political challenges of the pandemic for the working methods of the European Parliament.

Our aim is to explain, first, the main processes of adaptation; second, to what extent these processes reflect the radical or rather incremental change, exploring also how these transformations were perceived by different categories of EP actors and, third, which changes may survive the pandemic. We show that the sense of urgency and necessity given by the crisis sped up a process that was already in motion and reduced the level of resistance and criticism to far-reaching changes in the working practices of the Parliament. Therefore, the generalised impression that democracy should not be suspended and that the EP should be able to act and deliver in the crisis helped de-politicise the response to the pandemic and reinforced the EP’s political and administrative leadership. At the same time, this case study shows that the success in facing these challenges came at the cost of becoming more inward-looking and disconnected from the Commission and Council during a key period of crisis

decision-making. Hence, the chapter concludes by outlining how the working culture developed during the crisis might influence the role of the institution, internally and externally, in a post-pandemic future.

2 THE CHALLENGES OF REMOTE PARTICIPATION

The sudden awareness of the danger posed by the health situation in March 2020 obliged the European Parliament to take immediate measures. For a multinational institution, whose work is based on weekly travelling across Europe, the decisions were traumatic; all normal working methods were disrupted; more or less overnight, all face-to-face meetings were cancelled and all the staff of the EP Secretariat, political groups and parliamentary assistants were ordered to work remotely.

Although the pandemic hit the EP in a similar way to many national parliaments (Rozenberg, 2020), by insisting on ‘business continuity’ and resilience, the EP became a testing ground and an example for many other assemblies. This section offers an overview of the main processes of adaptation in political, institutional and organisational terms.

A Top-Down Process to Ensure ‘Business Continuity’

During crises, power tends to concentrate in the hands of executives; the EU was no exception, with the Commission and the European Council taking the lead in providing a response to the global pandemic (Wolff & Ladi, 2020). The EP was often put under pressure from the other EU Institutions to deliver, which led its political bodies to take over responsibility for decisions on ‘business continuity’. This translated into an empowerment of the EP President, who had to make quick executive decisions, such as the suspension of sessions in Strasbourg on 5 March 2020, which set the Treaty provision on the EP’s seat against fundamental right to safety (PV CPG 09.03.2020, p. 6; EP Secretariat #2; #5, #6). This ‘structure of command’ became consolidated over the summer and autumn months of 2020, since it allowed the EP to react rapidly and flexibly—adapting to the constant changes in the health situation and the requirements imposed by Belgium, France and Luxembourg. This, however, did not exempt the EP’s leadership from criticism: while the political groups felt that they were not sufficiently informed by the President and the EP Secretariat, other MEPs considered that the decisions taken by the Conference of Presidents and the Bureau had shaky legal

grounds and were not open to debate in plenary (MEP #1; #2; Political Group Secretariat #1; #4).

Indeed, the need for executive action within the EP was also a response to the absence of a legal framework within which to organise parliamentary business in cases of emergency. It quickly became clear that, in order to ensure continuity and make it possible for the EU to provide a quick response to the crisis, the EP had to find a way for MEPs to vote remotely (EP Secretariat #3; #10). Since no decisions can be legally passed without being voted, this became the main priority for EP political leaders, especially since the Rules of Procedure did not foresee a situation in which MEPs could vote remotely. As early as 20 March 2020, the Bureau decided to extend the rules on electronic voting (see below).

In addition, the decisions of the political hierarchy were complemented by the ‘can do’ philosophy of the Secretary General, who started preparing for the crisis early in February 2020 and adopted a precautionary attitude aimed to protect those working within the EP (EP Secretariat #5; #8; #17; #21; #22). One of the main measures decided by the Secretary General involved the move to 100% teleworking—first for vulnerable groups (9 March 2020, PE 646.546/BUR/rev) and then extended to most staff by April 2020 (PE 649.207/BUR/rev; PE 644.344/QUEST/CM). Teleworking was not a new concept but, compared to other EU Institutions, it was not well developed in the EP. The EP hierarchy was attached to a culture that associated presence with work and absence with holidays (Political Group Secretariat #2). Therefore, there was a generalised feeling that working from home was undesirable and less productive than being present in Parliament. The pandemic forced a rapid change in this culture and largely voided the arguments of those considering that working from home was equivalent to doing nothing (EP Secretariat #1; #22; Political Group Secretariat #2). The rapidity and the flexibility shown by staff in adapting to the new situation led to a new consensus that teleworking, while highly inconvenient for certain categories and not desirable if applied 100%, can nevertheless work in the EP (EP Secretariat #4; #9; #26; Political Group Secretariat #4).

Finally, the EP hierarchy was quick to introduce solutions that helped move to remote work. From early March, there were efforts to acquire and distribute ‘hybrid’ computers that would allow staff members to work from home using the EP’s interface (EP Secretariat #9; #15; Political Group Secretariat #4). While, at the beginning, most communications

relied on WhatsApp and email, the EP made a quick effort to introduce new forms of communication, such as Webex and Jabber (a messaging tool), complemented later on by Microsoft Teams and the EP's own videoconferencing system (EP Secretariat #9; #15; Political Group Secretariat #4). In addition, a substantial effort was made to find a solution for committee, plenary and preparatory meetings, including the possibility to add remote interpretation in several languages. From 23 March 2020, Interactio, a Lithuanian start-up, started being used as a tool to organise multilingual meetings. This software allows for remote meetings with interpretation—one of the main limitations that platforms such as Webex and Zoom presented in 2020. Interactio was also chosen because the company was open to further developing and adapting the software to the needs of the EP (for instance, by moving its servers to Europe). However, meetings still had to be organised from a physical room in the EP; since only a limited number of rooms (5–6 at the beginning, then rising to 11) were fitted with the necessary equipment, the number of available slots for meetings with interpretation was very limited and led to difficult decisions as to what should be prioritised and which meetings could be sacrificed or organised without interpretation (EP Secretariat #7; #14; #15; see also below).

IT Innovations in the Field of Remote Voting

The IT department of the EP (DG ITEC) together with DG LINC (who is responsible for Logistics and Interpretation for Conferences) were the main units responsible for finding technical solutions that would allow business continuity and an exercise of the democratic prerogatives, notably through remote debates and voting.

Table 1 shows the capacity of the EP to continue working remotely during the pandemic. To make this possible, DG ITEC advanced a two-year plan on digitalisation and implemented it within a few weeks, thereby ensuring that the new infrastructure would enable video conferencing with high definition channels and the possibility to organise hybrid meetings (that is, with some people present in Parliament and some intervening remotely) (EP Secretariat #3; #15). Apart from the technical innovations discussed above, the most technically and politically challenging change was the move to remote voting (EP Secretariat #6; #10).

Table 1 Remote work in the EP (March–November 2020)

Plenary days	112
Remote interventions in plenary	160
Items voted in plenary	762
Remote meetings	1600
Participants in remote meetings	130.000
Number of single votes in committees	540.000

Source DG ITEC (December 2020)

The EP was requested to adopt legislation already in the early days of the pandemic. For instance, during the plenary session on 26 March 2020, the EP voted to prevent airlines flying empty (ghost) flights to avoid losing their slots (2020/0042/COD). These early votes were organised manually: MEPs received a ballot form at their EP Email addresses, which had to be filled in on paper and then scanned or photographed and sent back using the same email address. The EP Secretariat then had to check the ballots, ensure that they had been received before the closing time and record the result of the vote in the minutes of the sitting (PE 649.208/BUR/ANN). This made for very cumbersome and slow voting—stretching over one entire day—and, by April, it was changed so that members could vote on a webpage and return a signed copy of their ballot paper after going through a two-step identification system to enhance security (EP Secretariat #3; #15; MEP #1; #2).

Although the system allowing MEPs to vote via email was also made available for committees (PE639.592v03), it was deemed too burdensome, especially for those committees with higher workloads and pressing deadlines like the Budgets Committee and those facing secret votes—which could not be ensured when voting via email (EP Secretariat #3; #7; #14). As a result, the Committee on Budgets and the Directorate-General for Internal Policies of the Union (DG IPOL) developed independently an app based on the Apple iOS, named *ivote*, which allowed in the emergency situation to quickly begin conducting remote voting from a digital device. This raised concerns, especially from left-wing groups, since it forced MEPs to use an Apple device. As a result, DG ITEC developed a new app based on the same language as *ivote* but within the EP's interface (EP Secretariat #1b; #3; #7; #14). The app was then adapted to be used not only for the committee but also for plenary votes. Although some concerns remained about the security of the votes and the ability to cast

secret votes (Political Group Secretariat #1; MEP #1), these alternative electronic votes proved very effective, as Fig. 1 shows:

These forms of electronic voting were based on Rules 22(2), 25(4) and 192(1) of the Rules of Procedure and an earlier Decision of 3 May 2004 on rules governing voting, which had foreseen the use of electronic voting in the chamber—that is, the use of electronic roll call votes that could be physically done in plenary. Therefore, stretching this interpretation of electronic voting to remote voting opened key questions about the validity of votes that were later on addressed in a reform of the Rules of Procedure (MEP #2; see below).

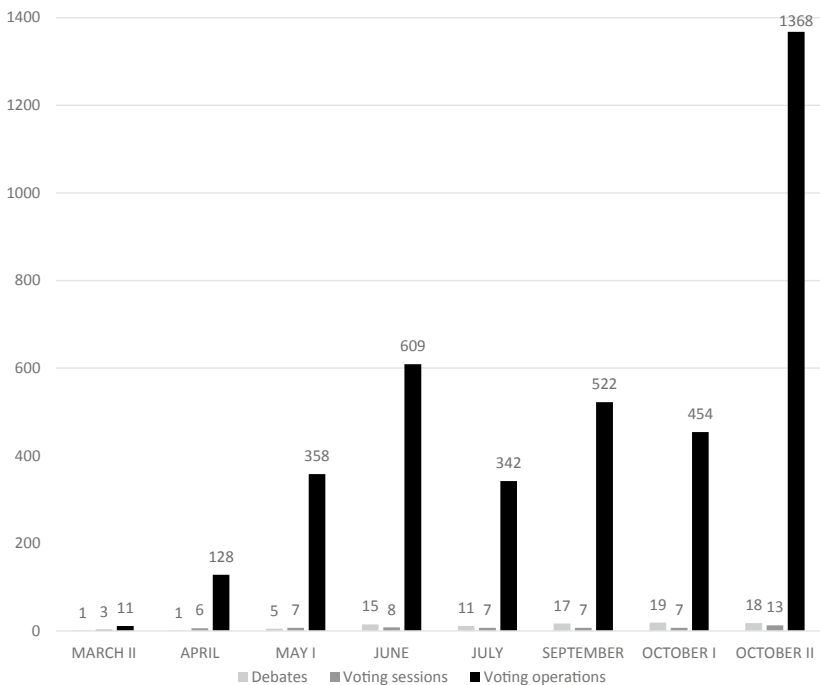


Fig. 1 Overview of debates and votes March II—October II 2020 part-sessions (Source European Parliament [2020b])

Going Remote in a Multilingual Parliament

Although multilingualism has always been a challenge for the EP, remote working showed how essential it is to make parliament work (EP Secretariat #1; #3; Political Group Secretariat #1). Concerns about ensuring interpretation emerged from the early days of the pandemic and the move to remote working. Solutions like Interactio made it technically possible to have multilingual meetings in remote or hybrid form, but, as mentioned above, the platform could be used only in a limited number of parallel meeting slots—with priority given to committees and plenary as well as political bodies, such as the Conference of Presidents, the Conference of Committee Chairs and the Bureau. This left few slots for the multitude of preparatory meetings that are organised regularly in the EP: coordinators meetings, shadows meetings and group meetings (with their respective working groups) being the most noticeable among a wide array of informal contacts. Therefore, many of the meetings that did not get a slot with Interactio had to be organised with other videoconferencing tools and were often held in English. This made it difficult for those MEPs with weak language skills to participate. Platforms like Webex and Zoom developed their own system for adding interpretation to videoconferences and this became the preferred alternative of some political groups, which used their own budget to acquire the necessary add-ins (EP Secretariat #9; #14; #19; #21; Political Group Secretariat #1; #2; #3; #4; MEP#2).

On the other hand, problems of interpretation were also linked to the limited number of available interpreters and their working conditions. Many interpreters, especially those working freelance, do not live in Brussels but come from their member state when needed (e.g. when plenary requires an additional number of interpreters). However, the imposition of travel bans and the reintroduction of internal borders that followed the spread of the pandemic meant that many interpreters could not travel to Brussels to offer their services. In addition, since interpretation (even over Interactio) was done physically from the EP premises, the number of interpreters had to be reduced to comply with the health safety measures in the interpreters' booths. Finally, the shortage of interpretation was made more acute by the requests of interpreters, who wanted to work a maximum of first eight, later up to twelve hours per week (EP Secretariat #3; #7; #11; #13; #14; #15).

The EP made efforts to increase the number of languages from 6 to 13 and to provide additional 'mobile' booths but language equality

remained a major issue (EP Secretariat #3; #11; 15; Political Group Secretariat #4)—with some considering it the main ‘bottleneck’ during the pandemic (EP Secretariat #9). In Spring 2021, the EP started using the empty booths in Strasbourg to connect interpreters to meetings from there and gradually set up regional interpretation hubs in Riga, Vienna, Ljubljana and London (EP Secretariat #7; #15; #15b). On 8 April 2021, the EP signed an agreement with the International Association of Conference Interpreters (AIIC), representing freelance interpreters working for the EP. This agreement made it possible to provide interpretation from outside the EP buildings. This solution might be welcome especially by those freelancers that lost most of their income when they could not go to work to Brussels and might now provide interpretation from home (EP Secretariat #7, #11, #15, #15b).

3 POLITICAL AND INSTITUTIONAL CHANGE: BETWEEN TRADITION AND INNOVATION

‘Business continuity’ was indeed the mantra that inspired the European Parliament’s work after March 2020. Our survey and interviews show that the large majority of EP members and staff considered that this objective was largely achieved, although they recognised the existence of major gaps and challenges. This process of adaptation was characterised by a steep learning curve, with constant adjustments and improvements. MEPs, staff and Parliamentary assistants showed patience and flexibility, although by autumn 2020 a noticeable ‘lockdown fatigue’ set in and people became more impatient to go back to work in the Parliament’s buildings (EP Secretariat #9; #14; #17; Political Group Secretariat #2).

As the previous section showed, the EP leadership structures managed a profound transformation of the organisation and the working culture—one that has no precedent in the history of the institution. Many of our interlocutors stressed how the changes achieved in six months would have taken several years in normal circumstances—if they could have been achieved at all (EP Secretariat #3; #8; #10; Political Group Secretariat #2). Therefore, this section discusses to what extent the changes introduced since March 2020 are a major break with the past or whether they show continuity and incremental change.

The Impact of Digitalisation on Parliamentary Work in the Last Decade

The debate on a more digital Parliament did not emerge with the pandemic, nor was it exclusive to the EP. Indeed, there had already been long-term plans for the Parliament to increase its digital activities and technical tools with a view to simplifying processes and increasing productivity. The planning had been based on the political priorities set by the Bureau and allocated limited financial resources. The idea was to spread these changes over a period of two years to avoid the common resistance to IT changes encountered in most administrations (EP Secretariat #3).

These innovations, however, built on a longer process of reform. For instance, the e-Parliament programme launched in 2008 aimed to empower MEPs by providing them with improved legislative and parliamentary electronic tools to adapt gradually to new modalities of digital work (Vilella, 2019). These digital innovations had a crucial impact on the simplification of procedures, streamlining processes and reducing financial resources. Among the various innovations, three deserve special mention for the significant impact they had on parliamentary work: first, the tool to manage budgetary amendments, second, e-meetings and, third, the web-based amendment-authoring tool AT4AM (<https://at4am.eu/>). These different tools simplified the work of MEPs enormously and helped various EP services, from parliamentary committees to translation, with many daily tasks, such as the distribution of documents. Indeed, since 2014, the EP achieved the objective of becoming a paperless institution: all documents pertinent to plenary or committee meetings are accessible to MEPs from anywhere and using any device. Further to that, behind the scenes, the EP ITEC Department also strove to create a cyber-secure environment (EP Secretariat #1; #3; #8; #9; #16). Therefore, the efforts required by the pandemic did not start from scratch but built on previous efforts to digitalise and strengthen the tools and security of the EP.

The Impact of the Pandemic on the Quality of Parliamentary Work

Before the pandemic, the European Parliament had already witnessed important changes to its culture: the arrival of 61% of new MEPs in 2019 had already eroded the institutional memory that underpins many of the practices and ways of working acquired over the years (EP Secretariat #10; Wiesner, 2018). These newly elected MEPs had little time to

assimilate the EP's working methods, as the legislative work started only after the late confirmation of the Commission and its entry into office on 1 December 2019. At the same time, many newcomers were younger and more digitally informed but lacked the network of personal contacts; therefore, while they often adapted better to the new situation than the more experienced colleagues, they did not have the opportunity to build the personal and political capital necessary to be influential in the EP (EP Secretariat #2; #10; #19; Political Group Secretariat #2; #4; MEP #1; #2; cf. Beauvallet & Michon, 2010).

Remote work also affected one of the pillars of parliamentary work: plenary and committee meetings. While the possibility to vote on key crisis legislation was ensured, the move to a digital plenary was more limited and had a direct impact on the quality of debates (EP Secretariat #13; Political Group Secretariat #1; MEP #1). The floor was granted only to MEPs who could be physically present in the hemicycle. Therefore, there was a growing mismatch between the opportunities to participate given to those MEPs who lived or could travel to Brussels and those who stayed in their home constituencies. In autumn 2020, the EP introduced the possibility for MEPs to intervene from EP liaison offices (EPLOs) in member states. This was certainly not a perfect solution, because many MEPs could still not travel to a city in their country hosting an EPLO, but it did help to slightly increase the participation of non-Brussels-based MEPs (EP Secretariat #2; #3; #7; Political Group Secretariat #1). For instance, in the second plenary session of October 2020, out of the 207 MEPs who intervened in debates, 47 did so from EPLOs (European Parliament, 2020a). However, the limited time provided for debates in much shorter plenary sessions led to a clear dominance of EP group leaders, who often monopolised the speaking time of their groups (EP Secretariat #2).

As for committees, with the introduction of Interactio, MEPs could intervene in meetings, but only if they registered in advance to be on the list of speakers and limited the length of their intervention. The use of Interactio obliged committees to reduce the length of meetings but allowed at the same time to slightly increase their frequency. This was certainly better than having no debates, but the absence of exchanges with their peers, the very limited speaking time, the absence in some cases of interpretation, and, above all, the lack of spontaneity negatively impacted the quality of work in committees. Indeed, those not directly involved in

legislative negotiations had no incentive to participate in meetings (EP Secretariat #7; #14; #20; #21; Political Group Secretariat #2).

The EP was certainly the EU Institution that suffered most of the restrictions caused by the pandemic. Inter-institutional relations were reduced to a minimum and there was a generalised feeling that the concentration on urgent matters, together with the lack of debates, affected the visibility of the EP among their voters; many MEPs had difficulties in accepting this and put a lot of pressure on staff to continue with the same high rhythm of work (EP Secretariat #10; #18; Political Group Secretariat #3). Indeed, the EP only regained some visibility during the negotiations on the Multiannual Financial Framework, the Recovery and Resilience Facility and the Rule of Law regulation (EP Secretariat #14; #18; Political Group Secretariat #3; MEP #2). In addition, there was a general feeling that the formal equality of MEPs had been undermined by the crisis. MEPs living in areas with a poor internet connection felt penalised, despite efforts by the EP to provide them with LTE routers (based on 4G technology). Similarly, those with limited IT literacy and linguistic capacity suffered the most, especially since they could rely less on their assistants, who were generally in Brussels (EP Secretariat #2; #3; #7; #14; #19; Political Group Secretariat #2).

He lack of personal contacts and the impossibility to hold informal chats and share information in the corridors was a common complaint among MEPs and staff members and considered the most problematic aspect of remote work (EP Secretariat #7; #8; #9; #10; #12; #14; #19; Political Group Secretariat #2). As one official summarised it, work became a 'sterile process; we walk like a horse with blinders' (EP Secretariat #20). This led to major difficulties in keeping information flowing beyond the immediate bubble; the data from the survey and our interviews show that there was an increasing disconnect among MEPs but also between the administrative and political sides of the EP (EP Secretariat #7; #10; #18; #19; Political Group Secretariat #1; MEP #1). Many commented that some MEPs had completely disappeared and that they did not know new members who were not working on the same topic (EP Secretariat #4; #14). Therefore, the inability to put faces to names when it comes to newcomers but, more broadly, the lack of informal channels to transmit information raised issues of trust and efficiency (EP Secretariat #7; #10; #12; #14; #18; Political Group Secretariat #4). Generally, people considered that the Parliament had become more inefficient with telework and that this affected its capacity to influence EU politics (EP Secretariat

#7; #9; #13; #18; #20; see also below on teleworking). The positive aspects that were more often named were the lack of a commute, more flexibility to organise work and the environmental benefits of cutting down travel (EP Secretariat #8; Political Group Secretariat #1; MEP #2).

Institutionalising Change in the Rules of Procedure

The EP contingency plans had not foreseen a lockdown and the impossibility to travel within European countries. Since the EP Rules of Procedure had no provisions to address the situation of Parliament after March 2020, their reform was seen as a priority in order to ensure business continuity (EP Secretariat #6; MEP #1). As mentioned above, the first limited change came with the decision of the EP President, ratified on 20 March 2020 by the Bureau, to supplement its Decision of 3 May 2004 on rules governing voting (PE 649.208/BUR/ANN).

However, a more formal modification of the Rules of Procedure was needed to ensure that the decisions made during the lockdown were legally valid and could not be contested in front of the Court of Justice of the European Union. Therefore, the Constitutional Affairs (AFCO) committee, led by a working group, engaged in a larger reform of the Rules (EP Secretariat #6; MEP #1). One of the main issues that divided the working group was the extent of the reform and how to vote on the modifications. Some raised concerns that voting for the reform using the same extraordinary procedures they were trying to formalise was legally shaky. However, given that there was no end in view to the lockdown, it was felt that changing the Rules of Procedure was of utmost importance and could not wait until work in Parliament would become normal again (EP Secretariat #6; Political Group Secretariat #1; #2; MEP #1; #2).

Political groups struck a compromise on the remit of the changes and agreed to have new rules that would not just apply to pandemics but to any ‘extraordinary circumstances’. The agreement reached on 17 December 2020 (2020/2098/REG) would thus apply to other eventualities, such as the travel disturbances created by the eruption of the Eyjafjallajökull volcano in 2010, but not to individual constraints, such as maternity leave (EP Secretariat #18; MEP #2). This is, of course, relevant also for the formal plenaries (in Strasbourg or Brussels) and committee meetings, since it voids potential debates about using remote meetings for regular sessions—an issue that could prove particularly problematic when

linked to the seat in Strasbourg. The modifications sanction the empowerment of the EP President, who is allowed, with the approval of the Conference of Presidents, to take emergency measures. These decisions can be challenged by a minority of MEPs, who can ask for confirmation of the measures with a vote in plenary (new Rule 237a). This shows how the Rules of Procedure have been used to confirm the informal practices that emerged during the pandemic and, thereby, contributed to strengthening the hierarchical powers of the President—a shift that is in line with the use of the Rules to strengthen ‘democracy through parliament’ rather than ‘democracy in parliament’ (Brack & Costa, 2018).

4 A NEW FUTURE FOR THE EUROPEAN PARLIAMENT AFTER COVID?

We asked a question about the institutionalisation of the changes brought about by the pandemic to all our interviewees. Their answer was clear: even if some features, like telework and the possibility to organise hybrid meetings, will remain, there was a generalised wish for a ‘return to normal’.

This section outlines some of the limitations to the changes brought about by the crisis and the potential legacies for the future.

EP Staff: Towards a New Age of Teleworking?

As mentioned earlier, the EP administration had been reluctant to enlarge teleworking for its staff. The culture of presence in the institution—which saw working from home as not working—prevailed among managers. The forced shift to teleworking during the pandemic indubitably weakened this approach and led to a new consensus that a regulated teleworking scheme (adapted to the needs of different services) would be an advantage for EP staff (EP Secretariat #1; #9; #20; Political Group Secretariat #4).

Teleworking forced considerable adaptation in organising work within the EP Secretariat and the political groups. On the one hand, it required more efforts of coordination from the hierarchy—especially director generals and heads of unit—that needed to find new ways of maintaining a certain ‘esprit de corps’ and integrating newcomers (EP Secretariat #4; #7; #9; #10; #12; #16; #18; #20; Political Group Secretariat #4). This meant that, for a majority of staff, the move to teleworking did not help them gain autonomy or increase their sense of responsibility in a more

horizontal work environment (EP Secretariat #22). On the contrary, most people complained that, while the EP had managed to find a wide array of technical solutions, most of them now experienced a higher workload and email overload (EP Secretariat #4; #7; #9; #13; #19; #20). As one interviewee noted, this impression was linked to experiencing linear days and a two-dimensional way of working (EP Secretariat #22).

Indeed, the survey and interviews underlined the difficulties in separating work from family life, dealing with home-schooling and sharing the space with other family members and having the feeling that they needed to be available all the time. Most complained that, what could be done with a short chat or a phone call, now took more and longer meetings (EP Secretariat #4; #7; #9; #22; Political Group Secretariat #3; #4). Concerns about the mental health of staff led many in the Secretariat and political groups' hierarchies to introduce guides on the 'right to disconnect'—but this did not prevent some people from leaving particularly stressful jobs and suffering burnouts (EP Secretariat #4; #9; #19; #22; Political Group Secretariat #3; #4). Therefore, while the pandemic helped to shift the culture on teleworking, it also diminished the enthusiasm for remote work, even among its defenders. The 'lockdown fatigue' that had set in by Autumn 2020 made staff members appreciate their work in the Parliament premises—some even remarking that they missed the opportunities to socialise and network during the Strasbourg sessions (EP Secretariat #14; #17; #19; #20; Political Group Secretariat #1; #2). Therefore, the extent of change regarding the work culture of the EP is still uncertain and might depend on how internalised these changes become among staff and the hierarchy and to what extent staff are willing to make active use of these new tools after the pandemic.

New Opportunities for Engagement with the External World

One of the areas that suffered the most from remote working was the visibility of the EP and its connection with the outside world. The first activities that had to be cancelled were those that allowed the participation of the public. Many marked Greta Thunberg's intervention in the Environment Committee (ENVI) on 4 March 2020 as a turning point from an open to a remote parliament. Many initiatives, especially those directed to young people, were cancelled and substituted by other remote activities. Similarly, pending conferences with African representatives and with national parliaments were shifted to digital versions. Both

EP services and political groups underlined the steep learning curve experienced during these online events, with manifold technical difficulties and unsuitable arrangements that affected the level and quality of participation (EP Secretariat #2; #8; #13; #16; Political Group Secretariat #3; #4).

However, not all respondents were negative when evaluating the move to remote. Many underlined the opportunities offered by videoconferencing, such as the possibility to invite high-level guests who would not have come for a short event. Similarly, the European Parliament Research Service noted the increase in participation and the broader public reached by online events, since anyone could connect from their home and did not have to be physically in Brussels. Indeed, it was this type of activities that was most often named when discussing potential legacies after the pandemic. For instance, one could imagine using hybrid meetings for hearings and workshops, which could expand the quality and type of input received by Parliament (EP Secretariat #1; #5; #6; #8; #13; #14; #15; #16; #18; #19; #21; Political Group Secretariat #1). Others mentioned the opportunity to liaise more regularly with national parliamentarians—especially policy experts who are usually not in touch with MEPs in their respective committees. Meetings of inter-parliamentary delegations were seen as more controversial, since some considered that moving them to remote would lead to losing the knowledge and influence that emerges in more informal contacts and dinners (EP Secretariat #8; #12; #17). Finally, the development of hybrid technologies in EPLOs was considered a new opportunity to better liaise and disseminate the activities of the EP on the national level by using them as hubs for hybrid decentralised meetings (EP Secretariat #12).

MEPs: A New Way of Working

One of the main concerns is how these changes might alter the working culture of MEPs and their opportunities to exercise influence. A first consideration relates to the possibility that normal times will bring a two-track parliament—with some MEPs always present in Brussels and others preferring to operate on remote—what some compared to a potential ‘Star Wars’ Parliament (EP Secretariat #21). This is certainly a possibility now that Interactio offers a platform for hybrid meetings (EP Secretariat #3; #8; Political Group Secretariat #4), but there seems to be a generalised agreement that this option should be reserved for exceptional times or smaller preparatory meetings, where a more flexible approach might

bring more efficiency (EP Secretariat #12; #15; #21; Political Group Secretariat #1; MEP #1; #2). A general consensus was that the legislative process, especially when linked to inter-institutional negotiations (political trilogues), is something that needs physical presence; a working Parliament cannot function uniquely remotely (EP Secretariat #7; #8; #10; #14; #18; #21; Political Group Secretariat #1; MEP #1; #2).

Therefore, even if the current change to the Rules of Procedure specifies that all formal activities, i.e. where a vote is necessary, must be done with MEPs present, the use of hybrid meetings and remote voting is likely to remain an open debate, especially if those struggling to travel or prioritising constituency work push for more opportunities to telework (Political Group Secretariat #2; #3; #4; MEP #2). Indeed, some MEPs might argue that, since the votes are usually the last phase of a negotiation, it would not be a problem to use remote voting, especially in plenary, avoiding in some cases hours of travelling. Similarly, some might become more reluctant to travel only for a two-minute intervention or in order to sign the register and receive the daily allowance (EP Secretariat #8; Political Group Secretariat #3; MEP #2). Therefore, these debates are highly connected to ideology, age and centre–periphery dynamics reflecting the ease of travel between Brussels (and Strasbourg) and their home constituencies (EP Secretariat #3; Political Group Secretariat #2; #3; MEP #2). The option to have remote meetings would also open a door to reforming the parliamentary calendar—increasing the number of ‘green’ (or constituency) weeks and making it possible to organise meetings on Monday and Friday as well. In fact, the EP calendar for 2021 already added two additional constituency weeks but did not foresee the organisation of hybrid meetings during these weeks. This change was a concrete step in reducing MEPs travelling, which would contribute to more contacts with their constituency (EP Secretariat #12; Political Group Secretariat #1; #2; #3; MEP #2). Indeed, these discussions resonate with ongoing debates about the environmental footprint of MEPs and are likely to reignite the discussion about the Treaty obligation to hold plenary sessions in Strasbourg (EP Secretariat #3; #6; Political Group Secretariat #1).

5 CONCLUSION

The European Parliament experienced a massive disruption to its parliamentary culture with the spread of COVID-19. As is often the case

during a crisis, executives took over and marginalised parliaments as sites of democratic deliberation. In this case, there is still an open debate about how much the European Parliament contributed to the emergency decisions taken to alleviate the impact of the pandemic (e.g. Closa et al., 2021). Despite these adverse circumstances, the EP sought to remain on the EU's institutional radar: its political and administrative hierarchy used quick executive decisions to adapt and ensure 'business continuity'. It introduced new digital tools that made it possible to continue legislative work and, thereby, became a frontrunner and a model for many national parliaments. However, the need for urgent solutions was markedly top-down, which came at the expense of dialogue, especially among the political groups and between the latter and the EP Secretariat. This is led to political struggles for power and leadership—especially since some innovations can only be institutionalised by those MEPs who are those in control of the Rules of Procedure.

Although there were radical changes in the EP's working methods, they were made possible thanks to existing plans to move towards digitalisation and new working methods; this nuances the level of innovation brought about by the pandemic. The crisis was certainly an accelerator and helped diminish the level of resistance and criticism. However, it also showed the limitations of a world of digital work and the importance of in-person presence and personal contacts in order to build trust within the institution. Indeed, the disruption of networks and information flows underlined the importance of informality in the workings of the EP, since only with direct contacts, corridor talks and discussions over lunch can the EP become influential and play a role in decision-making. Therefore, although the EP managed to ensure 'business continuity', and hence allowed the EU to deliver essential responses to the crisis, remote work seriously constrained its capacity to act as a counter-weight to the Council and the Commission and led to a new internal balance of power between front- and backbenchers.

The EP has not missed the opportunity to learn from the lockdown and also to take advantage of the large turnover of MEPs following the 2019 elections. In June 2021, it opened an in-depth reflection on how the EP should be organised for the remaining part of the term. This exercise¹ aimed both to assess the changes introduced during the pandemic and to

¹ This exercise was conducted by five focus groups—each composed by 15 MEPs—They presented their Recommendations on July 2021.

gather proposals on how to innovate its working methods in the different areas: internal and plenary organisation, parliamentary competences and diplomacy as well as relations with citizens and communication. The recommendations presented a number of innovations. Some might be easy to implement, since they would only require an internal decision of the EP, as the reduction of ‘the number of items to be placed on the agenda’, which would give MEPs ‘more speaking time’, or a request to limit the discussion of technical dossiers in plenary and prioritise debates on controversial legislative files. Others might face higher hurdles, since they involve other Institutions or even the modification of the Treaties, such as the introduction of a genuine right of legislative initiative or the power to introduce a vote of no confidence for individual commissioners.²

As indicated by a majority of our interviewees, the recommendations exclude the possibility to prolong some of the emergency measures used during the lockdown period. In particular, there is a tendency to dismiss the possibility of remote participation in plenary and committees, including the votes. More flexibility is shown for less formal meetings (i.e. hearings, conferences, coordinators and working groups meetings) provided that interpretation can be guaranteed. The good experience made during the lockdown suggests that a structured teleworking could be developed for EP staff but tailored to different services’ needs.

The EP has demonstrated resilience to adapt and readiness to change, but we should not forget that the EP is not alone in the European arena: what will be the attitude of the other Institutions, in particular the Council? Will member states encourage their representatives to continue to travel to Brussels? How can EU Institutions strike a balance between limiting travel and still meeting face-to-face and ensuring a certain degree of socialisation and trust? Will national parliaments use these changes as an opportunity to enhance their (remote) contacts with the European Parliament and other EU Institutions? To conclude, the experience made during the lockdown offers a chance to rethink the functioning of the European Institutions but institutional inertia and structural hurdles might make it difficult to use this window of opportunity to produce large-scale institutional change. A particular thanks to our interviewees for sharing their time and insights.

² European Parliament seeks limelight with revamp, Politico, 27/7/2021, <https://www.politico.eu/article/european-parliament-revamp-for-citizens-media-interest/>.

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LIST OF INTERVIEWS

EP Secretariat #1—26.10.2020
 EP Secretariat #2—30.10.2020
 EP Secretariat #3—19.11.2020
 EP Secretariat #4—20.11.2020
 EP Secretariat #5—24.11.2020
 EP Secretariat #6—25.11.2020
 EP Secretariat #7—27.11.2020
 EP Secretariat #8—25.11.2020
 EP Secretariat #9—26.11.2020
 EP Secretariat #10—26.11.2020
 EP Secretariat #11—26.11.2020
 EP Secretariat #12—30.11.2020
 EP Secretariat #13—30.11.2020
 EP Secretariat #14—02.12.2020
 EP Secretariat #15—03.12.2020
 EP Secretariat #16—03.12.2020
 EP Secretariat #18—13.01.2021
 EP Secretariat #19—18.01.2021
 EP Secretariat #20—28.01.2021
 EP Secretariat #21—04.03.2021
 EP Secretariat #22—04.03.2021
 EP Secretariat #1b—Email communication, 16.04.2021
 EP Secretariat #15b—Email communication, 25.04.2021
 EP Secretariat #17—08.12.2020
 MEP #1—15.01.2021
 MEP #2—20.01.2021
 Political Group Secretariat #1—30.11.2020
 Political Group Secretariat #2—04.12.2020
 Political Group Secretariat #3—10.12.2020
 Political Group Secretariat #4—17.12.2020

PART III

Policies



Fighting Fires from Crisis to Crisis: The Evolution of Central Banking in Europe

Michele Chang, Gabriel Glöckler, and Laura Pierret

2019 was not only marked by the European Parliamentary elections but it was also the end of the term of ECB President Mario Draghi. His successor, Christine Lagarde, faces numerous challenges in an economic and political environment that has changed substantially since the last changing of the guard of the ECB. In addition to significant changes in

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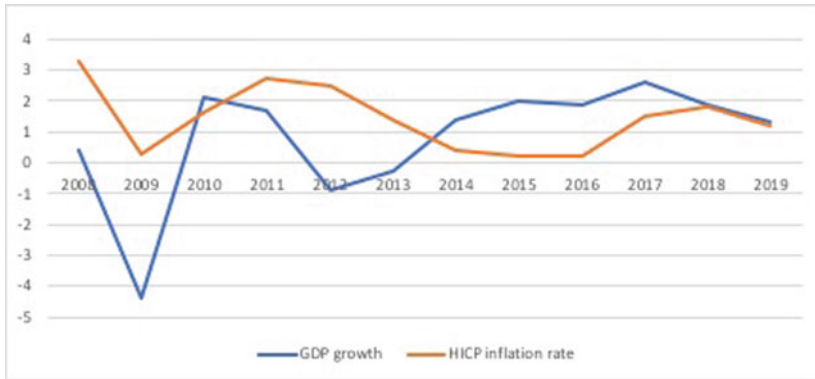


Fig. 1 Euro area annual growth rates and inflation rates 2008–2019

the role of the ECB as a result of the reforms undertaken during the euro crisis, the economic and political environments have changed, demanding that the ECB adjust its policies in ways that would have been unthinkable to central bankers at the start of Draghi's term a decade earlier.

First, the great moderation of the aughts that boasted robust economic growth with low inflation gave way to low inflation and low growth during the euro's second decade (see Fig. 1). The changed economic environment has brought about important policy considerations for the ECB and the utility of its interest rate policy as it hovered near the zero lower bound for significant periods of time (see Fig. 2).

Second, the ECB's use of non-standard monetary policy was at its most controversial when making use of its balance sheet to purchase government bonds, and the use of ECB balance sheet has expanded significantly. Indeed, the German Constitutional Court questioned the legality of the Outright Monetary Transactions (OMT) programme in which the ECB would purchase government bonds in unlimited amounts on secondary markets in exchange for the country undergoing a European Stability Mechanism macroeconomic adjustment programme (OMT has yet to be used). The case charged that the ECB had exceeded its mandate and violated the prohibition of monetary financing under Article 123 TFEU. Although in 2015 the Court of Justice of the European Union (CJEU)

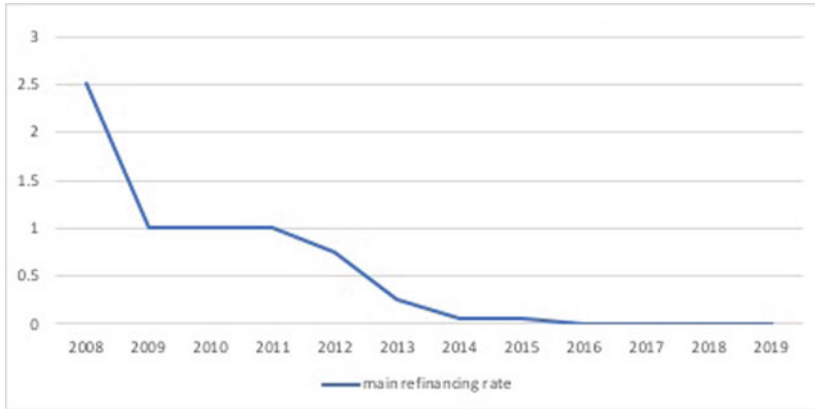


Fig. 2 2008–2019 end-of-year main refinancing rate

ruled that the ECB had done neither,¹ a similar case arose on the legality of the 2015 Public Securities Purchase Programme (the euro area's version of quantitative easing in which the ECB purchased government bonds). The CJEU again validated the ECB's decision in its 11 December judgement,² but the German Constitutional Court ruled on 5 May 2020 that the ECB had exceeded its mandate by not respecting the principle of proportionality.³ The issue seems settled for now, with the Bundesbank engaged in a more structured dialogue with German Parliament, and the release of ECB documents that explain the proportionality of the ECB's decisions. Undisturbed by this legal-political controversy, the ECB had embarked on another quantitative easing programme in response to the Covid-19 crisis, the Pandemic Emergency Purchase Programme.

Finally, the euro crisis led to an internal reflection on euro area governance, including calls from French President Emmanuel Macron for a fiscal capacity for the euro area (Dupont et al., 2017). Although

¹ ECJ 16 June 2015, Case C-62/14, Gauweiler et al. v Deutscher Bundestag.

² ECJ 17 August 2017, Case C-493/17, REQUEST for a Preliminary Ruling under Article 267 TFEU from the Bundesverfassungsgericht (Federal Constitutional Court, Germany), Made by Decision of 18 July 2017, Received at the Court on 17 August 2017, in the Proceedings Brought by Heinrich Weiss and Others.

³ BVerfG, Judgment of the Second Senate of 5 May 2020—2 BvR 859/15—paras. 1–237, http://www.bverfg.de/e/rs20200505_2bvr085915en.html.

Macron's idea eventually was negotiated down to a very modest proposal for a Budgetary Instrument for Convergence and Competitiveness (Eurogroup, 2019), the Covid-19 crisis prompted a €750 billion euro Next Generation EU (NGEU) budgetary package that German Finance Minister Olaf Scholz compared to US Treasury Secretary Alexander Hamilton's plan in 1790 for the federal government to assume states' debt that sowed the seeds of a fiscal union (Die Zeit, 2020). While not all considered NGEU Hamiltonian, it was welcomed by Lagarde as a potential "game changer that Europe needs" (Lagarde, 2020a).

This contribution considers the evolution of the ECB in response to the low inflation and low interest rate environments prevailing in the 2010s and the use of central bank balance sheets. The first section examines the ideational shift in macroeconomic policy that allowed the ECB to implement policies counter to its Ordo-liberal roots focussed exclusively on the threat of inflation. The next section asks if the use of the Eurosystem's balance sheet should be considered a conventional tool, especially given the likelihood that the Eurosystem will hold euro area government debt for some time to come. Governments have conveniently allowed central banks to become the "only game in town" since the onset of the global financial crisis over a decade ago. The situation is economically, politically, and legally untenable in the long-run, and reflections on the future of euro area governance must consider this important lacuna. Finally, comparisons are drawn between ECB policies and its counterparts in the UK and the US. The threats and opportunities in the current economic and political climate are similar across the advanced economies, and the similarities and differences in the policy responses of the ECB, the Bank of England, and the Federal Reserve are analysed.

1 IDEATIONAL SHIFTS IN MACROECONOMIC POLICY AND ECB POLICYMAKING

This section looks at ideas to explain the evolution of the ECB's policymaking since the global financial crisis that began in 2007, specifically how the crisis has allowed for a radical change in macroeconomic policy beliefs and, with it, an expansive interpretation of the role of the central bank.

The Tradition of Macroeconomic Policy Ideas

Our tradition of macroeconomic thought begins with the high levels of inflation and unemployment of the 1970s, the influence of neoclassical and monetarist economics, and the rational expectations revolution. The combination of these elements gave birth to a new prevailing consensus in macroeconomic policy: unlike the aftermath of the Great Depression (where fiscal policy had a privileged status thanks to the dominance of the Keynesian paradigm), monetary policy has become the principal instrument to stabilize the economy. With the advent of monetarism, stable and low inflation was seen as an essential condition to ensure economic growth. Therefore, price stability replaced unemployment as the main concern of policymakers (Hall, 1993, p. 284) and became the primary mandate of most central banks in advanced economies. The conventional wisdom also assumed individuals (and by extension, firms, and financial markets) to be rational. Thus, through the predictable and transparent setting of interest rates, central banks have the power to anchor inflation expectations, thereby influencing the aggregate demand while avoiding the risk of side effects associated with fiscal policy. To ensure predictability and transparency and avoid the time-inconsistency problem, central banks have become increasingly independent from political forces and have based their decisions on numerical targets and rules. At the time, monetary policy and central bankers enjoyed a strong technocratic legitimacy. Paradoxically, the growing prestige and power of central banks went hand in hand with a narrowing of their mandate (Dyson, 2014, p. 385).

These traditional ideas about how the economy works are embodied in institutions, including economic and monetary union (EMU). By deciding to grant supranational powers to only monetary policymaking and to constrain fiscal discretion, the founding fathers of the euro declared the dominance of monetary over fiscal policies and assumed its ability to stabilize the Eurozone in case of symmetric shocks (Gouardo & Aussiloux, 2016). The legal framework of the ECB itself is another explicit indicator of the institutionalization of the “old view” of macroeconomic policy (Furman, 2016): its primary objective is to maintain price stability (Article 127(1), TFEU). To ensure the fulfilment of this objective, the ECB is “independent in the exercise of its powers” (Article 282(3), TFEU) and monetary financing is prohibited (Article 123, TFEU). The latter, meaning that there is no lender of last resort

for governments of the Eurozone, establishes a strict separation of monetary from fiscal policies and sets price stability as the ultimate goal of the ECB—a sign of its Ordo-liberal roots.

The Global Financial Crisis and Social Learning in Macroeconomic Policy

This professional consensus in macroeconomic policy ideas ended when a crisis unrelated to high inflation appeared and destabilized the entire industrialized world. In the face of this event, the process of social learning began, that is, “a deliberate attempt to adjust the goals or techniques of policy in response to past experience and new information” (Hall, 1993, p. 278). The concept of social learning takes different forms, depending on the nature and magnitude of changes in policy: a process of first-order change refers to changes in the instrument settings; of second-order change to changes in the instruments and their settings; of third-order change to changes in the instruments, their settings and the hierarchy of goals. The latter constitutes a “paradigm shift” (Hall, 1993, pp. 278–279). The degree of social learning in European macroeconomic policy is assessed by reference to the ECB.

As previously mentioned, the setting of short-term interest rates is the traditional instrument of central banks to influence the aggregate demand in the economy and maintain price stability. The crisis has had a significant impact on prices: with the bankruptcy of Lehman Brothers and the collapse of the international financial system, the inflation rate in the euro area massively dropped—from 3.6% in September 2008 to 0.6% in July 2009 (ECB, 2020a). Since then, the average inflation has been 1.3% (from August 2009 to September 2020) (ECB, 2020a). The Governing Council of the ECB adjusted the key interest rates in response to the consequences of the crisis: the interest rate on the main refinancing operations started to decrease in October 2008 and declined gradually until reaching the zero lower bound in March 2016 (ECB, 2020b). The interest rates were adjusted to attain the ECB’s target on inflation and, therefore, represent a process of first-order change. Since 2009, the ECB also made second-order changes by implementing new instruments—the so-called unconventional or non-standard monetary policy measures—to complement the setting of short-term interest rates and achieve the stated objective of its monetary policy. The most representative case of these changes is the launch of quantitative easing, the large-scale purchases of

assets, including sovereign bonds, in financial markets. This important change in policy instruments conducted by the ECB took place relatively late (in 2015) compared to other central banks (the US Federal Reserve started in November 2008). The change in the instruments of the ECB eventually occurred in response to the failure of conventional methods: lowering short-term interest rates near to zero did not ensure price stability (e.g. in January 2015, the inflation rate in the euro area reached, again, its historical minimum of -0.6%) (ECB, 2020a).

The cases discussed above are the characteristics of the ECB's process of social learning and validate the first two conditions for a paradigm shift (changes in the instruments and their settings); what about the third (changes in the hierarchy of goals)? The post-2007 financial, economic, and sovereign debt crisis produced a change in the goals of the ECB. Beyond the strict aim of price stability, safeguarding the integrity of the euro area and the stability of the European financial system have become the objectives of the ECB. When ECB President Mario Draghi declared that "the ECB is ready to do whatever it takes to preserve the euro" (Draghi, 2012) and announced the OMT programme, the goal was not to preserve the value of the euro, but to preserve the euro itself by finally alleviating the pressures on the sovereign bond market (Matthijs, 2016, p. 385)—though an argumentative link was made, by insisting that "a currency whose integrity is in doubt cannot be a stable currency" (Draghi, 2013). Similarly, the objective of the new supervisory tasks of the ECB within the Single Supervisory Mechanism (SSM) is not to maintain price stability, but "to protect the safety and soundness of credit institutions and the stability of the financial system" (Council Regulation (EU) No. 1024/2013, (65)). This active and expansive role for the ECB embodies a paradox. The growing perception of central banks as being "the only game in town" went along with further puzzles and anomalies undermining the authority of the dominant paradigm in macroeconomics—the one centred on the fight against inflation and that stated monetary policy dominance. In particular, the prolonged period of low inflation limits the scope and effectiveness of traditional monetary policy and calls for not only unconventional monetary policy but also increased use of countercyclical fiscal policy. Learning from new information and developments, leading experts in the field voiced their discontent with the "old" macroeconomic policy framework (e.g. Blanchard et al., 2010). The process of European economic governance reforms and debates for "deepening" EMU in the wake of the post-2007 crises, in which the

ECB plays an active role, cannot be properly understood without reference to these ideational shifts in macroeconomics. Finally, the limits of conventional monetary policy power also question the belief in the technocratic nature of monetary policy that helped to legitimize central bank independence. The strict separation of monetary and fiscal policies has been blurred by the growing redistributive effects of monetary policy in terms of who wins and who loses. The ECB's low interest rates policy and use of its balance sheet faced strong criticism from savers and creditors. Divergent preferences about the evolution of monetary policy led to politicization and the ECB's legitimacy became an intense subject of public debate (Högenauer & Howarth, 2016; Jones, 2019; Orphanides, 2018). Challenges to the ECB's independence has led to innovation in its accountability practices: in addition to the conventional monetary dialogue with the European Parliament, for example, visits to national parliaments were introduced (Teschke, 2019). All in all, the financial crisis has questioned the prevailing ideas in macroeconomic policy and has progressively allowed for a more expansive interpretation of the role of the ECB (Ferrara, 2019). However, this evolution in instruments and goals of the central bank seems to result in the pragmatic adaptation to changing circumstances rather than a shift in paradigm. The process of paradigm shift and consensus-building in European macroeconomic policy is still ongoing: changes in the hierarchy of goals of the ECB have not officially happened, and a new paradigm has not yet been institutionalized in EMU.

“Between Past and Future” (Arendt, 1961)

The strength of tradition might be a reason why the process of paradigm shift is not complete, although the prevailing paradigm has been significantly discredited by the new macroeconomic environment. In other words, “the end of a tradition does not necessarily mean that traditional concepts have lost their power over the minds of men” (Arendt, 1961, p. 26). In fact, the Ordo-liberal tradition has proven to be very powerful in fuelling criticism of unorthodox measures and shaping policy responses to the crisis (Crespy & Schmidt, 2014; Matthijs, 2016). German Ordo-liberals are strong advocates of rules over discretion in economic governance and have expressed their disagreements with the actions of the ECB, particularly with regard to the purchase of sovereign bonds. In addition to the German Constitutional Court questioning the

legality of two ECB's purchase programmes, several leading German central bankers have resigned due to their disagreement with ECB policies (Executive Board Member Jürgen Stark and Bundesbank President Axel Weber resigned in 2011; Executive Board Member Sabine Lautenschläger in 2019). The ideas of those who enjoy a position of authority are therefore a powerful element of the process of paradigm shift and explain the paradox over paradigms in macroeconomics since the global financial crisis (Blyth, 2013).

However, with the appointment of Christine Lagarde as President of the ECB from November 2019, a new locus of authority in favour of change is growing within the central bank. By acknowledging that “the world is changing in ways that are challenging the certainties of the past” (Lagarde, 2020b) and launching a review of the ECB's monetary policy strategy, Lagarde signals the possibility of a new era of central banking. The ECB Strategy Review, with the avowed commitment to “leave no stone unturned” and to base it on “thorough analysis and take an open-minded approach” (Lagarde, 2019) is a clear indicator of to what extent received wisdom and paradigm of central banking are up for discussion. Therefore, if the global financial crisis alone was not enough to achieve the process of paradigm shift, the combination of time and additional new challenges (such as the Covid-19 crisis) might serve to align preferences and further such a shift. Unconventional monetary policy has played a determinant role in undermining the dominant policy paradigm in the pre-2007 era; its potential normalization, the subject of the following section, is crucial for the adoption of a new policy consensus in European macroeconomic policy.

2 UNCONVENTIONAL MONETARY POLICY

In what follows, we concentrate on the use of the central bank's balance sheet as a new and potentially persisting tool of monetary policy for the ECB. Other equally relevant policy innovations, such as negative interest rate policies or forward guidance, are not the focus of the analysis but are mentioned here for completeness. In the Strategy Review completed in 2021, the ECB confirmed the essential role of non-standard monetary policy measures in achieving its inflation target in a low interest rate environment.

Circumstances Leading to the Use of the Central Bank Balance Sheet

Whether or not the use of the central bank balance sheet via unconventional policies will continue is best answered with reference to the circumstances that led to their adoption. If those circumstances continue to be present in the years to come, it may be reasonable to expect that they are here to stay, and become part of the “standard” policy toolbox; in other words, that “the unconventional becomes conventional” (Borio, 2020). These sets of circumstances can be grouped into four:

First is the reduced policy space for standard monetary policy. The way the European and global economies function, and with it to the role and effectiveness of monetary policy, has undergone significant structural changes over the past decades. The sustained demographic shifts, globalisation, excess savings, and a slowdown in productivity growth have led to a sustained fall in the so-called real equilibrium rate of interest, i.e. the “natural” rate of interest where the economy grows at its potential rate with inflation remaining stable. Various estimates see that rate—which balances savings and investments, and which cannot be directly observed—at present in the euro area at zero or even below (Belke & Klose, 2020; Brand et al., 2018; Holston et al., 2017). Central bank policy rates need to be set near or below that natural rate to effectively stimulate economic activity. This means the determining “effective lower bound” (Cœuré, 2015) of policy interest rates is a matter of immediate practical policy relevance. Once the lower bound has been reached, and the policy space for the use of standard interest rates is exhausted, non-standard measures become relevant. Most prominently, asset purchases can be used to extend the easing action beyond the short-term rates that are under the direct control of the central bank and engineer a flattening of an entire yield curve at the level of the effective lower bound. This is important because sovereign bond yields serve as the basis and reference point for a wide range of interest rates, including those paid by businesses and families. The pandemic has made the use of non-standard measures even more essential: With the economy falling into a recession unprecedented in peacetime, and inflation moving further away from its target of close to but below 2%, additional monetary policy measures became imperative. In response to the very limited space to decrease interest rates further—with ECB policy rates already at zero or even negative—and their side effects becoming increasingly visible, further non-standard measures were necessary. Significantly expanded asset purchases in the

form of the Pandemic Emergency Purchase Programme (PEPP, with a volume of €1.850 billion (as of December 2020)) became the preferred and most effective policy instrument.

Second is the potential impairment of the transmission of monetary policy in a multi-country monetary union. The way the ECB's monetary policy is passed on to the economy across the 19 countries of the euro area had become uneven, and even entirely impaired, especially during the sovereign debt crisis. In particular, the interest rate cuts from September 2011 to June 2014 were not passed on to households and companies in those eurozone countries hit hardest by the crisis (Hartmann & Smets, 2018, p. 34). That meant that the ECB policy rate—which, under normal circumstances, guides the interest rate level of banks—had lost its guiding quality across all euro area countries. In other words, the ECB's most effective instrument for influencing the economy had become blunted. A new approach was needed that could more directly influence the whole constellation of interest rates (Praet, 2018).

To address potential impairment of the transmission of monetary policy, purchases of sovereign bonds, via the Securities Markets Programme (2010–2012) and since 2015 via the Public Sector Purchase Programme, were introduced. Together with the announcement effect of the OMT programme, the ECB asset purchase programmes served as a successful backstop against the widening of spreads across euro area countries. Similar risks to the monetary policy transmission mechanism re-emerged during the pandemic. The uneven impact of the pandemic across euro area countries led to an extraordinary degree of financial volatility and risking a re-fragmentation and impairment of the monetary policy transmission channel. The specific features of the PEPP—notably its flexibility of purchases across time, asset classes, and jurisdictions—precisely address this condition and ensure that the accommodative policy stance continued to be transmitted to all parts of the single currency area (Schnabel, 2020a).

Third is the central role of the banking sector in the euro area economy. The banking sector plays a crucial role in the functioning of the euro area economy and the effective transmission of monetary policy to the wider economy (Schnabel, 2020b). In contrast to the US, where capital markets are the predominant source of funding, the euro area economy is highly dependent on the banking sector. This means that ECB policy measures need to be able to rely on a functioning banking sector to have impact. However, at times when the economy needed

more easier access to cheaper credit, banks in many regions of the euro area, especially in the periphery, withdrew accommodation and made access to credit more difficult and expensive (Rostagno et al., 2019). This experience motivated the ECB to 2020 design tools that target specifically the banking sector. Large-scale and repeated Targeted Long-Term Refinancing Operations (TLTROs)—which significantly expanded the Eurosystem’s balance sheet—turned out to be an effective tool to engineer credit easing and especially useful to address any risks related to the bank-based transmission mechanism (Lane, 2020). In addition, a broadening of the counterparty and collateral framework allowed the Eurosystem a flexible reaction to the specific problems of the banking sector that emanated during the crisis. Once more, the pandemic reinforced the need to focus on the banking sector. To preserve favourable bank lending conditions, tailored to Europe’s bank-based economy and aiming to ensure attractive financing conditions for businesses and families, the ECB made use of the specific features of the PEPP, and of TLTROs at very favourable conditions for the participating banks (Schnabel, 2020c).

Fourth is the expanded focus of central bank action to “financing conditions”. Traditionally, central banks would focus their policy actions on the interest rates directly under their control, i.e. very short-term rates. For instance, the ECB’s operational framework was based on its key interest rate—that of the main refinancing operations—but flanked by a corridor of interest rates for standing facilities: the deposit facility to mark the lower bound, and the marginal lending facility to mark the upper bound. The objective was to steer inter-bank money market rates—notably the Euro OverNight Index Average (EONIA—since October 2019 Euro Short-Term Rate €STR) interest rate—as closely as possible to the main refinancing rate, and not to let it fluctuate too widely. In this manner, monetary policy would develop—without further official intervention—its accommodative or tightening effect on bank lending rates, and eventually influence price-setting in the economy, and hence ultimately control inflation.

However, in the course of the sequence of crises in the euro area since 2007, and with it the risk of inflation remaining too low for too long, it became increasingly clear that such an exclusive focus on the very short-term rates was too narrow. It had to be ensured that the central bank’s signals of monetary accommodation, expressed through these very low short-term rates, would actually find their way into a variety of interest

rates that concretely impact wider financing conditions in the economy. However, those conditions are influenced by many factors, including, *inter alia*, expectations of future interest policy, the smooth functioning of markets, the ability of banks to actually extend credit, the degree of confidence of economic agents in the future outlook, the exchange rate or the perceived commitment of the central bank to do what is necessary to bring inflation back to target, etc. In order for the ECB to effectively influence financing conditions—as a key precondition for bringing the economy back to a path where inflation returns to target—it had to start exerting influence also over these other factors. It did so mainly through its non-standard tools, including by communicating its future policy stance (the so-called “forward guidance”) and its own assessment of the future economic outlook, but also by intervening in specific market segments (*inter alia*, in commercial bond or sovereign debt markets) and along the entire yield curve, and through specific lending operations targeted at the banking sector. Specifically, the TLTROs are designed to produce the direct accommodative effect in the form of cheap lending to firms and households: unless banks demonstrate that they actually lend the funds on to the real economy, they will not benefit from the favourable ECB rates.

The pandemic further reinforced this trend: Faced with enormous uncertainty, the ECB’s broader focus not just on steering inflation but also on making sure that credit is available at favourable rates for banks, businesses, households, and governments seems to have supported confidence in the economy and facilitated the necessary expansionary fiscal policy across euro area countries (Lane, 2020).

Against the pressures stemming from these four sets of circumstances—all of which were reinforced by the pandemic, the ECB has evolved from a “narrow” central bank with a limited set of instruments to a “mature” central bank and genuine lender of last resort with a wide range of unconventional monetary policy tools (Hartmann & Smets, 2018, pp. 2–4). The ECB changed its original framework based on the separation of rate policy and liquidity provision and only passive provision of liquidity—i.e. to provide sufficient liquidity at whatever the going policy rate is—to a more holistic one. In the new framework, the ECB manages liquidity to reinforce interest rate policy and guidance and also actively deploys its balance sheet to provide further policy accommodation (Rostagno et al., 2019, p. 3).

Outlook Beyond the Pandemic

Recent developments seem to further strengthen the argument that the non-standard measures, and in particular the use of the central bank's balance sheet, are here to stay. The 2021 ECB Strategy Review explicitly tackled the challenge of how to design a policy toolkit in a world of a lower natural rate of interest. In addition to the decision to adopt a symmetric 2% inflation target over the medium term—in contrast to the previous definition of price stability of below but close to 2%—the ECB concluded in its Strategy Review that non-standard monetary policy instruments will remain an integral part of its toolkit.⁴

A comprehensive analysis of the ECB's deployment of non-standard policy measures has shown that they have been very effective in raising output, employment, and inflation. Especially, the combination of different instruments and their mutually reinforcing effects has proved to be highly successful. In particular, asset purchases have been very powerful.⁵ This analysis is further supported by the experience in designing mitigating measures, such as the “two-tier system” for the interest rates that the ECB charges to banks when they park money with the ECB's deposit facility, and which directly alleviates the cost of negative interest rates on banks' profits by exempting parts of their holdings with the ECB from them.

In its Strategy Review, the ECB concluded that when faced with a low interest rate environment in which policy rates are constraint at the lower bound, non-standard measures remain essential to counter disinflationary pressures and prevent inflation expectation from drifting downwards. Moreover, the ECB stated that forceful and persistent monetary policy measures remain inevitable in such an environment.⁶ Yet, despite its reinforced commitment to use non-standard monetary policy instruments at the lower bound, the setting of interest rates remains the primary monetary policy instrument. However, policy rates could be expected to continue to be accompanied by non-standard measures for some time.

⁴ <https://www.ecb.europa.eu/press/key/date/2021/html/ecb.sp210708~ab68c3bd9d.en.html>.

⁵ There is no evidence which would indicate that asset purchases entail diminishing returns over time (Lane, 2020, February; Bernanke, 2020).

⁶ https://www.ecb.europa.eu/home/search/review/html/ecb.strategyreview_monopol_strategy_statement.en.html.

Whether this will change depends mainly on the implementation of policies that could lead to a structural change of the euro area economy and reverse the trend of low natural rates of interest. However, such policies—e.g. tackling demographic decline, raising productivity, and enhancing innovation—first need to be enacted, and then gradually have their effects. That said, the creation of a significant pool of supranational bonds—via NextGenerationEU—makes ECB asset purchases simpler: The current practice of buying member states’ sovereign bonds guided by the proportions of the ECB capital key was always a second-best compared to the practice in nation-states, where the central bank naturally buys debt instruments that cover the size of the entire national economy.

In addition, the transmission channels of the ECB’s monetary policy can be expected to remain a neuralgic point. There is a growing literature that suggests that the monetary policy transmission might be weaker when interest rates are low (Borio & Hofman, 2017; van den End et al., 2020), and that key interest rates changes are passed through less effectively to bank lending rates around the zero lower bound (Brunnermeier & Koby, 2018). To account for the key role transmission channels play for the effectiveness of monetary policy, the ECB also adapted a new analytical framework which puts more focus on the monetary policy transmission mechanisms and the linkages between the economy, monetary policy, and financial stability. With recent adoption of the Transmission Protection Instrument, the ECB has now created a permanent tool aimed at countering “unwarranted, disorderly market dynamics that pose a serious threat to the transmission of monetary policy across the euro area”⁷

In this context, the emergence of significant levels of joint borrowing at EU level, and the solidarity mechanism that is implied by that very joint debt issuance, has already helped to strengthen the transmission channels of monetary policy. The joint debt issuance has helped to drive down sizeable differences in bond yields across euro area countries. The extent to which markets no longer perceive that individual euro area countries might be left “on their own” in times of crisis, any residual redenomination risk, i.e. the risk that incorporates any potential forced euro area exit, has clearly been diminished. In that sense, joint EU debt should help to make the problem of transmission less neuralgic.

⁷ ECB, The Transmission Protection Instrument, 2022. <https://www.ecb.europa.eu/press/pr/date/2022/html/ecb.pr220721~973e6e7273.en.html>

Despite (slow) moves towards a Capital Markets Union, the banking sector will remain key for the euro area economy also for years to come. Although reforms after the financial crisis of 2008 have made the banking sector more resilient, the pandemic crisis again revealed the considerable structural issues in the financial sector, such as persistent low profitability, caused by excess capacity and low-cost efficiency, historically low bank valuations, and, in some parts, worrying levels of non-performing loans.

The expanded focus of central bank action on financing conditions is also here to stay and is reinforced by the fact that the ECB now also has supervisory policies within its remit. That has allowed for monetary policy, supervisory measures, and financial stability considerations to work together and in parallel: because banks had stronger capital positions supervisors could allow them to release buffers and thus prevent capital from flowing out of the sector. The aim was to prevent a sharp tightening of credit standards and preserve financial stability. And indeed, “market-based evidence shows that the combined monetary policy and supervisory response has helped to ward off the bank-sovereign doom loop we have seen in the past. Considering the magnitude of the shock, this is in itself a remarkable result” (Enria, 2020).

Beyond the expected functional need to retain the expanded toolkit in the face of continuously challenging circumstances, there is a further contextual reason that reinforces this: the cost of deploying those tools in terms of political controversy and legal contestation seems to have dropped considerably. When they were first drawn up and used, these tools essentially represented a journey into uncharted waters—for central banks worldwide, not just the ECB. Failure was always a possibility, and a legal challenge was always a risk. However, the history of their successful impact on growth and inflation in the euro area (Lane, 2020) and the failure of a series of high-profile court cases⁸ against them have consolidated their status as effective central bank tools and cemented the ECB’s competence and leeway in designing and using them in the pursuit of its Treaty mandate.

Holding the ECB to account over the risks and side effects of these tools, of their diminishing returns over time, and of their proportionality in relation to the goals to be achieved—and thereby pushing the

⁸ E.g. ECJ case C-62/14 (on OMT); ECJ case C-493/17 (on PSPP); German Federal Constitutional Court case BVerfG 2 BvR 859/15, 2 BvR 980/16, 2 BvR 2006/15, 2 BvR 1651/15.

Eurosystem to be more explicit and targeted in its communication about them—should further help to anchor them also in the public discourse as part of the central bank toolbox. For this reason, the ECB decided in its Strategy Review to significantly strengthen its monetary policy communication efforts. In particular, the ECB’s communication will be geared more towards the broader public and non-expert audiences. A more understandable and accessible communication of monetary policy could not only increase the acceptance of non-standard monetary policy instruments but also enhances their effectiveness.

To conclude, the ECB decisions will remain complex also in the years to come. Carefully calibrated packages of various policy tools, that involve more than just moves with a single instrument, like raising or lowering interest rates, can be expected to remain the *modus operandi*. This will require a regular and careful assessment of the effectiveness, efficiency, and side effects of the monetary policy measures taken. The fact that the ECB committed, from now on, to regularly review its strategy, with the next exercise already planned for 2025, shows not only that policy innovation and flexibility within the overall Treaty mandate are likely to continue but also the desire to give this process a more structured framework.

3 THE ECB IN COMPARATIVE PERSPECTIVE: RESPONDING TO THE COVID-19 CRISIS

Although the ECB faces new challenges in its third decade of operation, they are not unique. On the contrary, central banks in general have battled the perception of being the “only game in town” since the global financial crisis and the backlash and increased scrutiny that goes along with this. Moreover, the economic challenges presented by the Covid-19 crisis have prompted similar reactions by central banks in providing loose monetary policy and making use of balance sheets to provide additional liquidity. This section briefly considers how the US Federal Reserve and the Bank of England have responded to the crisis, comparing some of the measures undertaken to those of the ECB (see previous section) in March 2020 in order to illustrate the common responses versus more unique contributions by both central banks.

The central banks employed three main strategies: lowering interest rates on safe assets by reducing the rates paid on the central bank’s own liabilities and through quantitative easing policies; providing liquidity to the financial system; and providing incentives for financial institutions to

offer credit to firms impacted by the crisis (Collins & Gagnon, 2020). This does not exhaustively cover all the measures taken but have been selected to provide a broad basis for comparison to the crisis across the central banks. Additional measures taken in and beyond March 2020 can be found for the Federal Reserve (Federal Reserve Bank of New York, 2020a; Bank of England; ECB, 2020c).

US Federal Reserve

The Federal Reserve responded aggressively earlier than the ECB or the Bank of England to the Covid-19 economic crisis. On 3 March, the Federal Reserve lowered the federal funds rate by 50 basis points (Federal Reserve, 2020c), followed by the increase of repo offerings, short-term secured loans the Fed uses to inject reserves into (or withdraw reserves from) the financial system:

- 9 March by \$75 billion (Federal Reserve Bank of New York, 2020c)
- 11 March by \$175 billion (Federal Reserve Bank of New York, 2020b)
- 12 March by over \$1 trillion (Federal Reserve Bank of New York, 2020d).

By 15 March federal funds rate had been lowered by a full percentage to almost zero (Federal Reserve, 2020d), further committing to “amounts needed” on 23 March (Federal Reserve, 2020e).

To ease credit conditions, on 9 March the Federal Reserve increased repo offerings by \$75 billion (Federal Reserve Bank of New York, 2020b) and on 11 March increased it by another \$125 billion. On 12 March, it added term repo operations in excess of \$1 trillion (Federal Reserve Bank of New York, 2020e). The 15 March announcement included: the commitment to buying \$500 billion in longer-term Treasury securities; \$200 billion in agency mortgage-backed securities; and the purchase of \$500 billion in longer-term Treasury securities. On 17 March, the Federal Reserve announced the creation of the Commercial Paper Funding Facility (CPFF) to purchase unsecured and asset-backed commercial paper (Federal Reserve, 2020a) and the Primary Dealer Credit Facility to support households and businesses (Federal Reserve Bank of New York, 2020b). On 23 March, additional liquidity was created by establishing the

Primary and Secondary Market Corporate Credit Facilities, Term Asset-Backed Securities Loan Facilities, and the expansion of the Money Market Mutual Fund Liquidity Facility and the CPFF.

Bank of England

On 11 March, the Bank of England lowered its bank rate by 50 basis points to 0.25% and launched the Term Funding Scheme that provided further incentives for banks to support lending for small and medium-sized enterprises (Bank of England, 2020b). On 19 March, it lowered the bank rate again by 15 basis points to 0.1% and voted unanimously to increase its holdings of UK government bonds and sterling non-financial investment-grade corporate bonds by £200 billion to a total of £645 billion (Bank of England 2020d).

In order to provide liquidity to financial markets, on 17 March, the Bank of England and HM Treasury jointly announced the Covid Corporate Financing Facility (CCFF), a joint programme to provide additional credit by buying commercial paper up to a maturity of a year that is issued by firms that provide “a material contribution to the UK economy” and last at least a year (Bank of England, 2020c). No specific figure was given on the ultimate CCFF, though HM Treasury indicated that the size of CCFF and the Coronavirus Business Loans Interruption Scheme would together reach £330 billion (HM Treasury, Energy and Industrial Strategy Department for Business, 2020). This was followed on 24 March with launch of the Contingent Term Repo Facility, a temporary mechanism in which participants could borrow central bank reserves in return for less liquid assets (Bank of England, 2020a).

The three central banks examined here began from different places. Figure 3 indicates the respective growth rates of the US, UK, and the euro area when the crisis first hit. The US had been enjoying stronger growth rates than either the UK or the euro area since 2017.

Figure 4 indicates the inflation rates of the respective economies over the same period. By 2019 all three economies had similarly low levels of inflation.

Their key interest rates also indicated their (lack of) room for manoeuvre. By 2020, the ECB’s main refinancing rate had been at 0.00 for several years (since 2016). The Federal Reserve’s federal funds rate stood at 1% and the Bank of England’s bank rate at 0.75%. This gave

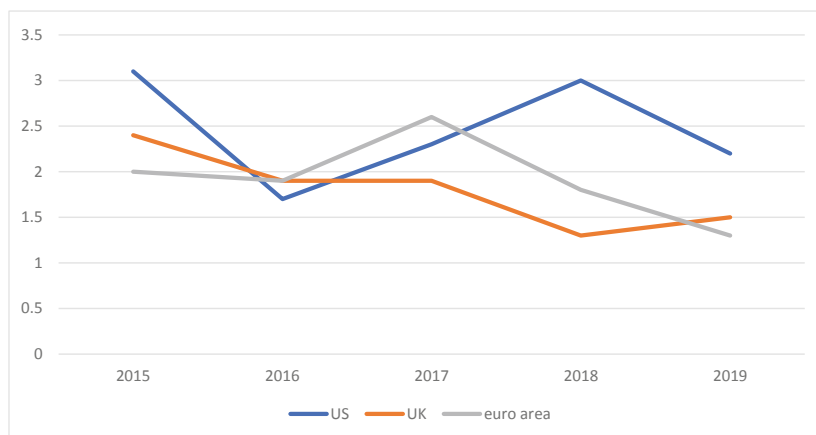


Fig. 3 Annual growth rates 2015–2019

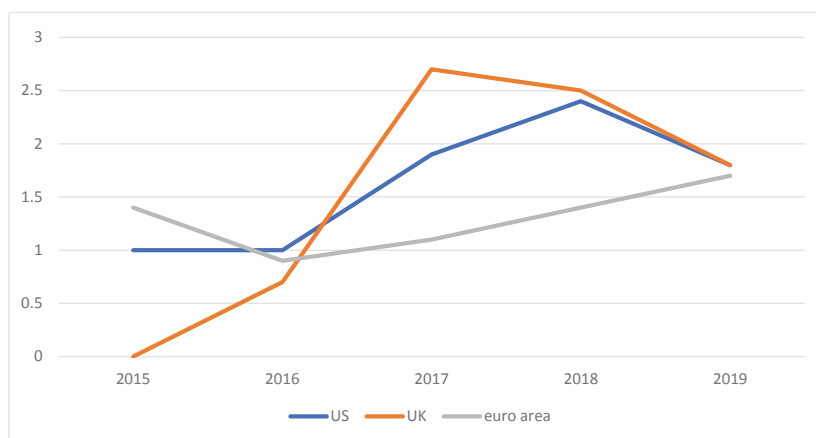


Fig. 4 Annual inflation rate 2015–2019

the Federal Reserve and Bank of England a bit more room to manoeuvre with interest rate cuts, but not much.

All three central banks quickly turned to unconventional monetary policy in the buying of bonds. The content of these programmes reflected both aspects of their respective financial systems as well as

path dependency in resurrecting previous bond-buying programmes. The predominantly bank-based system of the euro area made the ECB turn to LTROs and TLTROs that target bank lending and are updated iterations of measures undertaken to combat the euro crisis. In contrast, the Federal Reserve provided liquidity through capital markets. Finally, the joint programme by HM Treasury and the Bank of England could only be possible in the framework of a political union that is absent in the euro area context.

4 CONCLUSION

In conclusion, central banking has changed substantially since the global financial crisis. Christine Lagarde inherited a central bank with reduced room for manoeuvre regarding conventional monetary policy and made ample use of its balance sheets. These are likely to be permanent features given the size of the purchases and the time it would take to unwind all the obligations. Nevertheless, this reflects broader developments in central banking. Although the ECB is not the same institution it was at its creation, its evolution is broadly in step with central banking developments in general.

Despite the prominent role undertaken by the ECB in the euro crisis and Covid-19 crisis, the economic recovery of the euro area will rest on other institutions as well. The passage of the Next Generation EU budget notwithstanding, serious divisions remain regarding the future of euro area governance. Some of the divisions between member states that emerged during the euro crisis between the creditor and debtor countries morphed into a division between the so-called frugals (Netherlands, Austria, Denmark, and Sweden) and those advocating more solidarity. Germany, however, took an important step away from the frugals in proposing (with France) that grants form a substantial portion of the recovery package.

In addition to the institutions dominated by the member states like the Council and European Council, other EU institutions have an important role to play in the euro area's recovery. The ECB President regularly participates in a Monetary Dialogue with the European Parliament, which forms the primary mechanism for legitimizing ECB policy. All EU policies are expected to contribute to the European Green Deal announced by the Commission in 2019. The European Investment Bank, for example, will increase its financing for climate action, and the ECB, as part of

its strategy review, committed to a significant action plan to define and anchor its own contribution to the fight against climate change.⁹

The (over)-reliance of the member states on the ECB to fight the fires that arose during the sovereign debt crisis has given way to more recognition that ECB policy alone will be insufficient. The move to even a temporary (and small) European fiscal capacity and the drive towards sustainable finance will influence further the ECB and its future policies.

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⁹ https://www.ecb.europa.eu/press/pr/date/2021/html/ecb.pr210708_1~f104919225.en.html.

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The EU Budget and Recovery Plan: A Chance for EU Ambition?

Anne Vitrey and Frederik Mesdag

The European elections of May 2019 paved the way for a new era for the European Union (EU): new institutions, new membership (Brexit), a new political agenda, and a new Multiannual Financial Framework (MFF). In addition, the COVID-19 crisis spread over Europe in Spring 2020 creating an unprecedented shock with severe consequences for European societies and economies.

This was, in short, the context in which the institutions and member states had to find an agreement on the then ongoing budgetary negotiations. These 2021–2027 MFF negotiations had already started with

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unusual parameters: the Brexit loss¹ had to be compensated; blockades and taboos had to be overcome; ceilings were topped up and margins used to the full; financial instruments and loans were extended in addition to grants; the Rule of Law principle was imposed as a new conditionality for allocating EU funding. A bold step towards a Eurozone budget was made through the new European Investment Stabilisation Function (EISF) proposed in the Juncker package (2017), complementing existing instruments to absorb large asymmetric macroeconomic shocks in the euro area. On the institutional side, the European Parliament had early on expressed its opposition to agree on the expenditure side of the EU budget without significant progress made on the reform of the revenue side.² The new European Commission elected with a short majority also needed to prove itself as a leading executive. Fundamental challenges had therefore to be dealt with.

The Commission's response to the COVID-19 crisis, the *Next Generation EU* (European Commission, May 2020), represented an unexpected opportunity to match the needs for recovery with the objectives of the Commission's strategic Agenda. With what can be considered a swift, consensual, and efficient answer, the EU aimed at complementing actions undertaken at the national level with massive support, being visible to the citizens, and stressing the European added value. Such an uneven 'Big Bang' relies on a complex mix of Community method and intergovernmental action but is not without risks in terms of implementation, or weaknesses in the democratic process.

On the revenue side, the source of financing (so-called 'own resources'—OR) has drifted over the last decades into national contributions with their political limitations. Rebates and fair returns have distorted the EU budget at its roots. Reforming the system by rendering it fairer, more transparent to the EU citizens and taxpayers, and more

¹ Being a net contributor, the United Kingdom's (UK) withdrawal from the EU creates a gap in the EU budget of EUR 12–14 billion a year. The OR ceiling will therefore be under a new constraint, with an automatic decrease by approximately 16% in nominal terms, i.e. the share of the UK's GNI (Vitrey, 2020, p. 79). At constant rates, this would mean a yearly loss of approximately EUR 25 billion.

² In a resolution of 10 October 2019, (paragraph 5 reads: "[The European Parliament] (...) underlines that Parliament will not give its consent to the MFF without an agreement on the reform of the OR system, including the introduction of a basket of new own resources that are better aligned and incentivise progress on major EU policy priorities" (P9_TA (2019) 0032)).

linked to EU policies themselves—as originally conceived by the Treaty of Rome—became a prerequisite. Brexit could have allowed to reconsider the rationale behind the rebates, but the financing needs of the recovery plan created a necessity to reimburse the EU debt with new resources.

In what was an existential matter for the EU, the budget found itself projected at the core of EU action. More than ever, the EU budget reflects the level of European integration and solidarity granted by the member states. In these difficult times, significant questions were at the core of the budgetary negotiations: Would the new institutions be ready to make bold and credible decisions? Would these decisions be a response to the crisis only or bring about a deeper transformation of the EU budget? Would the EU build on this *momentum* and take it as an opportunity to propose solutions able to match the immediate expectations and to face the challenges ahead? In more than one way, the EU was—and still is—standing at a turning point.

This chapter, from an insider point of view, aims at giving, first, a comprehensive overview of the evolution of the 2021–2027 MFF negotiations and the subsequent addition of the EU recovery plan. In a second part, it will look at the institutional positioning along the process, before outlining the progressive reform of the EU financing and own resources in a third part.

1 THE EU MID-TERM BUDGET

This first part aims at giving a brief overview of the evolution of both the 2021–2027 MFF and the recovery plan proposals and negotiations, as well as demonstrating how the EU budget has been used as a central element of the EU’s answer to the ongoing COVID-19 crisis.

Proposals for the 2021–2027 Multiannual Financing Framework

Today is an important moment for the European Union. The new budget is an opportunity to shape our future as a new, ambitious Union of 27 bound together by solidarity. With today’s proposal, we have put forward both a vision for the kind of Europe we want, as well as a pragmatic plan for how we can make it happen (...) For the first time in our history, a rule of law mechanism will ensure sound financial management of the Union’s budget and protect taxpayers’ money. (J.-C. Juncker, President of the European Commission, 2 May 2018)

Once every seven years, the EU decides on its future long-term budget. The proposals laid down by the Commission in the broad package of 2 May 2018 (COM (2018) 322 final) reflected the priorities contained in President Juncker's State of the Union Address before the European Parliament (September 2016) and agreed by the Leaders of the 27 member states in Bratislava informal Summit on 16 September 2016, as well as in the Rome Declaration of 25 March 2017. Prior to the formal proposals, two years of preparatory work had unfolded within the Commission but also between the institutions and all the relevant actors: the European Parliament (Resolutions of 14 March 2018, P8_TA(2018)0075 and P8_TA(2018)0076), the member states, the national Parliaments, the beneficiaries of EU funds, and stakeholders through public consultations. Options for the Future of EU Finances were presented in the Reflection paper of June 2017 (COM(2017)358).

In its proposals of May 2018, the Commission took the initiative to raise the OR ceiling from 1.29 to 1.35% for commitment appropriations and from 1.26 to 1.29% for payment appropriations. This proposal had several objectives: to compensate the decrease of the OR ceiling created by the United Kingdom's (UK) departure³; to anticipate the post-2020 period and allow for the financing of new priorities; to cover the increasing use of financial liability linked to loans and other financial facilities guaranteed by the EU budget, including for the possible euro area investment stabilisation function with the European Investment Stabilisation Function (ESIF) fund (EUR 30 billion). The main challenges the Commission's proposal had to address could be summarised as follows:

- the financial consequences of the UK's withdrawal from the EU, both on the revenue and expenditure side of the budget (see footnote 2);
- the integration (budgeting) of the European Development Fund (EDF), currently outside the MFF, into the EU budget (see Graph 1);

³ Despite the so-called British rebate, the UK had been a net contributor. Over the period 2014–2016, the average share of UK contribution slightly exceeded EUR 17 billion while the amounts received from the EU budget have been just above EUR 7 billion (Vitrey, 2020).

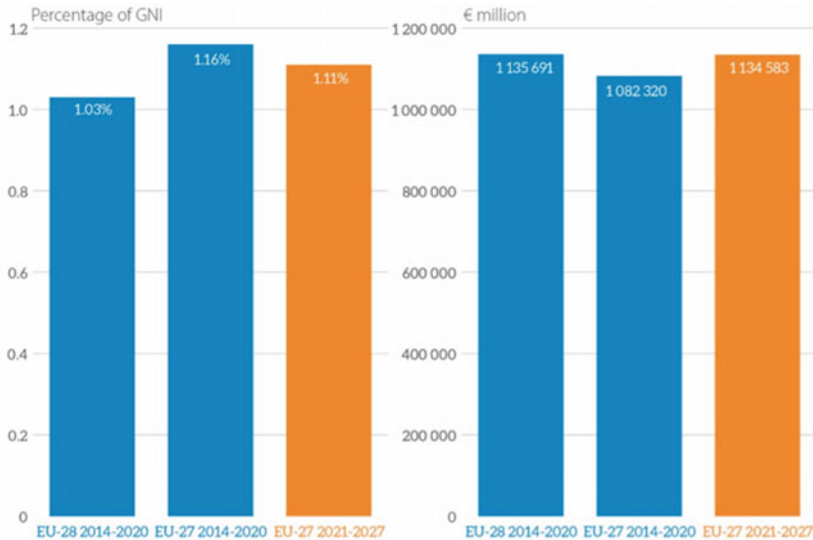
- substantial changes to the MFF structure in terms of headings (see Graph 2)⁴;
- the expenditure identified as ‘priority areas’ and intended to avoid the debate on ‘old policies and new policies’ (see Graph 3);
- the breakdown between the so-called traditional policies (Agriculture and Cohesion) and the new ones (Climate, Environment, Digital, migration, security); between the Parliament’s and the Council’s priorities and the member states’ sensitivities. This top-down approach was highly criticised by the Parliament who defended a bottom-up line for matching needs and means;
- the proposal to strengthen the protection of the EU budget from financial risks linked to general deficiencies as regards the rule of law in the member states. This conditionality requirement had been strongly supported by the incoming Commission and incorporated in the EU strategic agenda.

Based on the above, the overall level of expenditure amounted EUR 1 135 million (commitments) and EUR 1 104 million (payments) and represented 1.11% of EU-27 GNI (commitments) and 1.08% (payments). The proposal was a subtle balance taking into consideration the (often diverging) priorities of member states, those of the Parliament (often contradictory vis-à-vis the member states), as well as budgetary constraints.

Apart from the figures, a number of key features of the Commission’s proposals can be highlighted, which have been presented as the flagship of ‘a modern, simple and flexible budget’ (European Commission, May 2018): the creation of a new mechanism to protect the EU budget from financial risks linked to the rule of law; a strong focus on European added value and performance; the emphasis on less red tape for beneficiaries and a more flexible and agile budget with a clearer and leaner architecture; and a revised nomenclature.⁵ According to the Commission’s proposals, the new structure would be more aligned with the EU’s priorities. On

⁴ These changes mainly concern the headings (7 instead of 5), the list of programmes (37 instead of 58) grouped into 17 ‘policy clusters’, the funds, as well as their distribution between headings (including two new headings in the MFF proposals: Migration and Borders Management and Security and Defence).

⁵ See footnote 4.

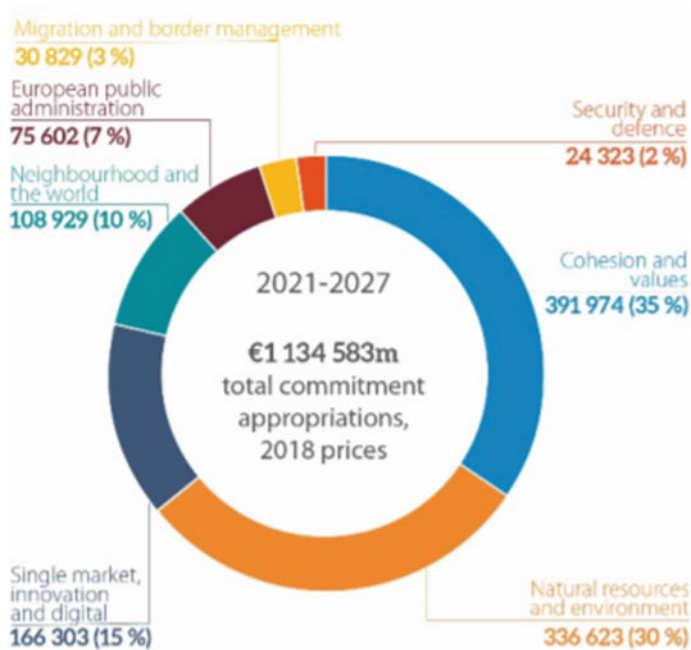


Graph 1 Proposal for the 2021–2027 MFF compared with the 2014–2020 MFF (commitments, 2018 prices, including the EDF) (*Source* EPRS, PE 625.148, July 2018)

contrary, it could be argued that the change in the structure is an additional element of complexity in assessing the new MFF as it does not allow for a visual comparison of headings, policies, and programmes with former frameworks. From an institutional point of view, a reduced number of programmes gives more power to the Commission as the executive body because they often reflect its internal organisation (DGs), and less flexibility to the legislative authority because an aggregated structure limits the possibility of amending.

In December 2019, the Von der Leyen Commission proposed a few adjustments to the Juncker proposals of May 2018, to match the six priorities of the new Commission's political guidelines 'A more ambitious Union, my Programme for Europe' (European Commission, 16 July 2019) and to mark the future MFF with its seal.

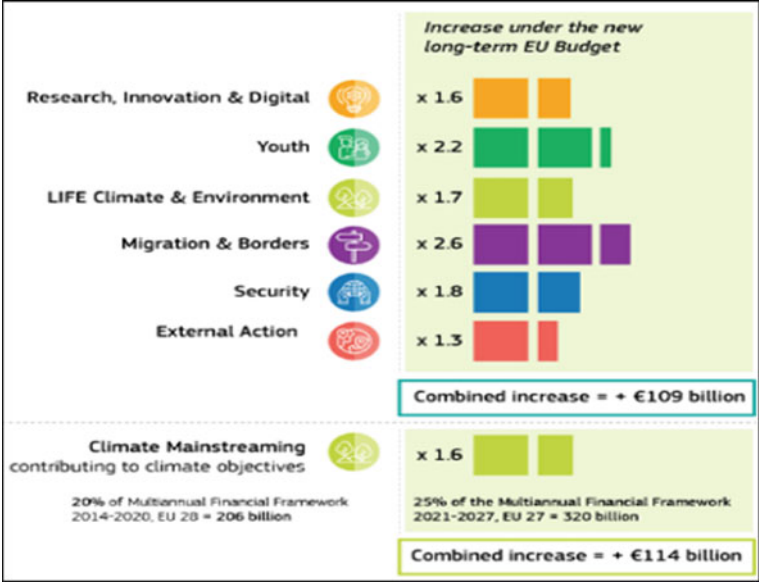
In March and November 2018, the Parliament adopted an early position imposing its role in the future negotiations and a detailed negotiating mandate with an ambitious level of spending set at 1.30% of EU-27 GNI, as well as a strong link between the agreement on the MFF and



Graph 2 2021–2027 MFF Commission proposal—Repartition by heading
(Source EPRS, PE 625.148, July 2018)

significant progress on the OR reform (Resolutions of 14 March 2018, P8_TA(2018)0075 and P8_TA(2018)0076). This position was confirmed by the newly elected Parliament in October 2019 (Resolution of 14 March 2018, P8_TA(2018)0449). By contrast, the negotiations within the Council lagged behind, despite the recommendation expressed by President Juncker on 2 May 2018.⁶ The member states started slowly in autumn 2018 under the Romanian and Finnish Presidencies, in an unstable political climate due to the forthcoming European elections and unknown outcome of the Brexit negotiations. On the wave of a fragile compromise reached by the Finnish Presidency in December 2019, the

⁶ “The ball is now in the court of Parliament and Council and I believe we should aim to have an agreement before the European Parliament elections next year”, J.-C. Juncker, President of the European Commission, 2 May 2018.



Graph 3 Reinforcement of Rome/Bratislava priorities (*Source* European Commission)

President of the European Council called for an extraordinary summit on 20–21 February 2020, which failed to strike a deal amongst the member states, resulting in an overall amount of EUR 1 094 billion (1.07% of EU-27 GNI). The lack of ambition on the issue of OR was also pointed out by a few ‘reformist countries’ (FR, IT, PT, LU, IE). However, the member states (DE, NL, SE, DK, AT) who benefit from a rebate insisted that it should be maintained beyond Brexit.⁷ The proposals made by European Council President C. Michel restored part of the cuts made by the Finnish Presidency, notably for the two main policies: Common Agriculture Policy and Cohesion, while the overall level proposed remained at 1.06%. The member states stressing the importance of cohesion and agricultural policy usually also pleaded for an ambitious long-term 2021–2027 budget, granting the EU with sufficient resources

⁷ In the final agreement, the reduction on their national contribution even increased slightly, totalling a ‘loss’ of EUR 53 billion over the next seven years.

to fulfil its objectives. In contrast, member states calling for more funding for modernisation (DE, NL, DK, AT, SE, FI) showed an ambivalent attitude as they also rejected any expansion of the total volume of the EU budget.

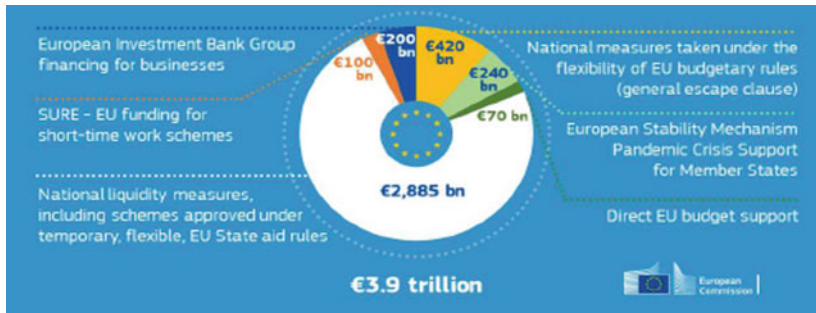
Revised Proposals and Recovery Plan

In Spring 2020, the COVID-19 pandemic spread over Europe, creating an unprecedented economic backdrop and leading to a major social crisis. In its Spring 2020 European Economic Forecast (European Commission, May 2020), the Commission highlighted some of the main characteristics of this unparalleled situation: a contraction in EU GDP in 2020 amounting to 7.5%, possibly leading to the deepest recession since the Great Depression; an economic output in the EU almost 16% lower than in the last quarter of 2019 with an uneven impact; an incomplete and uneven recovery across the member states and sectors; increasing unemployment calling for additional policy measures; policy measures potentially causing public deficits and rising debt levels; large uncertainty and rather pessimistic economic forecasts.

The cumulated and multilayer reactions taken, amongst others, by the member states at national level, by the ECB, and the European Stability Mechanism, by the Balance of Payments Facility, by the Eurogroup for Eurozone and non-Eurozone countries, by the Commission, by the EIB, resulted in the mobilising of liquidities and funding up to approximatively four trillion euros to face the immediate and mid-term consequences of the pandemic (see Graph 4).

On 28 May 2020, the Commission proposed a recovery plan for Europe of EUR 750 billion composed of EUR 500 billion of subsidies and EUR 250 billion of loans, as well as an adapted MFF proposal of EUR 1 074 billion, i.e. the amount proposed by the President of the European Council on 20 February (European Commission, COM/2020/446 final). The main objective of these new proposals was to help repair the economic and social damage brought by the COVID-19 pandemic, kick-start European recovery, and protect and create jobs.

On 21 July 2020, after a four-day long summit, the EU leaders agreed on the recovery plan, changing the balance between subsidies (EUR 390 billion) and loans (EUR 360 billion), and on the revised proposal for the 2021–2027 MFF set up at EUR 1 100 billion (which was the figure rejected at the February summit) (European Council, EUCO 10/20).



Graph 4 Coronavirus crisis: EU economic response (Source European Commission)

Intensive negotiations with the Parliament lasted for three months under the German Presidency. In its resolution of 23 July 2020, the European Parliament had recalled its readiness *‘to withhold its consent for the MFF until a satisfactory agreement is reached in the upcoming negotiations between Parliament and the Council’* (P9_TA(2020)0206, pt. 7) notably on four priorities in view of an overall agreement (rule of Law, OR, EU flagship programmes, Recovery and Resilience democratic principle) and called for a safety net for beneficiaries (the so-called ‘contingency plan’) in case of delay in the adoption of the 40 legislative programmes linked to the MFF. On 16 September 2020 (Resolution of 16 September 2020, P9_TA(2020)0220), the Parliament delivered its early (consultative) opinion on the OR Decision, which paved the way for the ratification process by member states in accordance with their respective constitutional requirements. A final agreement on the overall package was reached on 10 November 2020. The decision was approved by the Council by unanimity and the Parliament gave its consent to the Council’s decision on 16 December 2020 (Resolution of 16 December 2020, P9_TA(2020)0206).

The EU Budget at the Core of the COVID-19 crisis and of EU Recovery

In the context of crisis management, the EU budget on its own is only a modest element in a more global economic response designed by the member states and by the EU. Because of some of its key features (a

volume of approximately 1% of EU GNI, its structural and implementation rigidities, and the complexity of the MFF negotiation process), the EU budget was therefore not the main option to face the crisis' outbreak in February 2020. Different scenarios could have been considered:

First, to withdraw the initial MFF proposals and to adopt a contingency plan as proposed by the Parliament (Resolution of 10 October 2019, P9_TA (2019)0032). This could have guaranteed the continuity of EU programmes and allowed the new Commission to redesign the budget proposals. However, the principle of reality and the necessity to adopt the 2021–2027 MFF on time to guarantee the start of EU policies in early 2021 prevailed: the crisis was not compatible with a re-founding option.

Second, to switch the objectives of the negotiations towards a more ambitious, but also more targeted MFF, that would be able to provide the EU with the means to respond to the post-crisis challenges. This option would have relied on an increase of the overall volume of the MFF between 1.11% of the EU GNI (i.e. the initial Commission proposal) and 1.30% of the EU GNI (as requested by the Parliament). Recalling that the European Council was deeply divided and that a compromise of around 1.07% was rejected in February, such an option was highly unlikely from a political and timing point of view.

Third, to give the EU additional means to support member states' recovery efforts through an increase of resources by creating more space ('headroom') between the MFF ceiling and the OR ceiling. This would have allowed the Commission to borrow on the markets and to provide another financial dimension to the EU's action.

Eventually, after weeks of intense negotiations, the EU choose the innovative option of a recovery plan (EUR 750 billion over the period 2021–2024) supplementing an updated MFF for the period 2021–2027, for a total amount of EUR 1 100 billion (see Graph 5). This combined solution allowed the EU to avoid disruption in the calendar of the then ongoing MFF negotiations, and to launch the European Recovery initiative (*Next Generation EU*) through additional financial means borrowed on the markets.

Consequently, the EU budget found itself at the core of the Recovery process. This case diverts from the aftermath of the 2008 crisis when the member states had preferred mechanisms of an intergovernmental nature, outside the EU budget (e.g. the activation of the European Financial Stabilisation Mechanism [EFSM]). At the time, the protection of the single currency endangered by the financial collapse of Greece and

SURE / ESM Pandemic Crisis Support / EIB Guarantee Fund for Workers and Businesses	€540 billion
Next Generation EU	Temporary reinforcement € 750 billion
Multiannual Financial Framework	€ 1 100 billion

Graph 5 Budget for recovery and resilience (*Source* European Commission)

the subsequent risk of dragging other member states into a major crisis prevailed. The EU budget had only been called on as a temporary guarantee for the EFSM, using the existing headroom between the ceiling of the MFF and the ceiling of the OR. With the current crisis, one can say that the EU budget became a key instrument in finding a solution. This difference can be explained because of the ongoing negotiations on the next MFF but also because of the features of the EU budget (equilibrium, solidarity, leverage, investment capacities) and the expressed willingness to use the Community method.

2 FINDING THE BALANCE

This second part sheds light on the power game between the EU institutions during the latest budgetary negotiations and describes the dynamics at play between the start of the process in September 2016, until the final agreement reached in November 2020.

The 2021–2027 MFF is the sixth financial period and the second procedure ruled by article 312 of the Treaty on the Functioning of the EU (TFEU). The negotiations on the 2021–2027 MFF-OR-recovery

plan package were the longest and certainly the most complex and most sensitive ones, notably because of the sanitary, economic and social crisis which hit the continent.

The European Commission: Active or Reactive?

In the wake of President Juncker's speech on the State of the Union in September 2017, when he declared that, after overcoming a strong economic and budgetary crisis, terrorist attacks, Brexit, *'the wind is back in the sails of the EU'* (State of the Union Speech 2017), the College of Commissioners gave its green light for working proposals in the range between 1.1 and 1.2% of EU GNI. The proposals of May 2018 stayed at the lower range (1.11%).

The initial and revised MFF proposals reflect a solid balance between traditional and new policies (e.g. the amounts dedicated to climate action), a guarantee of continuity and new dynamic for the EU budget, a solid balance between interests of net contributors and net beneficiaries, the suppression of rebates in the wake of Brexit and the incorporation of the EDF into the budget. The introduction of the rule of law conditionality was a strong assessment of European values and identity and the ESIF a bold step towards a budget for the Eurozone. The percentage of 1.11% GNI was an honest broker compromise at the beginning and became the final figure at the end. The principle of contracting a common debt with a multiplier effect of each euro invested into the budget demonstrated already a long-term vision and a search for solidarity. The initial Commission proposals from May 2018 were realistically ambitious and going beyond 'business as usual'.

The reaction of the Commission facing the COVID-19 crisis can be considered quick, agile, and innovative. Various legal and budgetary instruments to face the shock of the crisis were mobilised: optimise the Cohesion policy through a modification of the rules allowing the availability of non-spent appropriations (EUR 37 billion) to be reinvested by the member states to counter the impact of COVID-19; use of flexibility instruments up to their limits; create a temporary headroom and possibly accelerate the creation of new OR, putting in place a unique initiative to support member states' efforts, to repair the economic and social consequences of the crisis, and to relaunch EU mid-term activities.

This time, the Commission deliberately based its proposals on the Community method, building an ambitious recovery plan and *Next*

Generation EU on the triple-A status of the EU budget. The Recovery Package is a unique initiative, by its reactivity, its objective, its architecture, and its legal and budgetary means. The incoming Commission took leadership in sending a timely and positive message of action highly expected by member states and European citizens.

The Council and the European Council

The MFF negotiations are one area in which a change of institutional balance (i.e. a growing role of the European Council, at the detriment of the Council of the EU) can be witnessed (De Feo, 2020, p. 4). It takes its origin both in article 312 TFEU and in practice. Indeed, deciding on the expenses (and resources) for 27 countries for seven years by unanimity is probably one of the most difficult and sensitive decisions to be taken at the EU level.

Firstly, although article 312 TFEU refers to ‘the Council’ (and not the European Council—EUCO),⁸ in practice, the role of the Council of the EU (Council) is largely limited to endorsing what the Heads of State and Government have decided beforehand. This state of play gives supremacy to the EUCO as far as the timing and the outcome of the negotiations are concerned. Once the EUCO has reached an agreement, it is very difficult for the Council and for the European Parliament to depart from it, even if the latter institutions both share the budgetary and legislative authority. Already after the negotiations of the 2014–2020 MFF, a weakening of the role of the Council could be observed. In a resolution following these negotiations, the Parliament strongly deplored this situation, recalling that article 15.1 of the Treaty on the European Union (TEU) stipulates that the European Council ‘*does not exercise legislative functions*’ (Resolution of 15 April 2014, P7_TA(2014)0378, pt. 14). The 2014–2020 negotiations had indeed been characterised by very limited genuine co-decision at a proper legislative level since almost all financial envelopes had been pre-defined in the conclusions of the European Council of February 2019. Consequently, the Parliament’s attitude during the 2021–2027 negotiations can be described as more vigilant and proactive in protecting

⁸ Article 312.2: “The Council, acting by a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament [...]”.

its legislative prerogatives at the committee level towards the other arm of the legislative authority (e.g. the Council).

Secondly, and apart from the risk of institutional confusion between the EUCO and the Council in the MFF negotiations, the internal functioning of the Council (in particular, the difficulties encountered by the rotating Presidency to get a negotiating mandate due to the lengthy process of consulting national delegations), impairs efficiency and reduces the timespan allocated to the interinstitutional negotiations. The 2021–2027 MFF preparatory work extended over six rotating Presidencies (BG, AT, RO, FI, HR, DE) along three years (2018–2020). Despite the wish expressed in Spring 2018 by President Juncker to reach an agreement before the European elections,⁹ the Council did not obtain a mandate to present a compromise proposal until the December 2019, under the Finnish Presidency.

Thirdly, the Council position is eventually characterised by an accounting logic and a top-down view over the EU budget, despite the reiterated ambitious orientations adopted by member states in the conclusions of successive European Council meetings. President H. Van Rompuy used to say that the three main questions asked across the EU ahead of a budgetary negotiation were: *‘how big is the pot? where does the money come from? where do the expenses go?’*¹⁰ The Parliament repeatedly deplored in its resolutions that the rule of unanimity results in decisions based on the smaller common denominator. For the 2021–2027 MFF negotiations, the proposal of the Finnish presidency from 5 December 2019 set up an overall ceiling at 1.07% of EU-27 GNI, e.g. a reduction of about EUR 40.000 billion against the Commission proposal, over the period. At the General Affairs Council (GAC) meeting of 10 December, a number of delegations reacted negatively, insisting on a 1% threshold. The Commission consequently regretted that the proposal laid down by the Presidency was too low to allow the EU to meet the political objectives set up by the EU leaders themselves.

The proposals laid down by the Finnish Presidency and by the President of the European Council at the meeting of 20–21 February 2020 reflected the diverging opinions of the member states and did not allow

⁹ Footnote 7, *op. cit.*

¹⁰ Informal comment by European Council President H. Van Rompuy ahead of the 2014–2020 MFF negotiations.

for an agreement (see Part I.1). The alliances within the EUCO played an important role in influencing decisions, forging majorities or blocking minorities: the ‘Frugal Four’ group (AT, DK, NL, SE) replaced the former ‘Friends of better spending’ and the ‘Friends of Cohesion’ regroup the Visegrád countries (CZ, HU, PL, SK). Other ad hoc constellations, like the ‘New Hanseatic League’,¹¹ each defended specific priorities. As often said by a former chair of the committee on budgets of the European Parliament, *‘we are still looking for the ‘Friends of the EU’*.¹²

At the end of the December 2019 EUCO meeting, President C. Michel commented on the failure of the meeting as follows: *‘We have worked very hard to try to reconcile the different concerns, the different interests, the different opinions on the table, but we need more time’*.¹³ The urgent reaction which had to be given to the burst of the pandemic a few weeks later did not allow for another compromise to be presented. The EUCO eventually adopted the MFF at the level of the Commission proposal (1.11% of EU-27 GNI), together with the Recovery package and the decision to raise the OR ceiling (see Part II) at the meeting of 20–22 July 2020. An emergency had prevailed over conflicts.

The European Parliament Striving for More Ambition

Article 312 TFEU has codified the MFF into primary law and given the main part to the Council. The role provided to the Parliament is only limited to the very end of the process through the consent procedure: *‘The Council shall act unanimously after obtaining the consent of the European Parliament which shall be given by a majority of its component members’* (art. 312 TFEU). Formally, the Parliament therefore only has the right to approve or reject the Council regulation laying down the MFF decision (adopted by unanimity).

¹¹ The New Hanseatic League (created in February 2018 by the Finance Ministers of DK, SE, NL, EE, LV, LT) supports more fiscal conservatism within the EU.

¹² Informal comment by A. Lamassoure, former Chair of the Budget Committee, during the 2014–2020 MFF negotiations.

¹³ Remarks by President C. Michel after the special meeting of the European Council on 20–21 February 2020, <https://www.consilium.europa.eu/en/press/press-releases/2020/02/21/remarks-by-president-charles-michel-after-the-special-meeting-of-the-european-council-on-20-21-february-2020/>.

Based on former experience relating to the 2014–2020 MFF proposals, negotiations, and outcomes, the Parliament got itself in working order at an early stage of the 2021–2027 negotiations. Due to the time sequence of the financial periods, the outgoing Parliament (2014–2019) was neither involved in the decision of the 2014–2020 MFF, nor in those of the 2021–2027 one. However, paving the way and the calendar for the newly elected Parliament in June 2019 was its first ambition. The outgoing Parliament therefore worked in an accelerated manner to adopt an interim report, defining a negotiating mandate before the European elections. The Parliament was the first institution to set out its position on the MFF 2021–2027 and OR in two non-legislative resolutions (Resolutions of 14 March 2018, P8_TA(2018)0075 and P8_TA(2018)0076) aiming to influence the Commission proposals. Four resolutions on the post-2020 MFF and OR were adopted by very large majorities,¹⁴ including an interim report with detailed figures for all MFF ceilings and special instruments, broken down per programme within a ceiling of EUR 1 324,1 million: specific amendments to the Commission’s draft MFF regulation, as well as the draft Inter-institutional agreement. Despite the new political balance in its composition the Parliament of the ninth legislature broadly confirmed the initial negotiating position (Resolution of 13 May 2020, P9_TA (2020)0065).

The Parliament’s second ambition was institutional, namely to force the Council to take a position and to impose real negotiations with the Parliament, in line with article 3125 TFEU which stipulates that *‘throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council, and the Commission shall take any measure necessary to facilitate its adoption’*. As recalled above, in these multiannual budgetary negotiations, the Parliament is not on an equal footing with the Council. It must create its space and build on the European Council conclusions, even if the latter institution states there is none. Moreover, the Commission’s double-dealing role, who is interested in reaching a timely agreement and is often making alliances with the Council to attain its objective, complicates the Parliament’s task. Hence, the absence of a neutral negotiating channel with the European Council makes the Parliament’s negotiating part more difficult.

¹⁴ Resolutions of 14 March 2018 (P8_TA(2018)0075 and P8_TA(2018)0076), 30 May 2018 (P8_TA(2018)0226) and 14 November 2018 (P8_TA(2018)0449).

The third ambition developed by the Parliament was the initiative of a contingency plan requested after the European elections should an agreement not be reached in time. Facing the Council's delay to respond to the will of including the priorities of the newly elected Commission into the MFF, and after the failure of the February 2020 EUCO meeting, the Parliament subsequently prepared a formal request for a contingency plan to the Commission based on article 225 TFEU (Resolution of 13 May 2020, P9_TA (2020)0065).

The Parliament's fourth ambition was to impose innovative working methods, mainly on three fronts: firstly, the Council's offer to attend GAC briefings and debriefings meetings during the 2014–2020 was described as too formalistic and replaced by twelve 'trilateral dialogue meetings'; secondly, the Parliament's negotiating team started the practice of circulating, to the Council and within the Parliament, annotated versions of the negotiating boxes prepared in collaboration with the rapporteurs for the sectoral programmes with the aim to foster information and exchanges about Parliament's views; and finally, in December 2019 when the Finnish Presidency submitted the first negotiating box with figures to the GAC, the Parliament's negotiating team started the practice of circulating comparative analyses of every new set of figures put forward by the other Institutions, on top of its annotated versions of the negotiating box.

After five months of strenuous negotiations, the Parliament's negotiating team¹⁵ on the MFF and OR reached an overall political compromise with the German Council Presidency and the Commission on 10 November 2020. As a result of this compromise, the Parliament consented to the draft Council Regulation laying down the MFF for the years 2021 to 2027. The vote took place at the plenary sitting of 15 December 2020. A provisional agreement was also found on 5 November on the rule of law mechanism by the Parliament (Press release, 5 November 2020), contrary to the Council where no majority could be found. The Parliament—for the first time—obtained 'top-ups' of EUR 15 billion (2018 prices) to reinforce flagship programmes, increasing the ceilings and financial allocations of EU programmes as outlined

¹⁵ J. Van Overtveldt, Chairman; J. Olbrycht and M. Marques, MFF Co-Rapporteurs; J. Manuel.

Table 1 EUR 15 billion of top-ups for flagship programmes and areas

-
- Horizon Europe: +4 billion;
 - InvestEU: +1 billion;
 - Erasmus+: +2.2 billion;
 - EU4Health: +3.4 billion;
 - Creative Europe: +0.6 billion;
 - Rights and Values programme: +0.8 billion;
 - Border Management Fund & Border and Coast Guards: +1.5 billion;
 - NDICI: +1 billion;
 - Humanitarian aid: +0.5 billion
 - Flexibility instrument: EUR 1 billion
-

The main source for the increases (EUR 11 billion) will come from a new mechanism linked to the proceeds from fines collected by the Union and will result in automatic additional allocations to the concerned programmes in 2022–2027. This mechanism will also result in a genuine yearly increase of the MFF ceilings

in the European Council’s proposals (see Table 1),¹⁶ using innovative mechanisms like postponed increases of ceilings and envelopes, and flexibility.

3 REFORM OF EU FINANCING IN SIGHT

This third part will focus on discussing the revenue side of the EU budgetary context and negotiations.

Currently, the member states’ contributions (direct and indirect) represent approximately 80% of the EU’s OR, with 70% based on their Gross National Income (GNI) (Vitrey and Lumet, 2020). The decision on OR is characterised as emanating from a classical conception of relations between sovereign states (largely excluding the Parliament), considering their contribution to the EU budget as a direct transfer from their national budgets. This leads to inter-state power games and the idea that ‘who pays, decides’ (Debreu, 2018). As a consequence, the financing of the EU budget is mainly influenced by accounting calculations. This reality results in a rampant net payer debate and keeps strangling the budgetary negotiations between member states (net contributors vs. net beneficiaries), but also between the two budgetary authorities (the

¹⁶ Fernandes and V. Hayer, Own Resources Co-Rapporteurs; R. Andresen, Member.

Council of the EU and the European Parliament). Over time, the Parliament has made long-standing efforts to reform the current system of its own resources on which it has almost no prerogative except giving its consent on implementing measures.

As previously discussed, the emergence of the COVID-19 pandemic and the subsequent creation of the recovery plan have changed this situation and reshuffled the context of the 2021–2027 MFF negotiations. The recovery plan proposed by the Commission translates a historical momentum, political support, and an economic necessity for the EU to progressively reform its budget (both the revenue and the expenditure). The 750 billion agreed upon by the member states will originate from loans contracted by the Commission on behalf of the Union,¹⁷ but will need to be reimbursed by the Union's budget, from 2026 to 2058. If no new resources are created, either a gradual increase of the national contributions to the European budget, or a reallocation of the money dedicated to European funds and programme will be necessary to cover the cost of repayments and interests. The decision to start reimbursing within the timespan of the 2021–2027 MFF has also pressured the member states and institutions to seriously consider the creation of new budgetary resources. Consequently, the cornerstone of the *Next Generation EU* includes a modification of the Own Resources Decision (ORD) making the loan possible in legal and financial terms.

From the onset of the Treaty of Rome in 1957, the Treaties have always promoted EU financial autonomy through the principle that '*Without prejudice to other revenue, the budget shall be financed wholly from own resources*' (article 311 TFEU). After an initial period of financing through direct national contributions, 'traditional own resources' (mainly customs duties and agricultural levies) were introduced in 1970 (Treaty of Luxembourg) allowing the European Community to dispose of its own fiscal income. In the late 1970s, those were complemented with a VAT resource, which gradually became the main source of funding until the late 1990s, when its proportion started declining and is now at approximately 15% of the total EU revenue. The structure of the EU's OR has therefore been unstable, evolving depending on the respective shares of its genuine own resources, VAT, and the national contributions.

¹⁷ The recovery plan, therefore, initiates a deep change in the use of loans: changes of scale (EUR 1.100 billion plus EUR 750 billion) and a change of purpose (subsidies and loans granted to member states to reinforce European policies [*Next Generation EU*]).

With the gradual development of new policies and rising expenditures, a new resource based on member state contributions (out of national tax revenue) was eventually established in 1988. Over time, this GNI-based resource has been growing to become the predominant part of the EU revenue (d'Oultremont & Mijis, 2013). At the same time, the growing use of correction mechanisms has been developing, in which member states tend to focus primarily on their own net financial benefits.

The process of reviewing and reforming the financing of the EU budget is not new. However, despite the repeated calls from the Parliament¹⁸ to establish new resources, as well as the diverse proposals made by the Commission to grant the EU budget with new autonomous sources of revenue to reduce the weight of the GNI-based resources, member states have maintained their reluctance over time. The revenue side of the budget remains to a large extent the prerogative of the member states¹⁹ and in a general context of budgetary restrictions and overall budget reductions, it seemed unlikely that member states would agree on radically changing the EU's own resources.

In the framework of the negotiations on the 2021–2027 MFF, and in light of Brexit and its financial consequences,²⁰ strong political will emerged once more (especially from the Commission and Parliament) to address the issue of EU financing. During the negotiations, the Parliament repeatedly insisted on the importance of finding an agreement, not

¹⁸ In 2007, French MEP A. Lamassoure demonstrated that the current financing system had reached its limits. He urged for a two-stage approach to reform the financing of the EU budget: first, abolish all corrections and rebates, and second a progressive implementation of a new system of own resources (European Parliament, Resolution of 29 March 2007, P6_TA-PROV (2007) 0098). During the negotiations on the 2014–2020 MFF, the Parliament managed to secure the creation of a *High Level Working Group on Own Resources* (HLGOR) under the leadership of former Italian Prime Minister M. Monti and composed of members representing the European Parliament, the Council and the Commission. The final Monti Report, presented in the Parliament and the Council in January 2017, advocated for substantial reforms of the EU budget, requiring changes both on the expenditure and revenue sides, based on nine recommendations (Monti Report, December 2016).

¹⁹ According to article 311 TFEU, the decisions related to the own resources are adopted at unanimity by the Council after consultation of the European Parliament. Moreover, the own resource decisions only enter into force once approved by the member states according to their respective constitutional rules (won and Borders Management by the national parliaments).

²⁰ See footnote 1.

only on the total amount of the 2021–2027 MFF but also on the issue of its own resources, and it had claimed its opposition to agreeing on the expenditure side of the EU budget without significant progress made on the reform of the revenue side (Resolution of 10 October 2019, P9_TA (2019) 0032, pt. 5). During the negotiations, the Parliament obtained the creation of a new own resource to be formally endorsed by the EUCO in the form of the new contribution based on the weight of non-recycled plastic packaging waste ('plastic contribution'), thus breaking a stalemate of more than 30 years. This constituted a first step in fulfilling Parliament's request for the introduction of a basket of new own resources. A simplified VAT-based own resource was also approved, which is expected to significantly improve the operation of the system.

The EU's reaction and answers to the COVID-19 crisis through the recovery plan proposed by the Commission constituted a historical momentum to progressively reform its budget (both the revenue and the expenditure). To assure investors that the Union will be able to fulfil its reimbursement obligations, the new ORD creates a borrowing capacity for the Union by providing for a significant increase of the OR ceiling. In November 2020, the Parliament and the Council agreed on a roadmap for the introduction of new own resources: a first candidate agreed upon is the introduction of a tax on single-use plastics²¹ from 2021 onwards. The Commission is also called upon to make new proposals as of 2021, amongst others on carbon emissions,²² and possibly a carbon border tax²³ (in line with the objectives of the Green Deal)—to be introduced in 2023—and a way to levy taxes on digital companies.²⁴ The Council is due to deliberate on these new own resources by 1 July 2022 at the latest given their introduction by 1 January 2023. In 2024, a renewed proposal for a financial transaction tax should follow.²⁵ Finally, the agreement includes a resource based on a financial contribution of companies

²¹ With an estimated revenue of EUR 6 billion a year, but destined to gradually phase-out.

²² With an estimated revenue of up to EUR 10 billion a year.

²³ With an estimated revenue of EUR 5 to 14 billion a year.

²⁴ With an estimated revenue of EUR 1.3 billion a year.

²⁵ The income would be variable, depending on the revenue which would be taxed (from EUR 3.5 billion a year to EUR 57 billion).

or a common base to tax businesses. The Council is expected to deliberate on these new own resources by 1 July 2025 at the latest for their introduction by 1 January 2026. This roadmap has been included in the legally binding interinstitutional agreement on the budget and the recovery plan.

Without concrete proposals from the Commission, no precise timeline nor content can be conjectured, but the objective would be to overhaul the current logic of financing the EU's own resources, to reach the breakdown of 60% of OR and reduce the GNI-based contributions to 40% only.

The current unprecedented situation is also an opportunity to question the means at the EU's disposal to accomplish its missions. Closely intertwined with the core of state sovereignty, the debate about genuine OR is 'quasi-constitutional' and highly political (Fuest & Pisani-Ferry, 2020), but also speaks to fundamental questions about the future and the *finalité* of the European integration process. By establishing EU OR largely disconnected from (direct or indirect) national contributions, hence reducing the dependence on member states' contributions, this would largely modify the overall power games with the EU budgetary sphere. A reformed budget would reflect the general level of ambition, unity, and credibility the political leaders want to bestow on the EU. What is true for the way the money is spent, also applies to the way EU resources are identified, and is reason enough to seek new and alternative ways of financing the EU budget. By giving the EU more direct resources, but also by empowering the two budgetary authorities—notably the European Parliament—more leverage would be given to the Union to create EU added value through its policies. The budgetary problem is indeed real, and as long as member states keep focussing on accounting calculations, the EU budget cannot be an efficient investment tool enabling the EU to deliver the full potential of its policies.

4 CONCLUDING REMARKS

In the wake of the unprecedented challenges faced by the EU in the framework of the 2021–2027 budgetary negotiations, culminating with the consequences of Brexit and the COVID-19 pandemic, the EU found itself in more than one way—and still is—at a turning point.

The solid voting majorities (548;81;66 votes) which concluded the negotiations on the MFF-OR- recovery plan package in the European Parliament at its plenary sitting of December 2020 embody the continuity of EU action (resolution of 16 December 2020, P9_TA(2020)0357). However, this time, it can be considered as more than continuity. The contents of the proposals presented in May 2018 by the Juncker Commission were not only the prolongation of the Barroso Commission but they also were visionary, made of prudence, and dare in times of Brexit. In early 2020, these priorities were confirmed and strengthened by the von der Leyen Commission. The institutional landscape followed a similar line. In June 2019 newly elected European Parliament, composed of new political majorities, endorsed the proactive and ambitious positioning of the outgoing Parliament. The member states, which started in a 'business as usual' mode, characterised by lengthy discussions reflecting profound divergences, had to find new post-Brexit alliances and resistance to support an ambitious project for the EU. Common objectives had to face intergovernmental interests.

In line with Jean Monnet's famous quote, *'l'Europe se fera dans les crises et elle sera la somme des solutions'* (Monnet, 1976), the COVID-19 crisis triggered action and reaction from both the supranational and intergovernmental sides. The uneven damage caused to the European economies and societies demanded a quick response with massive support to keep the people's trust in the European project. The rationale switched from matching priorities with resources to matching resources with challenges. This is how the MFF became the instrument on which to build recovery and how the then ongoing negotiations became the opportunity to provide an unprecedented response to the crisis.

More than ever the EU budget reflects the level of European integration and solidarity granted by the member states. Having a sound budget is a major condition for European integration to proceed, and a prerequisite for the EU's future. Now was the time to give the EU budget not only means, but a meaning. The past budgetary negotiations were a chance for EU ambition: in a context of continuity and re-foundation, the EU budget draws one step closer to *'provid[ing]e the Union with the necessary means to attain its objectives and carry through its policies'* (article 311 TFEU). Despite their complex architecture and possible lack of democratic dimension, the choices made for the 2021–2027 MFF and the *Next Generation EU* will shape the Union for the decades to come.

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Riding the Green Wave? Green Electoral Success and the European Green Deal

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1 INTRODUCTION

In the wake of the 2019 European elections, journalists proclaimed that a “Green Wave” (Candau, 2019; Mallet et al., 2019) had swept over Europe: The Greens/European Free Alliance (Greens/EFA) political group considerably augmented its number of European Parliament (EP) seats from 52 out of 751 in the 2014 elections to 73 out of 705 in

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the 2019 elections,¹ making it the fourth-largest EP political group. No doubt, European Green parties were successful—but their success was not uniform across Europe. A clear West–East and North–South divide characterised the election results. Green parties won particularly in Germany, Finland, Lithuania, Denmark, the United Kingdom (UK), France and Czechia, while in most Central and Southern European countries no single Green Member of European Parliament (MEP) was elected. In the haggling over top leadership positions for the European Commission, the European Council, the EP and the European External Action Service that ensued the 2019 European elections, the Greens/EFA failed to install one of their lead candidates in a top position. The three largest political groups European Peoples Party (EPP), Socialists & Democrats (S&D) and Renew Europe (Renew) distributed the positions among their candidates. The Green Wave did not sweep over the EU top positions. Nonetheless, the Greens/EFA left their imprint on EU policy priorities.

Instead of EPP Spitzenkandidat Manfred Weber, the European Council put forward Ursula von der Leyen as a candidate for the European Commission Presidency, which caused discontent in the EP (see Chapter 5 for a discussion of the Spitzenkandidaten procedure). To achieve the necessary absolute majority for her election by the EP, von der Leyen however needed the support of at least three political groups. This was a new situation since, previously, the EPP and S&D had a majority and could strike a deal within the duo. Von der Leyen needed to reach out and garner support from multiple political groups in addition to her own—the EPP. In this process, she courted the Greens/EFA, among others. Their leadership emphasised the importance of green priorities for the new Commission mandate. These observations beg the question of whether—as a consequence of this new situation—a Green Wave swept over European Commission priorities. This chapter searches for an answer to this question and discusses what the increased voter support for Green parties means for European Union (EU) politics and policies. We analyse the details of the Greens/EFA's electoral success over time and across EU Member States, discuss whether the other political groups have greened their electoral manifestos, and explore the Greens/EFA's role and influence on the von der Leyen Commission priorities.

¹ Due to the reconfiguration of Parliament following Brexit the total number of MEPs was reduced from 751 to 705.

The Greens/EFA—an EP political group composed of MEPs from Green parties as well as centre-left regionalist parties like the Spanish *Esquerra Republicana de Catalunya*—have become one of the main EP political groups. European politics and the composition of the EP have been fragmented over time from a dominance of the traditional centre-left and centre-right political groups (Social-Democrats, Christian-Democrats and Liberals) to a growing number of political parties and groups, ranging from the extreme-right to the extreme-left (Hernández & Kriesi, 2016; Oğurlu, 2019). The Greens/EFA's ascent, however, started earlier than the rise of most other small political groups. More importantly and contrarily to the others, the group is not situated on either of the extremes of the classical left–right political spectrum, which makes the Greens/EFA an interesting partner for the other centre political groups to form majorities. Most Greens/EFA-affiliated parties started with a strong focus on a single issue—environmental concerns—but meanwhile have developed positions on all other matters, while maintaining a strong ecological position (Rüdig, 2019). The EP's growing fragmentation means that the centre political groups often need the Green/EFA political group to form majorities, which suggests that the centre political groups need to make concessions to environmental priorities (Spoon et al., 2014). Moreover, the Greens/EFA's electoral success and the centre parties' simultaneous defeat in some Member States (such as Germany) could have provided an incentive for the latter to incorporate environmental concerns in their electoral campaigns so as to “ride the Green Wave”. This trend can be noticed both in European and national electoral campaigns. In Germany, for example, the Green party *Bündnis 90/Die Grünen* booked large success in the 2017 and 2021 federal elections (Davis, 2018), and in France, Greens secured electoral success in several major cities in the 2020 municipal elections (BBC, 2020).

At the EU level, after her nomination as Commission President-designate by the European Council, Ursula von der Leyen published her political guidelines on 16 July 2019, entitled “A Union That Strives for More”, which included a “European Green Deal” (EGD) as one of six headline ambitions for Europe (von der Leyen, 2019a). The core objective of the EGD is to make Europe the first climate-neutral continent by 2050. On 11 December 2019, the European Commission detailed the earlier announcement by publishing the EGD Communication (European Commission, 2019), a roadmap for ramping up previous EU climate ambition and achieving other sustainability goals.

The EGD “aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy” (European Commission, 2019). It builds the basis for several legislative proposals that the Commission planned to publish over the course of its term. The Greens/EFA’s electoral success that turned them into the fourth-largest EP political group and Ursula von der Leyen’s need to secure an absolute majority in parliament for her election gave them some influence on the Commission’s priorities, most notably the EGD.

The next section traces the electoral evolution of the European Green parties that are part of the Greens/EFA political group, showing that since their first participation in European elections in 1999 they steadily increased their share. Then, we investigate whether—conjointly with the Greens’ rise—other European political parties equally embraced environmental topics in their 2019 electoral manifestos. This is followed by an exploration of the Greens/EFA’s role and possible influence on the von der Leyen Commission’s priorities with a focus on the European Green Deal. This analysis focuses on the period between the nomination and the election of Ursula von der Leyen as European Commission President. The last section concludes by placing the discussion in its broader context.

2 THE GREEN’S ELECTORAL PERFORMANCE OVER TIME

Green parties have officially participated in European elections since the beginning of universal suffrage in 1979. Yet, they only have had a separate political group since 1989. Prior to that, they were part of a wider and more diverse grouping—the Rainbow Alliance. The initial 1989 success was not long-lived. After electoral losses in 1994, Green MEPs joined the European Free Alliance (EFA) group. When in 1999 Green parties regained seats, together with the EFA MEPs they formed the Greens/EFA political group that still exists today (European Greens, n.d.). The Greens/EFA group held a share of 5–10% of EP seats between 1999 and 2019: 10% (2019), 7% (2014), 8% (2009), 6% (2004) and 8% (1999).

As depicted in Fig. 1, Green electoral performance has never been evenly distributed across EU Member States. It has always been concentrated in the Nordic/Baltic countries and Western Europe with some fluctuations regarding the specific countries. A North–South divide and, later, an additional East–West divide characterise Green electoral success.

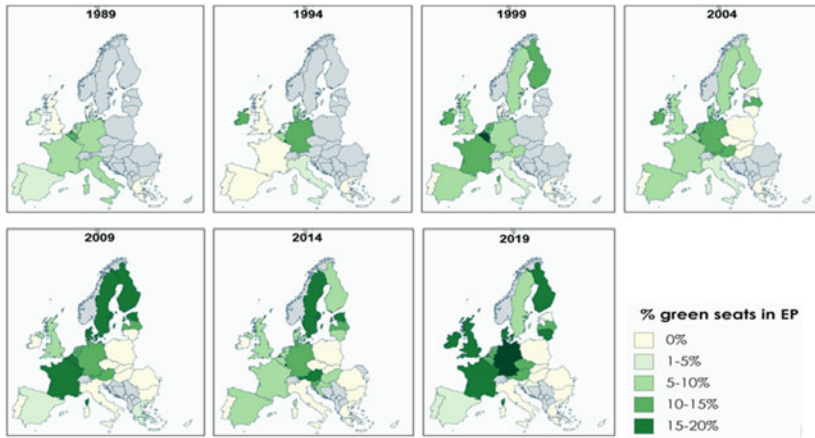


Fig. 1 Green Electoral Results, 1989–2019. Authors' own visualization based on data from the European Parliament (2019)

This section first discusses the reasons for this geographical imbalance before zooming into the 2019 European elections.

Green Parties' Geographically Divergent Success

Green parties' success has fluctuated over time and varied among EU Member States. Scholars identify two main explanations for these trends: the issue salience of environmental questions and local problems of the specific country (Farstad, 2018; Grant & Tilley, 2019). In this section, we reflect upon these explanations in various parts of the EU between 1979 when the first European parliamentary elections took place up until 2019, the most recent elections. Issue salience can help explain why Green parties' success has fluctuated over time, while the variance in local contexts can help explain why Green parties' success has varied among the Member States.

As Green parties succeeded in profiling themselves as credible issues owners of environmental concerns in large parts of Western Europe and the Nordic States, they benefitted from the increased salience of environmental issues since the late 1970s/early 1980s (Farstad, 2018; Grant & Tilley, 2019). Scientific evidence of a hole in the ozone layer and anthropogenic climate change was reported in the media, the Chernobyl nuclear

accident led to anti-nuclear protests in Western Europe, and the first wave of international environmental agreements was adopted (Delreux, 2016). European citizens' attitudes measured by the Eurobarometer confirm this tendency (Eurobarometer 63–94). Between 2005 and 2008, the share of European citizens claiming that environmental issues are an important issue that should be addressed by their country, more than doubled from 4 to 10%. Eurobarometer data also shows that the majority of European citizens (around 70%, Standard Eurobarometer 63–70) thought that environmental action should be tackled jointly within the EU. The 2009 and 2014 European elections, however, were overshadowed by the global economic, financial and Euro-crises, followed by austerity and economic crisis management, which led to a drop in salience (Burns et al., 2020; Pearson & Rüdig, 2020). Eurobarometer data shows that, while in 2008 still 10% of EU citizens considered environmental protection an important issue faced by their country or the EU, in 2010 only 5% and in 2013 only 3.5% shared this opinion (Standard Eurobarometer 74–80). Although Green parties had expanded their political agenda beyond environmental issues, they could not establish themselves as credible issue owners of economic topics during this time period (Rüdig, 2019). As of 2018, citizens' prioritisation of environmental issues rose again to 13.5% in 2018, 22% in 2019 and 20% in 2020 (Standard Eurobarometer 89–94). Figure 2 summarises the Eurobarometer results on citizens' perception of the most important issues facing their country (between 2005 and 2009) and the EU (between 2010 and 2020).

Issue salience, however, does not fully explain why Green parties have been more successful in Western and Northern Member States than in Southern and Eastern parts of the Union (Farstad, 2018; Grant & Tilley, 2019; Rüdig, 2019). Local contextual factors can instead provide explanations in this regard. In large parts of Southern Europe—for example, Spain, Italy and Greece—environmental protection has been salient, but the Green political landscape is more fragmented than in other Member States. Small Green and New Left parties whose members are not part of the European political group emerged and formed direct competition for Green parties that are part of the Greens/EFA group. In Central and Eastern Europe, despite Green parties' success during the transition from communist societies to liberal democracies, other issues such as economic hardship started conquering the political agenda during their first years of EU membership, explaining a downturn in the Greens'

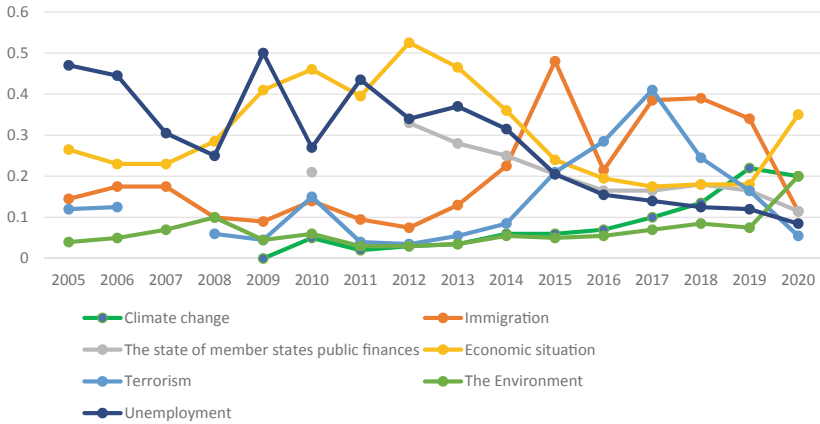


Fig. 2 Eurobarometer data on the question: What do you think are the two most important issues facing your country (2005–2009)/the EU (2010–2020)?² (Source Eurobarometer [2005–2020]. Retrieved on 30 July, 2021 from <https://europa.eu/eurobarometer/surveys>)

success (Frankland, 2016; Rüdiger, 2019). The next section zooms into the 2019 elections specifically.

The 2019 European Elections

In the 2019 European elections, the Greens/EFA group went up from 6.66% to 9.85%, which led some journalist to proclaim that a “Green Wave” had swept over Europe (Candau, 2019; Mallet et al., 2019). Yet, since geographical divergence in the Greens’ success persists, it can be questioned whether such a Green Wave has actually affected the entirety of the EU.

² The graph is a summary of the following Eurobarometer questions:

What do you think are the two most important issues facing your country at the moment? (2005–2009).

What do you think are the two most important issues facing the EU at the moment? (2010–2020).

The Eurobarometer data between 2005–2008 and 2020 did not make a distinction between climate change and environmental issues. The data per year describe the average of the Spring and Autumn Standard Barometer data values.

In the run up to the 2019 European elections, salience of climate and environmental issues increased both within and outside EU borders. Between 2018 and 2019, the percentage of EU citizens perceiving climate change as a one of the “most important issues facing the EU at the moment” increased from 13.5 to 22 (Eurobarometer, 2019, p. 19). The 2018–2019 Europe-wide climate school strikes catapulted climate protection onto the national and European political agendas. It contributed to the Greens/EFA’s electoral success in some EU Member States specifically, and in the EU overall. The group increased its share of EP seats and reached almost 10% of European votes (European Parliament, 2019). In Finland and Germany, Green parties could double their electoral weight (Pearson & Rüdig, 2020). Yet, in Eastern and Southern Member States the Greens were far less successful.

The fluctuating success can be explained by the specific context in which Green parties operate (Pearson & Rüdig, 2020). In Western and Northern European countries where Green parties had not been involved in national government (such as Germany, Belgium, Ireland, France, Finland and the UK), they scored better than in the Member States where they were involved in national government (such as Sweden) (Bolin & Aylott, 2019; Pearson & Rüdig, 2020). However, governmental (non-) participation does not explain the full picture. The most striking examples of the Greens’ success are Germany and Finland (Rüdig, 2019; Viatkin, 2020). In Germany, regional dynamics such as dissatisfaction with the Social Democratic Party in Eastern Germany, skilful campaigning and public attention to climate change played a role (Partheymüller et al., 2019). In Finland, the Green’s strong opposition to the right-wing government proved successful (Raunio, 2020).

In Southern EU Member States such as Spain, Greece and Italy, the Greens/EFA candidate MEPs were not very successful because various Green parties competed with each other and ultimately remained too small to surpass the electoral threshold. In Central and Eastern Member States, however, environmental and climate issues were not salient in the electoral debate (Pearson & Rüdig, 2020). Portugal and Lithuania however are outliers to this trend. While the Portuguese Greens scored zero percent during the previous elections, they reached 4% in 2019 (European Parliament, 2019). Environmental and climate issues were perceived as salient and a new Green political party—Partido Ecológica os Verdes—succeeded in presenting itself as a credible issue owner in national and European elections (Fernandes & Magalhães,

2020; Pearson & Rüdig, 2020). In Lithuania, the Greens were able to double their electoral weight from 9 to 18%. The Green party—*Lietuvos valstiečių ir žaliųjų sąjunga*—had already succeeded in putting European integration on the political agenda in previous elections and in 2019 focused on the importance of European integration for achieving a sustainable future. This EU-oriented campaign in combination with the support by well-known people in Lithuanian society yielded electoral success (Gudžinskas & Bekišas, 2020; Pearson & Rüdig, 2020).

The 2019 European elections indeed marked an electoral success for Green parties. However, as had been the case in the past, regional differences became visible. It seems exaggerated to argue that the EU as a whole has been hit by a Green Wave. Rather, individual Member States experienced Green Waves and, cumulatively, their electoral results led to a major gain for the Greens/EFA group as a whole. This gain in EP seats, combined with the two centre political groups' (EPP and S&D) loss and the extreme-right/left political groups' gains reconfigured the majority constellations in the EP.

3 GREENING OTHER POLITICAL GROUPS?

A European Green Wave cannot only depict a growing number of Green MEPs, but it can also describe the greening of other political parties' positions in the European elections. An analysis of all manifestos that European political parties (ALDE, European Left, EPP, PES, European Green Party and EFA) published ahead of the 2019 European elections shows that they all include references to environmental and climate-related policy, but to varying degrees. Right-wing political groups (ECR, EFDD, ENF) could not be linked to comparable manifestos, as national parties campaign individually. For the ECR group a 2017 statement on the group's future vision and priorities (European Conservatives and Reformists, 2017) was added to the analysis but it does not include any reference to climate change and only one to environmental and energy matters, mentioned as EU "core competences" (p. 6). The analysis is based on electoral manifestos of European political parties, which are composed of Member State political parties and campaigns during European elections. While they are not the same as the EP political groups, they are closely linked and have nearly the same membership.

The European Green Party's (EGP) manifesto has the longest and most detailed section dedicated to climate and environmental policy. It

also is the only manifesto in which green topics are the first section, highlighting that the EGP is most committed to climate and environmental policy. Throughout its manifesto, the EGP calls for higher ambition on climate and environmental policy. Almost all other European parties that published a manifesto also promised higher ambitions for EU climate and environmental policy. Only the EPP included policies that continue the status quo. It warns of “Green narrow-mindedness that categorically rejects trade, hinders economic growth and fails to include large parts of our societies” (European People’s Party, 2019, p. 1)—a statement that suggests that the party perceives climate and environmental protection as an antipode of economic prosperity and inclusiveness. This is not shared by the other parties. Especially the EGP highlights that “[g]reening our economy is a historic opportunity to create jobs and improve our quality of life” (European Green Party, 2019, p. 2).

The manifestos tend to focus more on climate than on environmental policy. The Alliance of Liberals and Democrats for Europe (ALDE) strongly emphasises market-based approaches such as emission trading and greater investment in sustainable infrastructure and processes. The PES manifesto has a relatively short section dedicated to “A Sustainable Europe That Protects Our Planet” (Party of European Socialists, 2019). Due to its shortness, the manifesto does not provide detailed plans. Both ALDE and PES manifestos were “greener” than in 2014 (IEEP, 2019). The European Left (EL) manifesto contains a section on “A New Model for Ecological Development” in which it argues against market-based policy instruments to achieve climate and environmental goals (European Left, 2019). While the European parties converged on demanding higher ambition, their proposed solutions diverge.

The analysis of the European political parties’ electoral manifestos shows that the Greens no longer are the only ones who substantially address and advocate climate and environmental issues. Nonetheless, the EGP remains the party that places the most emphasis on them and provides the most detailed plans. Overall, the relative greening of mainstream political parties and groups could strengthen the political power of the Greens/EFA group because it enables the building of coalitions pushing for ambitious EU climate and environmental policy. It could, however, also diminish the Greens’ appeal to European voters since they no longer are the only political party advocating for climate and environmental protection.

4 GREENING THE EUROPEAN COMMISSION?

Not only other political groups—in addition to the Greens/EFA—have gradually embraced climate and environmental policy, also the European Commission has done so—in addition to the EP. Historically, the EP acted as an environmental champion in EU policy-making, oftentimes pursuing a more ambitious position than the Commission proposal and the Council of the EU's position. It however has become less ambitious in its amendments over time (Burns, 2019). The European Commission historically acted as a policy entrepreneur on many environmental policies but, since approximately 2010, has decreased the number of ambitious policy proposals it put forward (Steinebach & Knill, 2017). The interaction between these two institutions—which have had the tendency to be more environmentally ambitious than the Council—seems particularly important when analysing a possible Green Wave initiated by the EP. The 2019 Greens/EFA electoral success could be assumed to exert an impact beyond the EP itself and spill into its interaction with the European Commission. The von der Leyen Commission's EGD could, in parts, be a testament to this. While the fact that the European Council did not nominate one of the Spitzenkandidaten was a defeat for the EP (EUObserver, 2019a), in the ensuing process of electing, first, Ursula von der Leyen and then, the College of Commissioners, the EP flexed its muscles and asked for several concessions. The EGD was boosted in this process and the Greens/EFA tried to push the Commission to make ambitious climate and environmental policy a priority. While this was not the only factor, the Greens/EFA's role in the process of electing the new Commission President arguably contributed to shaping von der Leyen's green agenda.

The aftermath of the 2019 European elections was marked by inter-institutional quarrels between the European Parliament and the European Council on the nomination of the European Commission President (see Chapter 4 for an analysis of the Spitzenkandidaten procedure). While after the 2014 elections the largest political group's Spitzenkandidat—Jean-Claude Juncker—was nominated and elected, in 2019, the European Council could not agree on the EPP's Spitzenkandidat Manfred Weber. Instead, it took three European Council meetings before the Heads of State and Government nominated Ursula von der Leyen who, at the time, was the German Defence Minister (EUObserver, 2019b). The EP initially put up a fight and did not want to accept a departure from the procedure but eventually conceded. Von der Leyen was nominated in July

2019—almost one-and-a-half months after the elections. However, she needed to be elected by an absolute majority of MEPs. After its initial defeat in terms of the Spitzenkandidaten procedure, the EP used the leverage that it derived from the Treaty requirement to elect the Commission President to demand policy priorities for the new Commission term. The Greens/EFA was not ignorant of this leverage as illustrated by Greens/EFA Co-president Philippe Lamberts' statement, commenting on a meeting with Commission President-designate Ursula von der Leyen on 8 July 2019: "Our group's votes do not come cheap and they will not come at the expense of the planet".³

Von der Leyen needed to convince the EP that she was not a mere instrument of the Member States since her nomination circumventing the Spitzenkandidaten process had made MEPs suspicious. In addition, she needed a coalition of at least three political groups to be elected. For the first time, the Commission President-designate could not rely on an EPP and S&D majority, formed on the basis of a deal to divide the top jobs between them (EUObserver, 2019g). She needed to reach out not only to S&D but also to Renew, Greens/EFA and others. In the period between her nomination and her election, von der Leyen was questioned in an EP hearing on 10 July 2019, met with various EP political group leaders and made concessions to many of them. This process influenced the 2019–2024 European Commission priorities. Of course, it did not fundamentally reshape the political programme, but it likely exerted noteworthy influence. Indications for this can, for example, be found in a letter by von der Leyen to S&D leader Iratxe García Pérez in which she outlines priorities that aim to convince S&D MEPs to vote for her. In the letter, von der Leyen asserts that she "draws on the contributions" (von der Leyen, 2019b) that she received from EP political groups (EUObserver, 2019e). Von der Leyen's concessions include renaming the portfolio "protecting the European way of life" into "promoting the European way of life" and adding "social rights" to the portfolio of the Commissioner for Jobs and Social Rights (EUObserver, 2019i).

In her charm offensive towards MEPs, von der Leyen also sought the Greens/EFA's support. This included that a climate-neutral Europe became one of her top priorities. In her EP plenary speech of 16 July 2019, von der Leyen outlined the EGD and hoped to win the

³ Retrieved from <https://www.greens-efa.eu/en/article/news/greens-efa-presidents-meeting-with-ursula-von-der-leyen> on 2 November 2021.

Greens/EFA over (EUObserver, 2019f). Von der Leyen called “keeping our planet healthy [...] the greatest opportunity and challenge of our times” (von der Leyen, 2019c). She promised a proposal for an EU Climate Law within the first 100 days of her Presidency to make legally binding the goal of climate neutrality by 2050. This partially responded to Greens/EFA criticism after the EP hearing of 10 July 2019, when they accused von der Leyen of not making any concrete proposals on climate change (EUObserver, 2019d). In reaction to the hearing, not only Greens/EFA MEPs but also S&D and Renew criticised von der Leyen’s proposals as vague (EUObserver, 2019c). Yet, while S&D and Renew declared to vote in favour of von der Leyen, Greens/EFA remained unconvinced. On 16 July 2019, Ursula von der Leyen was elected by a narrow majority, most likely without Green/EFA votes: She received 383 votes and needed at least 374 (European Parliament, 2019).

As the discussion of the greening of European political parties in Sect. 3 showed, the EPP’s electoral manifesto is less ambitious on climate and environmental policy than those by PES, ALDE, EFA and EGP. Von der Leyen’s EGD proposal seems to be inspired by the political groups that she tried to convince to vote for her. Some EGD elements can be found in the electoral manifestos, especially the one by the EGP but also ALDE, PES and to a limited extent EPP. The EGP manifesto contains different subsections that resemble those of the EGD: climate action, energy, transport, environment and nature protection, circular economy, farming, food and animals and environmental justice. It also calls for a “Green New Deal [that] would channel billions to sustainable investments and innovation. By sharing the benefits of the economy, we can keep everyone on board” (European Green Party, 2019, p. 5). The reference to the Green New Deal could have inspired the naming of the “European Green Deal”.

The core EGD climate targets can be found in various manifestos. The target of a 55% GHG emission reduction by 2030 is included in the EGP and ALDE manifestos, while the PES included climate neutrality by 2050 and ALDE carbon (not climate) neutrality by 2050. The topic of just transition is prominent in the EGP and PES manifestos. The EGP refers multiple times to policy that “leaves no one behind” (European Green Party, 2019, pp. 1, 2 and 6), a wording that can also be found in the EGD. The PES refers to “leaving no person and no territory behind in the green and digital transitions” (Party of European Socialists, 2019, p. 1). A Just Transition Fund, which is part of the

EGD, is literally mentioned in the PES manifesto to help implement the SDGs in a “socially fair way” (Party of European Socialists, 2019, p. 2). Overall, social impacts are very prominent in the PES manifesto section on climate and environmental policy. The EGP postulates that “[w]orkers and regions need a just transition to sustainable livelihoods. A special European scheme should be set up to finance retraining and moving to new jobs, providing social security and alleviating fears” (European Green Party, 2019, p. 5). A similar idea—but more focused on the consequences of globalisation than the low-carbon transition—is also included in the EPP manifesto, which promises to “significantly increase the European Fund for Transition to help those who lose their jobs due to the structural changes related to digitalisation and globalisation” (European People’s Party, 2019, p. 3). In her EP speech of 16 July 2019 preceding her election, von der Leyen promised a European Climate Law (von der Leyen, 2019c), which mirrors what the EGP called for in its manifesto: “European climate law, with binding carbon budgets reducing emissions by at least 55% by 2030 and building a netzero emissions economy” (European Green Party, 2019, p. 2). Moreover, the EGP manifesto includes the demand of no new fossil-fuel cars to be sold in Europe after 2030 (European Green Party, 2019, p. 3), and the ALDE manifesto demands the extension of the EU ETS to transport in an upstream model (Alliance of Liberals and Democrats for Europe, 2019, p. 6). Both proposals can be found in the EGD as well as provisions that resonate with ALDE and EGP’s demand for a framework for sustainable finance and investments. The EGD seems thus rooted in especially the EGP but also the ALDE and PES electoral manifestos. This does, of course, not mean that the EGD is the sole result of the European electoral campaigns, but it significantly resonates with them, which suggests some degree of interaction.

The Greens/EFA had asked for a paradigm shift in climate and economic policy and von der Leyen could not convince them that she would embrace this demand. In the end, the Greens/EFA did not support von der Leyen’s candidacy because they assessed her green ambitions as remaining too vague (Greens/EFA, 2019). In her speech during the plenary debate preceding the election of the College of Commissioners, Greens/EFA co-chair Ska Keller said: “You will find in us a constructive partner but we will be critical. [...] Our voting behaviour is a sign of goodwill despite fundamental criticisms” (EUObserver, 2019i). The Greens abstained in the election of the College of Commissioners

on 27 November 2019, while EPP and a majority of S&D and Renew Europe MEPs voted in favour of the College of Commissioners.

The interplay between the European Council and the Commission President-designate, on the one hand, and the European Parliament, on the other, was characterised by power struggles and the use of the leverage provided by the Lisbon Treaty to each of them. The departure from the informal Spitzenkandidaten procedure that the EP and European political parties had tried to institutionalise but that is not explicitly mentioned in the Treaties caused some turbulence in the interinstitutional balance. Von der Leyen needed to strike a balance between the Member States who nominated her and the EP that elected her. The concessions to the EP that she made to secure her election were observed with scepticism by European leaders, who reminded her of keeping the interinstitutional balance (EUObserver, 2019h). At the same time, the initial nomination process made the EP suspicious of her being an instrument of the Member States. Overall, the nomination and election process left their mark on von der Leyen's political priorities, including a greening of them—especially when compared to previous Commission priorities.

5 CONCLUSIONS

It was probably rather Green Ripples than a Green Tsunami that swept over Europe in 2019 but, nonetheless, journalists' Green Wave analogy had some accuracy to it. The Greens/EFA booked impressive election results in some Northern and Western EU Member States, while not winning a single seat in some Southern and Eastern Member States. Overall, this was sufficient for the Greens/EFA to ascend to the fourth-largest EP political group. This ascent, combined with the loss of a joint majority for the EPP and S&D, made the Greens/EFA a possible source of votes for Ursula von der Leyen when she sought an absolute majority for her election as European Commission President. Using the leverage derived from this structural power, the Green/EFA demanded detailed and ambitious climate policy plans and von der Leyen further refined her political priorities accordingly. Although the Greens/EFA MEPs ultimately did not vote for von der Leyen, they contributed to greening the European Commission priorities by highlighting the green agenda—in the form of the EGD.

Climate and environmental policy no longer is a Greens/EFA unique selling point. The other political groups have embraced the issue to

varying degrees as demonstrated by their 2019 electoral manifestos. Renew Europe, the political group that was won over by von der Leyen for her election, had a particularly pronounced green agenda in their manifesto—in addition to but not as expansive as the Greens/EFA, of course. A greening of other political groups had thus already taken place prior to the 2019 elections and could possibly be seen as part of the Green Wave analogy.

The EGD is a programme that outlines a range of actions that need to be implemented, including numerous laws. In the making of these Directives and Regulations, the EP is a co-legislator together with the Council. Through the Ordinary Legislative Procedure, the EP can continue shaping the EU's green agenda. As a strengthened political group, the Greens/EFA group indeed has a considerable chance to exert influence on European decision-making and EU legislation through the EP. Greens/EFA co-chair Ska Keller's offer to be a "constructive partner" (EUObserver, 2019i) can be seen in this light. While the Greens/EFA group did not support von der Leyen in her election as Commission President, it supported for example one of the centrepieces of the EGD—the European Climate Law—which entered into force as early as 29 July 2021. It establishes the legally binding target of net-zero greenhouse gas emissions (GHG) by 2050. The negotiations of the European Climate Law reflected the high green ambitions of the European Parliament (Taylor, 2021). During the law-making process, the EP made ambitious demands, including increasing the 2030 GHG emissions reduction target from 40 to 60%, compared to 1990 levels. Especially the Greens/EFA, S&D, The Left and parts of Renew pushed for this ambitious goal (VoteWatch, 2021, p. 7). The Council was more reluctant but, nonetheless, after months of trilogue talks—which are informal inter-institutional negotiations among representatives of the EP, Council and Commission—the "at least 55%" target was agreed. This is more ambitious than the "at least 50% and towards 55%" included in the EGD Communication and reflects electoral manifesto demands by some of the main European political parties. This could be seen as an illustration of the effects of the 2019 electoral Green Ripples.

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How Covid-19 Hit Brussels and Beyond: The EU's Crisis Management Tested by a Pandemic

Steven Van Hecke, Toine Paulissen, and Britt Vande Walle

1 INTRODUCTION

‘We did it the right way, because we did it the *European way*’, Ursula von der Leyen claimed on 15 September 2021 in Strasbourg in front of the members of the European Parliament. In her State of the Union address, the Commission President emphasized the EU’s successes in tackling Covid-19 and its empathic approach, for instance in delivering vaccines to the rest of the world, even in periods of shortage, contrary to the US and the UK. But she also warned against complacency. Because the virus is not yet beaten. And many problems, within as well as outside the Union, still need to be tackled. So, perseverance is needed, along with resilience. ‘A pandemic is a marathon, not a sprint’ (European Commission, 2021a).

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Indeed, the jury is still out on the EU's actions as the Covid-19 crisis is still ongoing and it is too soon to see the long-term effects of the pandemic. At the same time, however, it is clear that the first phase of crisis management—the most urgent one of immediate and massive reaction (Parihar, 2011, as cited in Sillah, 2015)—is already over. This allows us to assess the performance of political actors, including the EU, in dealing with such a crisis. This chapter will analyse the responses to the pandemic by looking at the different phases and the behaviour of the main institutions. We will look particularly at its relations with the Member States and the Union's international position and how this has influenced the EU's crisis management.

The Covid-19 pandemic was 'the greatest test the European Union has ever faced', according to German Chancellor Angela Merkel (EU2020.de, 2020). Said in the heat of the moment, one might nuance this dramatic statement. After all, in the last decade, the EU has witnessed but also survived a number of serious crises. Addressing the wider public as well as her political colleagues, Angela Merkel's words fulfil first of all a political purpose: to emphasize the seriousness of the problem and therefore the urgency of a strong and decisive response as well as evoke the courage and sacrifices it might imply. For the EU, Covid-19 has certainly proven to be such a problem. At the same time, it offers a clear example of how the Union functions and the various roles the institutions and the Member States play, along with its limits and potential for handling a crisis in the area of public health.

Crisis Management in the EU

Sensu lato, crisis management has been part of the DNA of European integration (Van Hecke et al., 2021, p. 671). The EU as we know it today is far from being the result of a preconceived plan, nor is it a stable and uncontested—in other words: crisis and problem-free—international organization. On the contrary, the crisis has been an integral part of its development, the EU has even been the answer to many different crises. Some even claim that crisis and crisis management are at the heart of what the EU is about. It is its *raison d'être*. Indeed, since WWII, European countries have been unable to withstand the heat of world politics, nor have they proven able to handle major policy challenges on their own. In an era of unprecedented economic and technological globalization, waves of mass migration, and the fight against global warming, one may even

wonder what alternatives states in Europe in the twenty-first century still have, let alone how they would be able to play a decisive geopolitical role in the world.

In the first decade of the twenty-first century, crises have hit the EU relatively hard. In this era of so-called polycrisis, ‘the two flagship integration projects of the 1990s’ (Schimmelfennig, 2018)—the euro and Schengen—came under severe attack, first by the financial (or debt) crisis, then by the migration crisis. Forms of differentiated integration as well as disintegration—Brexit—put the EU under further stress. The EU’s agenda became more politicized while the Member States failed to agree on the speed and the direction of integration. Divisions between North and South (during the financial crisis) and East and West (during the migration crisis) especially undermined internal cohesion. Also, external threats like the rise of the ‘systemic rival’ China and weakened transatlantic ties, particularly under the Trump administration, left the EU more isolated on the global scene.

Crisis management of the euro, Schengen, migration and Brexit, along with internal (terrorism) and external (Ukraine) security threads have harmed the internal and external political legitimacy of the EU. The role of European integration as a solution to policy problems survived, however. In every single instance, the EU showed its capacity in crisis management, although at different degrees. Less integration was at least never a serious option in the face of these various crisis situations, let alone that the Union would fall apart. This last scenario was often predicted but, in reality, even extreme right parties—the EU’s fiercest critics—withdrew their proposals to dissolve the EU or organize exit referendums. Therefore, the atmosphere around the 2019 European Parliament elections was rather optimistic. The EU as such was not, or no longer, questioned. Discussions about how to better organize or structure it prevailed.

Sensu stricto, the crisis management capacity did not change in the last decade. Indeed, the EU, powered by developments resulting from the adoption of the Lisbon Treaty, became increasingly visible as a crisis manager in the early 2010s, displaying a ‘substantial and growing capacity to initiate and coordinate a shared response to many different threats, crises and disasters’ (Boin et al., 2013, p. 2). At the same time, however, the Lisbon Treaty firmly entrenches national security as the sole responsibility of the Member States (Art 6 TFEU). This tension has resulted in a dynamic where the EU has been accumulating and developing tools and

instruments to manage and prepare for crises without an explicit transfer of competences originating from the national level (Boin et al., 2013).

The bulk of the EU's crisis management capacity is concentrated in the Union Civil Protection Mechanism (UCPM), through which it is able to coordinate and supplement the actions taken by the Member States related to risk prevention, disaster preparedness and response (ECHO, 2021a). Originally, it relied entirely on a voluntary system in which the Member States could 'pre-commit' resources, such as rescue teams, equipment, and trained experts, in a pool known as the European Emergency Response Capacity, ready to be called upon by the Commission. As the institutions came to realize an emergency affecting multiple Member States at once would make such a system fail, the Commission tabled a proposal in March of 2019 to revise the legislation governing the UCPM and therefore strengthen the role of the EU in crisis management (European Commission, 2019a). As the Covid-19 pandemic raged across Europe in June of 2020, the Commission released a newly revised draft law that aligned with the *Recovery Plan for Europe* and that was eventually enacted in May 2021 (Almeida, 2021). The new legislation is generally aimed at strengthening the UCPM, particularly in response to transnational large-scale emergencies, making it more flexible and able to respond faster and 'offer better cross-sectoral support to Member States and their citizens, including through a significantly enhanced budget' (European Commission, 2021b).

The aforementioned updated legislation gives the EU the power to define 'Union-wide disaster resilience goals and scenario plans' (European Commission, 2021b) with its Member States, as well as the assignment to improve the collection of disaster loss data in order to more effectively support scenario-building. Furthermore, it strengthens the heart of EU crisis management, its Emergency Response Coordination Centre, through far-reaching operational, analytical, monitoring, information management, and communication capabilities. Finally, the Commission has been empowered to directly buy/lease emergency capacities stored by the Member States in the rescEU reserve, which includes a fleet of firefighting and medical evacuation planes and a stockpile of medical equipment (ECHO, 2021b). Equally, the Commission can lease logistical solutions in order to, for example, safely transport European citizens away from hazardous situations outside of the Union.

From ‘Too Little Too Late’ ...¹

When the Covid-19 pandemic started, the European Commission under the presidency of Ursula von der Leyen in the early days of its mandate (2019–2024) was called upon to formulate an answer to the manifold challenges the EU was facing. Echoing Macron’s appeal for a ‘European Renaissance’ (Macron, 2019) in the run-up to the European Parliament elections, von der Leyen and her team clearly opted for an ambitious post-crisis agenda, boldly stating that ‘[w]e have moved out of the era of crisis management and can now look forward’ (European Commission, 2019b). Ironically, Covid-19 will probably dominate her term more than previous crises overshadowed the track record of her predecessors. Originally, health was not a salient issue, except for the announcement of a Beating Cancer Plan (European Commission, 2019c). Additionally, the EU had little experience with this type of crisis, except for the outbreak of BSE (1996–2006) which was mainly the problem of one MS, the UK, and related solely to animal health. However, the then European Community and its MS failed to react effectively and efficiently, particularly ‘to acquire or disseminate accurate, timely scientific information on the development of the crisis’, but triggered ‘a wholesale redevelopment of the administrative landscape in the area of food safety’, including the setting up of a new regulatory agency, the European Food Safety Agency (Vincent, 2004, pp. 516–517).

Health is not an EU policy area strictly speaking, except for coordination between MS. It is part of the so-called supporting competences in which the EU can ‘carry out actions to support, coordinate or supplement the actions of the Member States’ (article 6 TFEU), while—in line with the principle of subsidiarity (article 5 TEU)—decisions must be taken as close to citizens as possible. This lack of autonomy of will as well as of action (Bauer & Ege, 2016) basically means that the Member States are in charge, and that the EU depends on the Member States’ willingness to be coordinated. As a consequence, the EU’s health budget is very limited (European Commission, 2013). In non-crisis times, the EU can move slowly but steadily forward in these areas, given its experience in dealing with Member States’ divergent preferences and interests. In times of crisis, however, Member States are much less happy to see the EU

¹ This paragraph is largely based on an updated version—until October 2021—of Van Hecke et al. (2021: 677–681).

interfere in ‘their competences’, as the euro crisis and the migration crisis have clearly shown. At the same time, when a sudden crisis occurs, the EU is nonetheless held accountable—‘where is Europe?’—by the media and public opinion in Member States.

Interestingly, at the outset of Covid-19, the EU was neither unprepared nor lacking appropriate tools. In fact, there were several EU bodies and arrangements in place that could deal with the emerging pandemic. Since 2004, for example, the Stockholm-based European Centre for Disease Prevention and Control (ECDC) has ‘aimed at strengthening Europe’s defences against infectious diseases’ including, among other things, ‘support[ing] the European Commission and the Member States in strengthening the preparedness for cross-border health threats’ (ECDC, 2020). However, the agency was fairly invisible and failed to warn the Commission and the Member States in time (Nielsen, 2020a). Consequently, the EU was driven into a defensive position in the first phase of the crisis. Since then, it has been difficult for the ECDC to play a prominent role, although it has been central in collecting and sharing Covid-19 data among the Member States. Not surprisingly, it has asked for more resources for an improved European surveillance system of infectious diseases (Nielsen, 2020b).

Another part of the EU’s legal framework on serious cross-border threats to health is the Early Warning and Response System (EWRS), a web-based platform linking the ECDC with the Commission and public health authorities in EU Member States as well as in non-EU European Economic Area (EEA) countries like Iceland, Liechtenstein, and Norway. There is no evidence, however, to evaluate whether this system actually worked or played any significant role. The same applies to the political body that coordinates health issues at the EU level: the Employment, Social Policy, Health and Consumer Affairs (ESPCO) Council where Health Ministers from the different Member States meet together with the Commissioner in charge of health, since November 2019 the Cypriote Commissioner Stella Kyriakides. They met five times in the first half of 2020, three of which by videoconferencing (European Council/Council of the EU, 2020a). More important was the European Council in which Member States’ heads of state and government met under the chairmanship of its President, Charles Michel. In the first months of the pandemic they held three meetings that dealt almost exclusively with the management of the crisis, but no substantial decisions were made.

Within the EU's executive body, President von der Leyen set up a 'coronavirus response team' with the relevant Commissioners (Eder, 2020). It also hosts the aforementioned ERCC/UPCM that supports the Member States in fighting Covid-19. In this area of natural disaster prevention and management, the Commission has certainly gained experience as a crisis manager (Boin et al., 2013). On 17 March 2020, the Commission (2020a) set up an advisory panel composed of seven virologists and other experts that met 'to formulate science-based EU response guidelines and coordinate risk management measures'. On 7 May, one of its members, Peter Piot, was appointed special advisor to President von der Leyen (European Commission, 2020b).

Also, at lower levels within the EU bureaucracy, several initiatives were taken to create ad hoc bodies and facilities to deal with the Covid-19 crisis and its impact on various policy areas. In order 'to discuss the urgent need to allow the free flow of goods such as face masks, medical supplies and food across the EU' (European Commission, 2020c), for instance, Commissioner Thierry Breton set up the Single Market Enforcement Task Force (SMET) while the Emergency Support Instrument (ESI) was established for immediate measures to finance medical and health needs (European Commission, 2020d). One wonders how the coordination of all these existing and new initiatives is organized, and who outside of the Commission is able to keep track, especially if some proposals are floated without a clear follow-up, like the plea of European Council President Michel to create a true 'European Crisis Centre' (Poppelmonde, 2020).

... to Breaking Taboos

The European Central Bank (ECB) has been another, albeit fairly independent, actor in this pandemic. Its status within the euro area allows it to decide on its own and show leadership as it did during the financial crisis. Initially, however, ECB President Christine Lagarde did not give the impression of caring much about the economic and financial situation of hard-hit Italy. After reactions of outrage and, later expressing its apologies for its 'too little too late' approach, the ECB had its new 'whatever it takes' moment and announced on 18 March an unforeseen stimulus package of €750bn, called the Pandemic Emergency Purchase Programme (PEPP) (ECB, 2020).

After her initial hesitation and downplaying the situation in Italy, resulting in strong criticism, President von der Leyen showed her determination to fight back. The Commission tried to protect its own successes as the crisis unfolded, such as keeping the borders open in the Schengen area and thus allowing the free flow of goods, especially medical equipment, within the Single Market. However, it had little autonomy and was dependent on the decisions of the Member States. Contrarily, the Commission was able to act quickly in terms of reallocating funding (towards the Member States and scientific research), easing the rules of state aid and, unprecedentedly, raising the budget ceilings of the Stability and Growth Pact (SGP). This allowed the Member States to run budget deficits and quickly and massively inject money into the health care sector as well as the broader economy (European Commission, 2020e). With regard to cross-border health issues, it facilitated the common procurement of medical equipment and, for the first time stockpiled it in the framework of the aforementioned rescEU (European Commission, 2020f).

Nonetheless, in February and March 2020, the EU was criticized for being invisible, if not irrelevant, as Member States like Italy and Spain complained about a lack of solidarity. By contrast, occasional support in cross-border transportation of Covid-19 patients was organized bilaterally (but not with all Member States) (Pattyn et al., 2021) while the Chinese ‘mask diplomacy’ caused embarrassment and further undermined the EU’s legitimacy and reputation within and outside the EU. Many Member States reacted with predominantly national policies, labelling their response as ‘coronationalism’ (Bouckaert et al., 2020).

Things only started to change after the Euro group, the finance ministers of the euro area, agreed on 9 April to create so-called safety nets for countries, businesses, and employers for a total amount of €540bn (European Council/Council of the EU, 2020b). Despite severe tensions between Member States, especially Italy (representing the South) and the Netherlands (representing the North), the EU showed its ability to make decisions. The EU’s power couple Germany and France triggered the breakthrough by announcing on 18 May a common ‘initiative for the European recovery’ (Bundesregierung, 2020). A couple of days later Commission President von der Leyen raised the stakes by proposing a recovery plan, called ‘Next Generation EU’, worth €750bn (European Commission, 2020g), along with an ambitious Multiannual Financial Framework (MFF), the long-term EU budget for 2021–2027. After long and difficult negotiations, an agreement was reached among Member

States at the European Council summit on 21 July 2020 (European Council, 2020).

The deal proved to be very important because Covid-19 had put the EU under severe pressure. The outcome was surprising and far-reaching. Surprising, because it did not have health—or crisis management—as its primary focus. Those who hoped that the Covid-19 crisis would result in more competences or more decision-making power for the EU were totally wrong. The Member States kept taking the lead in this area, despite the severity of the pandemic. There was hardly any budget increase in the MFF, nor were any new instruments of crisis management proposed. The Commission, however, considers that such instruments are needed in order to make good on Europe's 'enduring promise of protection, stability and opportunity' (European Commission, 2020h), as stated by President von der Leyen in her first State of the Union Address after the deal was announced. A stronger European Health Union would be achieved by increasing funding for the EU4Health program. Additionally, von der Leyen advocated for strengthening crisis preparedness and management through three steps: reinforce and empower the European Medicines Agency and ECDC, build a European agency for biomedical advanced research and development, and, above all, 'discuss the question of health competences'. A year later, in her 2021 State of the Union Address, von der Leyen once again pointed to strengthening pandemic preparedness as a priority and discussed the proposal for a European Health Emergency preparedness and Response Authority (HERA) as part of the attempt to build the aforementioned European Health Union. Furthermore, she proposed a 'new health preparedness and resilience mission for the whole of the EU' that should be supported by a Team Europe investment of €50 billion by 2027 (European Commission, 2021a). So, while Member States took the lead, behind the scenes the Commission continued to push for far-reaching investments and further strengthening of its crisis management capacities, particularly when it comes to health.

At the same time, the 21 July compromise is far-reaching as for the first time, Member States give up their monopoly in two very salient areas: the issuing of joint debt—the so-called corona bonds—and the introduction of EU taxes. Obviously, a number of constraints apply but nonetheless: what the euro crisis never managed to realize was decided in principle and practice, 'thanks' to the Covid-19 pandemic.

The decision to mutualize debt by collectively borrowing money on the financial markets has been referred to by some as ‘Europe’s Hamilton moment’, after the US founding father and first Secretary of the Treasury Alexander Hamilton (Wall Street Journal, 2020). In 1790 he founded the American Treasury by taking over the debts of the 13 states (that had borrowed substantial amounts to fund the War of Independence) and by introducing federal taxes to cover the expenses of the new federal state. A common monetary policy had to be accompanied by and supported through a common fiscal policy, it was argued. Two major criticisms counter this historical parallelism: it does not solve the problem of the financial imbalances between the Member States and it further increases the problem of democratic legitimacy (Chrysogelos, 2020).

The surprising character of the 21 July deal is also emphasized by the return of the Franco-German couple to the EU’s centre stage. For a long time, it seemed that the Paris-Berlin axis was more a relic of the past than the future of European integration, given the complexity and diversity within the EU and especially among its Member States after various rounds of enlargement and increased competences. The time when a German chancellor and a French president agreed on something and everyone else simply followed their lead in elation was clearly over. Moreover, recently, German Chancellor Angela Merkel and French President Emmanuel Macron had not even been able to agree on a number of issues. That, or the timing proved to be a problem. When the new French President presented his European vision in his famous Sorbonne speech in September 2017, Merkel was fully occupied with building a new coalition after the federal elections. And when her new government finally started working and survived a number of internal crises, Macron has to deal with the protest movement of *les gilets jaunes*. The Covid-19 pandemic proved to be a turning point. Merkel did not hesitate to take bold steps, contrary to what she did during the handling of the euro crisis, while this time Macron did not play *cavalier seul*. The result is that they eventually found an agreement that was instrumental in creating a breakthrough, something that would not have been possible without the pandemic, including the fact that the other Member States stepped on board relatively easily.

The real problem with the 21 July deal appeared further down the line, as Hungary and Poland threatened to use their veto for its formal approval in late 2020. Both countries opposed the Rule of Law Conditionality, a new instrument in the form of a regulation to financially punish

the Member States for breaking the principles of the rule of law. Eventually, they agreed, after ensuring that the new mechanism would not be implemented by the Commission until after the Court of Justice of the EU had handled the actions brought by Hungary and Poland against the regulation. Therefore, this trio—Rule of Law Conditionality, the MFF, and Next Generation EU—was formally approved, only a couple of weeks before the 31 December 2020 deadline, by all Member States, along with the European Parliament. Since then, Member States that fulfil all the criteria receive money to fund projects to help make their societies and economies more resilient, projects that are mostly linked to the so-called twin transition: stimulating digitalization and making Europe the first climate-neutral continent by 2050.

The end of 2020 also saw the EU and the Commission in the spotlight through the joint purchase of several Covid-19 vaccines. Initially, Germany, France, Italy, and the Netherlands looked to take the lead via their self-named *Inclusive Vaccine Alliance*, but that resulted in increased nervousness among the other Member States who doubted their own ability to procure enough jabs in this scenario. Driven by these concerns, the Member States decided to make the procurement of vaccines an EU-level effort. The national capitals, together with the European Commission, negotiated terms and conditions with the producers and on 27 August 2020, Commissioner for Health Stella Kyriakides put the initial pen to paper by signing the agreement with British-Swedish Oxford/AstraZeneca, the first of a series of contracts over the course of the second half of that year.

This Initially gave the EU, and particularly the Commission, a confidence boost, but it was soon met with much criticism. The so-called *European Vaccination Days*, which have seen all Member States deliver the first jabs in the arms of their citizens simultaneously before the end of the year, raised expectations to an unrealistic level. When the producers were eventually found to be ill-equipped to deliver the vaccines on time, and the British (who had just left the EU) took a huge lead in their vaccination campaign, there was much hand-wringing in the first few months of 2021. However, it's important to note a fundamental difference: whereas the EU exported the vaccines and vaccine components produced on its own territory to foreign countries, the United States and the United Kingdom did not. Furthermore, the EU eventually made up for its slow start. That the summer of 2021 saw a re-emergence of a cacophony of

regulations, the introduction of a common Covid-19-certificate notwithstanding, was the responsibility of the Member States. After all, no matter how deep the sanitary crisis, and despite proposals for the aforementioned Health Union by the European Commission, health care remains mainly a national matter. One would be wise not to underestimate the stubbornness of national capitals in this regard.

Leaving No One Behind: Covid-19 Geopolitics

So far, the European Commission has not proposed to dramatically change the rules of the game, nor has it even pleaded to do so. Treaty change, for instance, would be necessary to turn the so-called Covid-19 bonds into a permanent instrument of policy-making. Making the EU more competent when it comes to health care issues also demands a solid basis in the treaties. Instead, the EU's executive seems to refrain from overhauling the current institutional setting as this would further deteriorate its relations with a number of Member States and be quite a risky endeavour for which there is no time amidst an ongoing crisis. The Commission, however, appears eager to take advantage of Covid-19, also stressing that the current pandemic does not undermine its green and digital agenda. On the contrary, the Covid crisis is seen as an opportunity to realize the EU's ambitious plans (Renson & Beirlant, 2020). It also did not want back down on the issue of the rule of law and its problems in Hungary and Poland and closely monitored the 'instrumentalization' of Covid-19 by authoritarian forces.

Even on the international stage, the Commission tried to take advantage of the lack of leadership. On 4 May, for instance, President von der Leyen chaired a donor conference in which government leaders from all over the world pledged that a Covid-19 vaccine and treatment would be accessible to all, 'leaving no country behind' (European Commission, 2020i). In the framework of this 'Coronavirus Global Response' campaign, the EU also supported the WHO's ACT (Access to Covid-19 Tools) Accelerator and Covid-19 Vaccines Global Access (COVAX). Previously the EU had criticized the US' unilateral decision to close its borders to EU citizens and, amidst rising tensions with China, cancelled the bilateral summit in Leipzig (Germany), planned on 14 September 2020. It was clear that the Commission with its geopolitical ambition wanted to fill the gap that had been left by the two global giants. The Trump administration did not want to take the lead while the Chinese

under the leadership of President Xi Jinping lacked trust over the true nature of their ‘mask diplomacy’.

However, the ambitious goals of the Commission were not followed by equally strong actions. An internal document compiled by the Commission noted that 160 million doses of excess Covid-19 vaccines were promised to be donated to poor nations across the globe. Instead, by 13 July 2021, less than 4 million jabs or 3% of the pledge had actually been given away by the Member States (Guarascio, 2021). To make matters worse, most of these were shipped off to countries and territories linked to the donor, i.e. former colonies, in order to boost relations and deepen diplomatic ties. Additionally, EU countries were almost exclusively sharing AstraZeneca doses, whose use in their own territories was often limited due to concerns about blood clotting. In other words, if the Member States were striving for vaccine solidarity, they were only doing so when their own interests were in play and with jabs they assumed to be too dangerous to use themselves.

While the Commission originally waved away the issue as ‘decisions made by national governments’ and made a self-proclaimed ‘continuous push’ towards the Member States to speed up donation of all vaccine types (Guarascio, 2021), it had itself contributed to what were perceived to be ‘empty promises’ from the EU on vaccine equity. For instance, while it backed the aforementioned COVAX mechanism aimed at procuring, supplying, and fairly distributing vaccines, it pre-booked billions of vaccine doses outside of the mechanism, effectively sidelining COVAX as it was left without any purchase options and thus became dependent upon donations (Médecins Sans Frontières, 2021). Furthermore, the Commission has continuously rejected any technology transfer and information sharing on vaccine production, nor has it welcomed the easing of intellectual property rights. A year and a half after the ambitious and humane pledge to ‘leave no country behind’, progress towards vaccine equity seems to have been virtually non-existent. As of 16 February 2022, 68.39% of people in high-income countries have been vaccinated with at least one dose, while in low-income countries, that number is a sobering 12.39% (United Nations Development Programme, 2022).

Quid of the EU’s own backyard? In the Western Balkans, the Commission once again dealt with the ‘too little too late’ mantra in its initial crisis response due to it banning exports of medical supplies to neighbours in south-east Europe, a step that was eventually corrected but ‘left an

impression of abandonment’ (Cameron & Leigh, 2020). However, the Union stepped up its effort at its own external borders, offering a support package totalling €3.3 billion while also integrating the Western Balkans in their response mechanisms such as the aforementioned EUCPM and HERA, as well as making the candidate countries eligible for financial assistance under the EU Solidarity Fund (European Commission, 2021c). In terms of supporting vaccination efforts, the Commission proposed on 20 April 2021 to send 651,000 BioNTech-Pfizer jabs to the Western Balkans, adding to the 260,000 doses already supplied (European Parliament, 2021), and by September 2021 almost 3.5 million doses were delivered in total (European Commission, 2021c).

2 CONCLUSION

‘We are at a moment of truth’ stated French President Emmanuel Macron during the first wave of the pandemic (Mallet & Khalaf, 2020), referring to the lack of European solidarity and the EU’s position in the world. Indeed, Covid-19 proved to be a true test for the Union and its capacity for crisis management, both in terms of coping with a new crisis situation and with disaster management. After some initial hesitation and strong criticism, this chapter has shown that the EU’s institutions proved remarkably resilient, combining short-term crisis management—such as protecting the integrity and functioning of the single market—with mid-term policy-making—the launch of Next Generation EU, for instance—and long-term innovative solutions for long-standing hot-topic political issues: digitalization, climate neutrality and the funding of the Union’s policies.

Although the pandemic is not entirely over yet, what lessons can be learnt from the EU’s most recent episode in its long track record of crisis management, particularly over the past fifteen years? First, despite the fact that the EU has limited competence in terms of disaster management and public health, it was able to play different roles at different times. In particular, the European Commission put great effort into turning the Union into a central actor of crisis management, from future disaster preventer to crisis coordination manager and facilitator of the post-Covid-19 economic and social recovery in the EU.

Secondly, like other policy levels, the EU discovered health as a public good for its citizens. Beyond the cross-border health issues that the Commission clearly needed to address in the first wave of the pandemic

and which initially dominated its capacity to act, the crisis made clear that public health can also be guaranteed if policy-makers are willing to join forces (rather than compete against each other) and that a more transversal approach is needed to manage Covid-19. With its long experience and expertise in policy coordination, both vertical and horizontal, the EU proved to be well-suited in this regard, in the eyes of the Member States as well, despite its undeniable failures and shortcomings.

Third, Covid-19 tested the solidarity within the EU and among its Member States. The initial outcome was anything but positive, but this crisis within a crisis proved to be a catharsis. Compared to previous crises, the EU managed to get its act together much faster and showed short-term solidarity (like the distribution of medical equipment, supporting research, and the joint procurement of vaccines) as well as long-term solidarity (like setting up new financial instruments to support the Member States in making their economies and societies resilient again). While it was certainly in the Member States' self-interest, and there was at times a lot of doubt about the EU's added value, its crisis management eventually reaffirmed one of its basic principles: solidarity, particularly with the smallest and most vulnerable Member States. Perhaps this is the reason why the EU exists after all.

Fourth, the pandemic response showed a more political EU, despite the health-related nature of the crisis—not the core of the EU's competences—which hit all European countries, including non-Member States. The EU's core executive institutions, particularly the Commission and the ECB, stepped up, while long-standing political taboos on debt mutualization and the EU's financing through own resources were shattered. It remains, however, to be seen whether these new instruments will be of a temporary, Covid-19-related, nature or become solidly anchored within the EU's policy-making tools.

Finally, and also emphasizing the political nature of the EU's crisis response, the Commission took the opportunity of the Covid-19 pandemic to strengthen its position vis-à-vis third countries and at the multilateral level with international organizations like the WHO. The EU is certainly not yet a global player, on par with the US or China, not to mention the competition with some of its Member States, but at least the pandemic was a useful test for the Commission's geopolitical ambitions.

From a weak start in crisis response to launching the Next Generation EU and failing to fulfil the promise of 'leaving no country behind', the Covid-19 pandemic and the EU's reaction triggered much political

action, in Brussels but also beyond. It proved to be a true test for the Union. Overall, it has so far withstood the test. Moreover, it has shown what the EU is, confirming Jean Monnet's view of how crisis management echoes the core of European integration: 'J'ai toujours pensé que l'Europe se ferait dans les crises et qu'elle serait la somme des solutions qu'on apportait à ces crises' (Monnet, 1976, p. 488).

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The Evolution of Enhanced Cooperation in the EU: From EnCo to PeSCo (2009–2019)

Antonio Missiroli and Luigi Lonardo

1 INTRODUCTION

Building a ‘core’ Europe (*Kern-Europa*) has been a recurrent idea among the supporters of European integration: in turn, concepts like ‘differentiated’ or ‘flexible’ integration have generated a significant amount of

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scholarship.¹ Participation in international treaties such as those establishing the Council of Europe, NATO, the European Economic Area, the European Union itself—and, within this, the provisions regulating Schengen and the Eurozone—has indeed clustered countries across the continent into partially overlapping groups with varying degrees of economic, legal, and political integration. To be united in diversity: this is both the objective and the challenge of Member States constantly subject to push and pull factors in the EU (and beyond). Functional and/or conceptual considerations seem to advocate closer cooperation and integration, whereas other factors—emphasising cultural differences and competing interests—weigh in other directions.

This chapter intends to provide an analysis of the way(s) in which the original intent(s) and design(s) driving the EU debate on ‘multi-speed’ Europe since the mid-1990s have evolved over the years in light of a changing political and institutional context and adapted accordingly. It will cover in particular the decade following the entry into force of the Lisbon Treaty and the two related institutional cycles (December 2009–December 2019), until the eve of the UK exit from the EU (January 2020), whose implications are still impossible to discern. Special attention will be paid to differentiated integration in the domain of defence as compared to other policy areas in which forms of ‘enhanced cooperation’ have been allowed and enforced.

The chapter will focus first on the initial drive towards differentiation in the speed and scope of integration, from the *Kern-Europa* discussion of the early 1990s to the actual implementation of EMU as its first (albeit implicit) case in point (‘[The Initial Driver\(s\): from Kern-Europa to EMU—and Beyond](#)’ section). It will then illustrate and analyse how the Lisbon Treaty tried to frame ‘enhanced cooperation’ proper (EnCo) as an enabling provision, albeit not unambiguously so—and precisely where and why (‘[Enhanced Cooperation: Intent, Design and Context](#)’ section). This is followed by an overview of the few specific cases so

¹ Since Alexander Stubb’s first dive into the topic (1996), lawyers, political scientists as well as policy-oriented think tankers have analysed, proposed, or criticised the various options and formats that have emerged over the past 20 years. For an exhaustive overview see the issue no. 6, XXII, June 2015, of the *Journal of European Public Policy*.

far in which those provisions have been triggered and used—namely in such diverse fields as cross-national family law, patent, taxation, and the European Public Prosecutor Office—and how and why ([‘Enhanced Cooperation in Practice’](#) section). The chapter then moves on to the most recent configuration especially designed for the defence field—Permanent Structured Cooperation (PeSCo)—and the way in which it has been first activated ([‘PeSCo: Intent, Design and Context’](#) section) and then implemented ([‘Permanent Structured Cooperation in Practice’](#) section). Finally, a comparative assessment of these tools and their use to date will be made, highlighting their correlation with one another as well as the original intent of facilitating differentiated integration within the EU.

The Initial Driver(s): from Kern-Europa to EMU—And Beyond

The objective of an ‘ever closer Union’ was already present in the Rome Treaty. Integration has not only grown deeper among the founding members, but it has also progressed by enlargement, i.e. by extending the *acquis* to new countries and tripling the membership of the Community/Union between 1974 and 2007. Once it became apparent that the process of enlargement almost inevitably entailed giving up at least a measure of depth in the integration process, the idea of a ‘core’ Europe, i.e. of a few selected Member States pursuing further integration, became politically marketable. The *Kern-Europa* concept presented by the German CDU in 1994 offered a federal vision for countries united by the adhesion to the third phase of Economic and Monetary Union enshrined in the 1993 Maastricht Treaty (the initial Schengen accord would be launched just a few months later): the paper could be read precisely against the background of the political changes in Central and Eastern Europe that were making EU membership for those countries conceivable.² Its rationale implied that some differentiation in the

² According to the famous Schauble-Lamers CDU policy paper, a geographically restricted group of five or six (founding) Member States would gradually deepen its mutual integration, widening it from monetary policy to home affairs and possibly even foreign, security, and defence policy, thus creating a *noyau dur* or ‘hard core’ capable of attracting like-minded partners and associating them to the initial group at a later stage.

integration process would have to go beyond temporary derogations (a recurrent practice since the inception of the Community) and treaty-based exemptions or opt-outs (inaugurated with Maastricht). Around the same time, notably Denmark's opt-out from decisions with defence implications, the EU accession of three more non-NATO countries (in addition to Ireland), and recurrent blockages by a single Member State (e.g. the UK over the 'mad cow' crisis or Greece over the name dispute with FYROM) made it clear that rules allowing some flexibility were needed to accommodate different levels of ambition.

In fact, the debate over enabling deeper and thus differentiated integration became soon entwined with the discussion over facilitating decision-making in an ever larger (and less homogeneous) Union. While these two drivers (and logics) were distinct, they ended up becoming part and parcel of a number of compromise package deals struck in successive treaty reform negotiations—at Amsterdam (1997), Nice (2001), the Convention on the Future of Europe (2003), the ensuing Intergovernmental Conference leading to the Constitution for Europe (2004), and finally Lisbon (2007).

The idea of a federal project around a treaty-based 'core' Europe, however, did not really materialise. The Amsterdam Treaty did grant the opportunity, for a limited number of Member States, to deepen cooperation in a subject matter covered by the Treaty (it was then called 'closer cooperation'), with special provisions for the 'third' pillar. The Nice Treaty rebranded it as 'enhanced cooperation', lowered the minimal threshold for triggering it (from a majority to just eight Member States), and reiterated that it had to contribute to deepening integration and to be used only as a 'last resort'—a caveat that reflected widespread concerns about both the integrity of the overall institutional and legal framework and the risk of a 'multi-tier' (rather than multi-speed) Europe. The Nice mechanism was equally applicable to areas of co-decision and to the 'second' as well as 'third' pillar, albeit with distinct procedures for each; and it could be activated by QMV, albeit with the so-called 'emergency brake' (the possibility for a Member State to refer the matter to the European Council).³ However, it was never used before the entry into force of the Lisbon Treaty (December 2009).

³ For a convincing analysis of this phase see Stubb (2002).

For its part, the whole ‘constitutional’ process of 2003–05 went even further in articulating ‘enhanced cooperation’ as a more dynamic tool for deeper integration; it also came up with the very notion of ‘permanent structured cooperation’ as the format most suitable for defence proper, as distinct from other domains (including CFSP itself). The Treaty, however, was rejected in popular referenda in 2005 and thus never ratified. While the 2004 agreed text would still constitute the basis for the negotiations leading up to Lisbon, it is commonly assumed that its failure (especially in key founding members like France and the Netherlands) contributed to cooling off the push for a ‘core’ Europe and softening some of its most ambitious provisions.

The establishment of EMU was far more successful: its actual implementation indeed offered a prime example of both differentiated integration in practice and enhanced cooperation *avant la lettre*. Its third phase, limited in geographical scope to the Eurozone countries, constitutes in fact a special unit within the Union. EMU thus worked as a model of differentiated integration—if not in a strictly legal sense, at least in a political sense—offering both a precedent and a ‘brand’ to other projects in other domains.⁴ In retrospect, it has also remained fairly open to all willing and able Member States, almost doubling its membership over the years (from 11 to the current 19) and dispelling the initial fears of an exclusive ‘hard core’ or *noyau dur*.

EMU also offered an original model of ‘governance by convergence’ in that, since its inception, it developed around so-called convergence criteria, i.e. thresholds or benchmarks—quantified in either absolute (e.g. deficit/debt ratio to GDP) or relative terms (e.g. inflation rate) and equally applicable to each individual country—to be met within a pre-defined time frame by the Member States who were willing to participate in further stages of (economic) integration.

Something similar has indeed happened with the launch of the European Security and Defence Policy (ESDP) in 1999, i.e. convergence around functional criteria related to defence capabilities: such was the logic behind the Helsinki military Headline Goal of December 1999—whereby the objective was to put in place flexible arrangements for an expeditionary military corps (in particular, to have 50–60,000

⁴ See the Final Report of Working Group VIII on Defence at the Convention on the Future of Europe, CONV 461/02, 16 Dec. 2002, para 54, calling PeSCo the “defence Euro-zone”.

men deployable in two months, ‘earmarked’ from the Member States’ forces)—and the ensuing Feira civilian Headline Goal (5000 men deployable in two months). These quantitative targets, however, were meant to be met collectively—not individually, as was the case with EMU—through what the military call ‘force generation’, whereby willing and able countries voluntarily contribute units and equipment for joint deployment to meet agreed targets. This approach, that factored in the asymmetry in size and capabilities among the participating countries, would be replicated and further refined in the following decade, in particular with regard to the so-called EU ‘battlegroups’ (Howorth, 2014).

In parallel, the Member States also tried to agree on more flexible rules to facilitate decision-making in areas of non-exclusive EU competence for a Union of 20-odd members. Negotiations, however, proved difficult: their main result, apart from some minor and mostly symbolic softening of the unanimity rule in the Common Foreign and Security Policy (CFSP), was the insertion in the Amsterdam Treaty of the so-called ‘constructive abstention’ clause (ex art. 23, now art. 31 TEU). This allowed a limited number of Member States to ‘qualify’ their abstention on a given decision without blocking it, but also without bearing the costs it would entail: it was generally intended to facilitate decisions on crisis management operations and missions that could prove problematic for the non-aligned countries. In essence, it was an enabling provision, open to all Member States, for opting out of specific decisions rather than entire policy areas (as is the case with ‘opt-outs’ proper).

Interestingly, however, since 1999 art. 31 TEU has been used only once, on the occasion of the launch of the EULEX Kosovo civilian mission in 2008, when Cyprus abstained. This seems to underline the Member States’ ultimate preference for consensual deliberations on foreign, security, and defence policy matters. This point is also vindicated by the fact that the so-called ‘*passerelle*’ mechanism now enshrined in art. 48.7 TEU (but foreseen also explicitly for CFSP in art. 31.3 TEU), which allows the Member States to shift (unanimously) to qualified majority voting (QMV)—has never been used as yet, despite recurrent calls e.g. by Commission President Jean-Claude Juncker to explore it also in CFSP matters.

Enhanced Cooperation: Intent, Design, and Context

It was only with the Lisbon Treaty that the rules for what is now known as ‘enhanced cooperation’ (EnCo) found full articulation. Yet the provision authorising that, now enshrined in art. 20 TEU and art. 326–334 TFEU, presents a fundamental ambiguity, immediately recognised in the literature (Bribosia, 2007).

On the one hand, in fact, the opportunity to resort to enhanced cooperation has an integrationist rationale (Thym, 2018, pp. 847, 848) and is designed in such a way as to reinforce that objective. Indeed, since its first insertion in the Amsterdam Treaty, it was meant to be a tool of inclusion and integration, as opposed to one of exclusion and disruption (Verhofstadt, 2000). That rationale is confirmed by the current stipulation (art. 20.1) that EnCo ‘shall aim to further the objectives of the Union, protect its interests and reinforce its integration process’, and that it is to be used only as ‘a last resort’: a requirement—as the European Court of Justice (ECJ) has held—which ought to be interpreted in the light of favouring integration, because ‘the Union’s interests and the process of integration would, quite clearly, not be protected if all fruitless negotiations could lead to one or more instances of enhanced cooperation, to the detriment of the search for a compromise enabling the adoption of legislation for the Union as a whole’ (Joined cases C-274/11 *Spain v Council* and C-295/11 *Italy v Council* ECLI:EU:C:2013:240 para 49). Similarly, the integrationist rationale is displayed in art. 326 TFEU—whereby enhanced cooperation ‘shall not undermine the internal market or economic, social and territorial cohesion, nor shall it constitute a barrier to or discrimination in trade or competition between Member States’—as well as art. 334 TFEU, under which the Council and the Commission shall ensure the consistency of activities undertaken under enhanced cooperation with the policies of the Union.

The EnCo mechanism is available in any policy area, provided it is not a field of EU exclusive competence. It is a generalised and standardised framework, explicitly designed for a sub-set of willing EU members but conditional on preliminary institutional scrutiny (European Commission proposal, European Parliament consent) as to its specific applicability to any given case. As the ECJ has clarified (Case C-209 UK v Council) (Gerhards & Wessels, 2019), it encompasses two distinct stages: an initial authorisation, and then one or more implementation measures—each adopted by Council decision. Each decision, in turn, is to be taken

by unanimity of the participating Member States (art. 329.2 and 330 TFEU): this makes it impossible for the others to block it except through judicial review, i.e. by lodging a case in front of the ECJ. The CFSP, the former ‘second’ pillar, is also explicitly included in EnCo, albeit with specific modalities (art. 331.2 TFEU) which entail a more robust involvement of the HRVP and the Council.

As said, EnCo is meant to be used as an option of last resort, when the Council establishes ‘that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole’ (art. 20.2 TEU). It enables at least nine Member States (the threshold was eight in the Nice Treaty, but EU membership was also lower back then) to adopt legislation with scope limited in geographical reach and subject matter: this excludes from obligations (and voting rights) the Member States not participating in it. And it shall be and remain open to other Member States, as participation is on a voluntary basis. Finally, and interestingly, the provisions do not envisage either the suspension of a Member State or the possibility of a withdrawal from enhanced cooperation—somewhat in line with the Eurozone rules, as painfully tested during the 2010–11 crisis.

On the other hand, the EnCo provisions may also chart ‘a way to block decision-making impasses’ (Cremona, 2009), thus becoming a pragmatic instrument for the asymmetric realisation of specific objectives and policies of interest to some Member States: for example, as a matter of law, the Council enjoys what appears to be a measure of *political* discretion in determining when the enhanced cooperation constitutes a question of last resort.⁵ In other words, it implicitly offers a conditional option to overcome protracted political gridlock.

EnCo can thus be considered another form of differentiated integration in practice, in the absence of any treaty-based definition of that. Other cases in point, however, are *pre-defined* in application and scope, not general: apart from and beyond EMU, some type of differentiated integration already takes place, for instance, in the Area of Freedom, Security and Justice (AFSJ, the former ‘third’ pillar), where some obligations

⁵ On which see again Joined cases C-274/11 *Spain v Council* and C-295/11 *Italy v Council* para 53: “The Council, in taking that final decision, is best placed to determine whether the Member States have demonstrated any willingness to compromise and are in a position to put forward proposals capable of leading to the adoption of legislation for the Union as a whole in the foreseeable future” and AG opinion paras 108–111.

have limited geographical scope due to the constitutional opt-outs of Ireland and Denmark (and the UK, as long as it was a Member State). The incorporation of the Schengen Protocol into the *acquis communautaire* at Amsterdam sealed the differentiation between the UK and Ireland, on the one hand, and the rest of the Member States on the other, thus constituting de facto a ‘specific form of enhanced cooperation’ (Thym, 2018, pp. 860–861)—albeit initiated on a voluntary basis *outside* the treaty framework, and whose authorisation by the Council is not needed because it is contained in the protocol itself.

It may also be worth mentioning, in this context, the provision enshrined in art. 350 TFEU, which authorises the existence or completion of regional unions between Belgium and Luxembourg, or between those countries and the Netherlands. It is in fact another instance in which EU constitutional law allows a form of geographically limited integration—in this case, with pre-identified participants. And the Court of Justice of the EU has been keen to recognise that the Benelux court, while *sui generis*, is part of the EU judicial system (Case C-337/95 *Parfums Christian Dior* EU:C:1997:517 para 21; Case C-248/16 *Achmea* ECLI:EU:C:2018:158 para 48).

Enhanced Cooperation in Practice

This section illustrates the way in which the EnCo provisions have been authorised and implemented so far.⁶ The cases in point span across several domains, including areas as diverse as justice and home affairs, intellectual property, and taxation.

International Divorce Law (IDL)

Following a 2010 Commission proposal to harmonise the conflict of legal rules on international divorces (those in which spouses had different nationalities, lived apart in different countries or not in their home nations), divergences over Member States’ national law understanding of divorce became apparent. The divergence is usually explained through the tension in the substantive law regulating divorce between those Member States which take a more liberal approach as to the lawful causes for

⁶ For a first detailed narrative of the practical implementation of enhanced cooperation, see Kroll and Leuffen (2015).

divorce (such as Sweden) and those who are more conservative (such as Malta) as well as in procedural law (Baarma, 2009).

The *impasse* was due to both economic considerations (uncertainty over the applicable law could result in delayed proceedings) and the subject matter of the regulation itself, which related closely to the national identity of some Member States. After two years of inconclusive negotiations, the Council originally authorised 14 Member States (Decision 2010/405/EU ([2010] OJ L189/12) to adopt a Regulation on the law applicable to divorce and legal separation (Council Regulation (EU) No. 1259/2010). The objective of the enhanced cooperation consisted in ensuring ‘adequate solutions’ in terms of legal certainty and flexibility for citizens (Kroll & Leuffen, 2015, p. 359).

Unitary Patent System (UPS)

In 2007, the Commission proposed a system to make the patent system in Europe less costly and more competitive internationally. Until then, it had been based on the European Patent Office, a system requiring European patents to be validated—with differing procedures and fees—in the countries in which the patents should apply. The Lisbon Treaty provided a new legal basis in art. 118 TFEU, but no compromise could be reached on the Commission proposal for the official language regime—with Italy and Spain opposing the choice of only English, French, or German.

In 2011 25 Member States voted in the Council to obtain the authorisation of establishing an enhanced cooperation. Italy and Spain opposed it because they felt that the condition whereby EnCo has to be a measure of ‘last resort’ was not met. The case was litigated before the European Court of Justice, which took the view that the measure was in fact one of last resort because the Council had carefully and impartially examined whether Member States had demonstrated willingness to compromise in the foreseeable future, and that adequate reasons had been given for the conclusion (Joined cases C-274/11 *Spain v Council* and C-295/11 *Italy v Council*).

In the end, Italy decided to join in 2015, leaving only Spain and (for other reasons) Croatia out of the new system; with the UK departing in the wake of Brexit, the new UPS will enter into force as soon as all the related legal arrangements are ratified.

Financial Transaction Tax (FTT)

In 2011, the Commission tried to introduce indirect taxation to contribute to the harmonisation of the financial sector, which at the time showed significant divergence between Member States and was indeed at the heart of the crisis then affecting the EU.⁷ Differences in the tax system of the Member States were perceived to be inefficient and potentially distorting competition. However, given the lack of consensus in the Council, the Commission eventually backed the choice of 11 Member States to go ahead with an enhanced cooperation.

The Commission did not hide the difficulties in reaching consensus. On the occasion, it displayed instead a ‘willingness to talk openly about other mechanisms for achieving its objectives, given the difficulties of securing agreement in the Council. The Commission considered in detail a range of options, including greater use of art. 258 TFEU, resort to soft law, and use of the enhanced cooperation procedure’ (Craig & de Burca, 2011, p. 631).

The *impasse* was due to countries—such as the UK and the Czech Republic—opposing the tax as they voiced concerns about its effectiveness. In particular, while there was unanimity over the benefits of a Financial Transaction Tax (FTT) at global level (the so-called ‘Tobin tax’), there was no consensus about the merits of instating one in the sole EU (Kroll & Leuffen, 2015, p. 362).

Finally, in January 2013, the Council authorised 10 Member States to agree upon a Directive on the FTT, on a proposal formulated by Germany, Austria, and Belgium (Council Decision 2013/52/EU).⁸ For the remaining Member States (i.e. those who did not agree to participate in the adoption of the Directive), the negotiations are still ongoing. The UK challenged the Council decision authorising EnCo, i.e. on the grounds that it affected negatively non-participating Member States (which is prohibited by art. 327 TFEU). The European Court of Justice held, in essence, that the question raised by London was not yet ‘ripe’ for decision: with a somewhat formalistic approach, it found that the measure challenged by the UK simply authorised enhanced cooperation and did

⁷ As recalled in the explanatory memorandum to the Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax COM(2013)071 final.

⁸ The other participants are France, Greece, Italy, Portugal Slovakia, Slovenia and Spain (all Eurozone members).

not contain, in and of itself, measures on taxation liable to adversely affect the UK's rights (Case C-209/13 *UK v Council* para 36).

The initial outcome of the enhanced cooperation was then to authorise the introduction of an FTT only in the participating Member States and to strengthen, for those, anti-tax avoidance rules. However, the ensuing Directive for an EU FTT drafted by the Commission has stalled—at least until 2019, when France and Germany came up with a new proposal which is still under negotiation—thus preventing the FTT from being adopted and the EnCo from being properly implemented.

Property Regimes of International Couples (PRIC)

In March 2011 the Commission adopted two proposals for regulations dealing with the property regimes of international couples (married and registered partnerships). Since no unanimity could be reached in the Council, also due to opposition from Poland and Hungary (Viarengo & Franzina, 2020), in December 2015 17 Member States requested the approval of an enhanced cooperation, which the Council granted (Council Decision (EU) 2016/954). As a result, two regulations were adopted in June 2016 (Council Regulation (EU) 2016/1103 and Council Regulation (EU) 2016/1104). Similarly to the rules on international divorces, the Regulation on property regimes for international couples contains rules on conflict of laws meant to improve legal certainty for issues of applicable law, national court's jurisdiction, and recognition of decisions.

In this case, too, the Member States displayed strong and ultimately irreconcilable preferences around the subject matter of marriage, considered to be linked to a country's national identity. As a result, for instance, Poland and Hungary insisted on making public their opposition to the original regulations which included also partnerships outside marriage as well as same-sex partnerships.

European Public Prosecutor Office (EPPO)

In July 2013, the Commission adopted a proposal for a Council Regulation on the establishment of a European Public Prosecutor Office (EPPO).⁹ This was a long-standing issue, whose inclusion in the EU treaties had already been discussed at Nice but eventually rejected:

⁹ COM(2013)534 final.

the core idea behind it is to enable an EU institution, agency or body to bring alleged perpetrators of financial crimes to court(s). The Lisbon Treaty provides a legal basis for the establishment of the EPPO, and the Commission tabled a proposal envisaging a centralised system, with an independent EPPO which would have enjoyed competence to direct, coordinate, and supervise criminal investigations and to prosecute suspects in national courts Kroll & Leuffen, 2015, p. 365) (De Angelis, 2019).

The impasse in this case was due to concerns about the principles of subsidiarity and proportionality: in other words, first several national parliaments, and then some Member States (Sweden, Poland, Hungary) voiced scepticism as to the need for an EU body to carry out the prosecution of financial crimes. Yet the effectiveness and relevance of EPPO was contested also a priori, at the political level (Brenninkmeijer, 2017), and despite major structural changes under the Greek and Italian Council Presidencies in 2014—such as the removal of the principle of exclusive competence (Martinez Santos, 2018)—no unanimity could be found.

After years of negotiations, in the spring of 2017 16 Member States decided to establish an enhanced cooperation. This was possible according to art. 86.1 TFEU, which deems the authorisation for enhanced cooperation to be granted if there is no agreement in the Council, unanimity cannot be found in the European Council either, but at least nine Member States still desire to proceed. EPPO was finally implemented on such ad hoc legal basis in the autumn of 2017 with the initial participation of 20 Member States (Council Regulation (EU) 2017/1939). It set up a system of shared competence between the EPPO and national authorities in combating crimes affecting the financial interests of the Union: the resulting system is a two-tier one (EU and national levels), as opposed to the centralised model originally proposed by the Commission. Albeit officially established, EPPO will only start its activity when authorised to do so by the Commission—something which, under the terms of the instrument implementing EPPO, can only take place three years after its establishment, i.e. in late 2020.

Preliminary Assessment

To sum up, the five instances in which EnCo has been authorised so far¹⁰ seem to indicate that the instrument enshrined in art. 20 TEU (and related TFEU articles) has been mostly used as a vehicle to overcome political stalemate in the Council and circumvent the unanimity rule on very specific policy or legal issues. This outcome might be considered an unintended consequence of the original integrationist rationale of enhanced cooperation but not of its actual legal design, which enshrined this possibility as a sort of secondary effect. In the case of the UPS (and in part the FTT), such practice has been legitimised by the European Court of Justice. In the case of the FTT itself, however, the differences among the Member States (reflected also in the comparatively low number of participating countries) and the underlying political and legal issues that resorting to EnCo was meant to circumvent are still hampering its expected implementation.

Just like EMU and the Eurozone, EnCo has also proved to be fairly open and inclusive: not only have initially non-participating Member States often joined the scheme at a later stage—including Italy for the UPS—but also the overall number of participating countries ranges between 17 (IDL) and 26 (UPS, as long as the UK was in the EU): quite high, especially considering the already existing ‘opt-outs’ in some of those areas. In other words, EnCo does not seem to have generated any ‘hard core’ of Member States, as more than half of them participate in all four cases currently in force. However, unlike EMU, the actual implementation of EnCo does not seem to have boosted much deeper integration among its participating countries, nor to have generated much added value even in the specific domains it has been activated in.

Finally, EnCo has never been considered for CSFP matters, at least to date. This may be in part due to the strict conditions for its activation and in part, probably, for the apparent preference of Member States for consensual decisions in foreign policy. Yet it is also genuinely problematic to conceive of any conventional CFSP activity that would justify (and

¹⁰ There is no case on record of rejection, either in the preliminary stage or at Council level. During the 2015 migrant crisis, a proposal was put forward to consider using EnCo with reference to the Commission’s plan for a mandatory quota for the relocation of refugees in order to overcome the deadlock. The Council adopted the plan with a rare QMV procedure in September 2015, but ever since very little progress has been made in terms of practical implementation. See Kreilinger (2015).

benefit from) the use of the EnCo mechanism: in fact, in this domain ‘differentiation’ occurs in the relations that the EU *as a whole* formally establishes with various neighbours and partners across the world—individually or as regional groupings—so that there seems to be little scope for *internal* differentiation.¹¹

PeSCo: Intent, Design, and Context

As compared to other major policy domains, defence presents a number of peculiarities when it comes to cross-national cooperation and integration at EU level. On the one hand, since it was first properly included in the Treaties at Maastricht (1993), it has enjoyed a sort of special status: for instance, ‘matters having military or defence implications’ have always been singled out in terms of legal competences and decision-making procedures: not only has unanimity always been the rule (even ‘constructive abstention’ is considered equivalent to consensus), but neither the European Commission nor the European Parliament have ever played a role therein comparable even to the one they can now play in CFSP matters. The European Court of Justice has virtually no jurisdiction, and even the rules of the single market are not automatically applicable to defence markets (ex art. 296 TEC, now art. 346 TFEU), although since 2009 the Commission has acquired (and used) some legal competencies regarding public defence procurement procedures.¹²

On the other hand, defence cooperation between Member States (and beyond) has always occurred in relatively small groups, be it in operational terms—so-called ‘coalitions of the willing’, sub-regional formations, multi-national force structures, the Western European Union itself (Deighton, 1997)—or on industrial programmes for capability development (all unthinkable without strong governmental support). In other words, while ‘integration’ *stricto sensu* is not really the name of the game, ‘differentiation’ (and arguably even fragmentation) is quite typical in the defence domain, even without considering NATO obligations.¹³

¹¹ See for instance Gstöhl (2015).

¹² For an overview of the evolution and state of play see Beraud-Sudreau (2020).

¹³ Jolyon Howorth has defined this as ‘negative differentiation’, i.e. “a *status quo* that poses severe obstacles to integration” rather than facilitating it (‘positive differentiation’). See Howorth (2019).

Bilateral or regional agreements mean that different Member States have different commitments. Foreign but especially security and defence policies are so prone to being carried out through agreements between Member States—often outside the EU framework¹⁴—that even the Lisbon Treaty has subjected this field to special rules and procedures (art. 24 TEU). Furthermore, an additional measure of differentiation is built into what the treaty rebranded as Common Security and Defence Policy (CSDP, formerly ESDP), including an ad hoc section under Title V.2: and Denmark has a permanent opt-out on ‘decisions and actions of the Union which have defence implications’.¹⁵

Before Lisbon, however, close(r) or enhanced cooperation between selected Member States in this domain—although a fact of life and a widespread practice—was not envisaged in and by the Treaties, further highlighting its distinctive predicament. And while art. 20 TEU covers in principle any policy area of non-exclusive EU competence (including CFSP), the original and shared understanding among the negotiators was that it would not be applied to ‘matters having military or defence implications’. To further underline that, the conditions set in art. 333.3 TFEU regarding the ‘*passerelle*’ clause are even more restrictive than for CFSP.

Within CSDP proper, in fact, the treaty (art. 42 TEU) offered a number of additional options for differentiation, including the possibility of conferring a task to ‘a group of Member States which are willing and have the necessary capability’ (art. 44); the establishment of a dedicated agency for capability development—the European Defence Agency (EDA)—‘open to all Member States wishing to be part of it’ (art. 45); and, most significantly, the creation of a dedicated format

¹⁴ On the relevant debates of the 1990s and the role of 10-member WEU as a separate organization the EU could, according to the Amsterdam Treaty (art. J.7), “avail itself of”, see Missiroli (2000). The WEU was put under the responsibility of HR Javier Solana in 1999, its crisis management mandate directly transferred to the EU (ex art. 17, now art. 42.1 TEU), and finally dissolved after the entry into force of the Lisbon Treaty, in 2011. See Bailes and Messervy-Whiting (2011).

¹⁵ Art. 5 of Protocol 22 annexed to the Lisbon Treaty; see also Butler (2020). It is important to highlight, however, that Denmark (a) participates in the civilian dimension of CSDP, and (b) has traditionally been very active militarily outside of the EU framework, both within NATO and as part of ‘coalitions’ of the willing: it was i.a. involved as a belligerent party (alongside the US and the UK) in Operation Enduring Freedom in Afghanistan, in 2001.

for enhanced cooperation in defence, eventually defined (art. 46) as Permanent Structured Cooperation (PeSCo).

The making of art. 46 (and attached Protocol 10) showed a significant shift from the original intent—as formulated especially in the proceedings of the Convention on the Future of Europe (2002–2003), where such ‘structured cooperation’ was meant to be based on operationally ambitious and partly quantified criteria and aimed at establishing a true *avant-garde* acting as a ‘pioneer group’—towards a much more flexible template. Accordingly, participation in PeSCo is now based on capability commitments related to multi-national forces, ‘the main European equipment programmes’ and the activity of the EDA: commitments, in other words, rather than quantified targets or strict criteria. This shift was mostly due to the concerns expressed by a number of (both old and new) Member States as to the potentially exclusive and divisive nature of the original blueprint. In the end, no minimum threshold of participants was required either, and interested Member States would simply notify their intention to the Council, with no legal scrutiny over its scope or necessity and no precondition about it being a measure of ‘last resort’. The only major innovation therein involved decision-making, as all deliberations related to the establishment of PeSCo as well as the admission of new or suspension of current participating countries would be made by qualified majority—an absolute *premiere* in defence-related matters (Fiott et al., 2017).

Despite its comparatively ‘softer’ design, however, PeSCo would not be seriously considered for implementation long after the entry into force of the Lisbon Treaty: it even came to be labelled as ‘the sleeping beauty of European defence’ (a nickname once used for the WEU). Just like EnCo, in fact, PeSCo was a purely enabling provision that entailed no legal obligation or pre-defined time frame for the Member States to activate it.¹⁶ Unlike EnCo, however, no opportunity or necessity seemed

¹⁶ The only potential deadline was set in the attached Protocol 10 (art. 1.b) whereby eligible Member States were required ‘to have the capacity to supply by 2010 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics [...]’. Yet this requirement—set in 2007 at Lisbon, when the treaty was expected to enter into force quickly (and not, as it did eventually, in December 2009)—was already part the battlegroup ‘package’ and was not, anyway, a deadline for activating PeSCo.

to arise to test its feasibility and utility. Early proposals for its establishment—such as the one tabled by the trio presidency of Belgium, Hungary, and Poland (June 2010), or the joint Italian-Spanish letter to HRVP Catherine Ashton asking for a debate in the Foreign Affairs Council (May 2011)—failed to generate momentum, with the Union as a whole was then entirely absorbed by the financial and Eurozone crises, and the diplomatic and security communities busy with the establishment of the External Action Service (EEAS) and the onset of the so-called ‘Arab Spring’. A change of government in the UK, in 2010, also put a brake on CSDP ambitions at large. And while the EDA was actually already in place since 2004 (with all Member States on board bar Denmark), art. 45 TEU also remained dormant—if anything, because selective and voluntary participation in the execution of tasks was already common practice in CSDP missions and operations. Even when the first ever discussion on ‘defence matters’ at European Council level eventually took place, in December 2013, PeSCo was not mentioned.

It was only after the shock of the Brexit referendum (23 June 2016), immediately followed by the release of the EU Global Strategy (EUGS) by HRVP Federica Mogherini, that some Member States saw not only the opportunity but also the necessity to relaunch the EU’s role in this domain. The EUGS underlined the need for ‘*an appropriate level of ambition and strategic autonomy*’ [italics added] and called the Member States ‘to move towards defence cooperation as the norm’. It also stated that ‘*enhanced cooperation* between Member States in this domain should be explored. If successful and repeated over time, this might lead to a more *structured* form of cooperation, making full use of the Lisbon Treaty’s potential’ [italics added].¹⁷ The language was still cautious, as the text was discussed with the EU-28 before the Brexit referendum, but the encouragement was evident. And with the expected departure of the UK—a proactive CSDP player between 1999 and 2009, a more reluctant one thereafter, but constantly sceptical of big leaps forward in institutional terms—the initiative was taken by France and Germany, who produced a first joint (non-)paper on PeSCo already in July 2016.

The paper represented a compromise between their respective approaches (the French being more ambitious and exclusive than the

¹⁷ “Shared Vision, Common Action: A Stronger Europe—A Global Strategy for the European Union’s Foreign and Security Policy”, Brussels, 25 June 2016. On the making of the EUGS see Tocci (2017).

German one) but eventually proved quite open and inclusive—to the extent that it gathered wide support among virtually all other Member States. In late 2016, in the context of ‘implementing’ the EUGS, the European Council mandated the HRVP to work on elements and options for an ‘ambitious and inclusive’ PeSCo based on a ‘modular’ approach, and in January 2017 the EEAS circulated a Food for Thought paper along these lines. For its part, in March 2017, the European Commission published a White Paper on the Future of Europe in which one of the scenarios identified (‘those who want more do more’) envisaged new cooperation projects by willing Member States, i.e. in the domain of defence (European Commission, 2017). This was also the first official EU document explicitly acknowledging and identifying differentiated integration as a possible option.

In the meantime, the surprising election of Donald Trump to the White House—on a platform that cast some doubts on future US commitment to NATO—probably contributed to pushing some initially hesitant countries (e.g. Poland) to join PeSCo. Following additional preparatory work by the EEAS and the EDA and political endorsement by the European Council, therefore, in November 2017 23 Member States—on the basis of a proposal formulated by France, Germany, Italy, and Spain—signed the common notification to participate. PeSCo was then officially established by 25 Member States—‘whose military capabilities fulfil higher criteria [...] and which have made commitments to one another in this area [...] with a view to the most demanding missions’—through a Council Decision on 12 December 2017 (Council Decision (CFSP) 2017/2315).¹⁸ Only Denmark (opt-out), the UK (Brexit) and Malta (though open to joining later on) stayed out, but without opposing it. Paradoxically, the originally intended ‘pioneer group’ for EU defence ended up including almost all eligible Member States and being effectively supported by all—with no actual need for QMV.

The preparatory phase of the Council Decision and its immediate aftermath witnessed also a remarkable growth of policy-oriented publications devoted to PeSCo by European think tanks. Almost all highlighted the need for an ambitious approach to its implementation while often

¹⁸ Portugal and Ireland joined the others on 7 December, after a supplement of consultation with their national parliaments. Ireland is a notable case in point as the country had previously struggled to ratify the Lisbon Treaty (two referenda were needed), i.e. due to its new provisions on defence.

acknowledging also that its original design left the door open for different options and required continued engagement by both the Member States and the EU institutions.¹⁹

Permanent Structured Cooperation in Practice

The relative speed at which PeSCo was agreed and launched in 2016/17 was clearly determined by the need and the will to react to a number of critical events and developments—both internal and external—showing also a concerted and convergent approach by all EU institutions and bodies.

The European Parliament started openly advocating a ‘European Defence Union’ (EDU), a concept and terminology soon adopted by the Commission (but not the Council). In June 2017, as part of its newly minted European Defence Action Plan, the Commission launched the European Defence Fund (EDF), due to encompass a funding window for defence research and one for development and acquisition proper: starting from 2021, the EDF would confer the Commission, for the first time, an active role also on the demand side of defence markets. Later on, the Commission would even establish a dedicated Directorate-General for Defence Industry and Space (DEFIS).

Still in June 2017, the EEAS set up its first autonomous military headquarters (Military Planning and Conduct Capability), albeit initially limited to ‘non-executive’ missions, while the Council endorsed the modalities to establish a Coordinated Annual Review on Defence (CARD), intended to better coordinate defence planning and capability development among the Member States. Even EU-NATO cooperation gained significant momentum, starting with the Joint Declaration of July 2016 in Warsaw and the indication of seven concrete areas for further cooperation: on that basis, a common set of proposals identified more than 70 specific actions whose practical implementation has been constantly monitored since.

¹⁹ See for instance Mauro (2017), Major et al. (2017), Fabry et al. (2017), Wolfstaedter and Kreiling (2017), Drient et al. (2017), Kempin and Kunz (2017), Blockmans (2018). The European Parliament also published valuable briefing materials, such as Mauro and Santopinto (2017), and Lazarou and Friede (2018).

In fact, PeSCo was definitely not the only game in town, and other initiatives were gaining traction also outside the EU, potentially in competition with the logic (and the commitments) of PeSCo. In September 2017, in a major speech on Europe delivered at the Sorbonne, France's President Emmanuel Macron launched the so-called European Intervention Initiative (EII or EI2), designed to create by 2020 'a common intervention force, a common defence budget and a common doctrine for action'. The following June nine European countries (including the UK and Denmark) signed a letter of intent, which did not set any criteria or conditions for joining and assigned a coordinating role to the French Defence Ministry. Macron's initiative, tangibly more exclusive and arguably conceived to keep the UK engaged in an operational European defence framework despite Brexit, was neither part of a NATO nor an EU construct and has not yet generated any significant action—although five more countries have joined.²⁰

Within NATO, in the meantime, the Framework Nations Concept (FNC), launched by Germany in 2014 building on an already long-established military practice, had made headway, prompting the creation of three multi-national divisions led, respectively, by Germany, the UK and Italy (Ruiz Palmer, 2016).²¹ And NATO's Enhanced Forward Presence in the Baltic states and Poland—deployed since 2016 to deter Russian activities in the region—was based on the same approach applied to battlegroup formations.

Yet PeSCo was arguably 'the central cog in the EU's new defence machinery' (Blockmans, 2018). A list of 'more binding common commitments'—without any quantitative criteria²² or specific functional requirements—to be fulfilled by the participating Member States (pMS) was attached to the Decision and consisted, in essence, of a call for specific projects to be approved by the Council (in PeSCo format) for future

²⁰ See Major and Moelling (2017). The nine EI2 'founding' members were—alongside France—Belgium, Denmark, Estonia, Germany, the Netherlands, Portugal, Spain and the UK. Finland joined in late 2018, while Romania, non-EU Norway, Sweden and Italy (after a change of government) followed in 2019.

²¹ NATO in fact subsumed the UK so-called Joint Expeditionary Force (JEF), launched already in 2012, that brought together Denmark, the Netherlands, Norway and the Baltic states (Sweden would join in 2018).

²² At NATO's Wales summit, in September 2014, the 22 EU members that were also NATO allies pledged to increase national defence spending to 2% of their GDP by 2024 and to earmark 20% of that sum for investment in major equipment, including R&D.

implementation. Such projects would be funded ‘primarily by the participating Member States that take part in an individual project’, but the possibility of ‘contributions from the general budget of the Union’ was not ruled out.

A subsequent Council Decision (2018/909), in June 2018, laid out the governance of PeSCo projects—put under the joint supervision of the HRVP, the EEAS (including the EU Military Staff) and the EDA (with a key screening and coordinating role), which together constitute the PeSCo ‘Secretariat’—and additional rules for their management and implementation, beyond the provisions already enshrined in the treaty (art. 7.1 included also the possibility to invite the Commission ‘to be involved, as appropriate, in the proceedings’ of a given project). The full implementation of PeSCo would encompass two distinct phases, namely 2018–2020 and 2021–2025, taking somewhat into account also the EU institutional and budgetary cycles.

As a result, in this first phase, a total of 47 projects have been approved by the Council—in three batches: March 2018 (17), November 2018 (17), and November 2019 (13). The next call is foreseen to take place in 2021, after a comprehensive PeSCo review due by December 2020. These projects cover such different areas as training, capability development and operational readiness, and such diverse domains as air, land, maritime, cyber, and joint enablers. By design, each project is carried forward by varying groups of countries and is ‘coordinated’ by one or more of them. The ‘project members’ may agree among themselves to allow other PeSCo participating Member States to join in or to become ‘observers’. Third countries may take part in individual projects on conditions to be agreed at Council level.

PeSCo clearly appears to be the most inclusive of the mechanisms of differentiated integration tested so far as it has involved virtually all *eligible* EU members bar Malta. To date, however, none of the 25 pMS has taken part in *all* 47 PeSCo projects, nor does any of the projects have *all* 25 on board.²³ Membership varies from a minimum of two countries (for 10 projects) to a maximum of 24 (all bar Ireland) for the possibly most significant PeSCo initiative, namely Military Mobility [see below]. The average number of project participants also seems to decrease from the first to the third batch and, interestingly, only five out

²³ A complete and detailed list of the 47 PeSCo projects can be found at <https://pesco.europa.eu>

of the 47 projects, when launched, had a membership equal to or greater than nine (i.e. the threshold for activating EnCo). Finally, in terms of individual countries, France is the one with the highest rate of participation (in 30 projects, 10 of which as coordinator), followed by Italy, Spain and, at some distance, Germany and Greece; Central European (especially Poland and the Baltics) and Nordic countries (Finland and Sweden) are much less frequently involved. While it is partial and indeed premature to draw conclusions from such purely quantitative indicators, they may still give a sense of national preferences and inclinations vis-à-vis deeper cooperation on defence within the EU framework, especially in the absence of tangible financial incentives.

It has also been observed that some of the initial projects submitted to PeSCo were already ongoing initiatives rather than new ones, and that some of them risked duplicating similar activities already under way, respectively, in the EDA and NATO frameworks. Yet again, the unusual speed at which PeSCo was launched in the first place may help explain these difficulties and inconsistencies, along with the desire of Member States to show commitment, play a coordinating role and, possibly, pre-position their projects for future EDF funding. Subsequently, consolidation has clearly set in, driven also by a streamlined selection process, impacting also on the overall number, scope, and membership of the projects.²⁴

Still, it is quite apparent that some projects have a primarily symbolic nature; that a few others do not appear particularly ‘permanent’ in their scope and may not even materialise; that membership of both PeSCo at large and its individual projects, too, is all but ‘permanent’, as the provisions allow not only later accession, but also suspension and even withdrawal of participating countries; and that there is still no identifiable common ‘structure’ among and across the projects. For their part, the ‘ambitious and more binding’ common commitments formulated through the various projects are hardly binding in conventional EU legal terms, as there is no enforcement mechanism built into the PeSCo architecture: in essence, they remain voluntary ones, with incentives for compliance linked primarily to peer pressure and reputational risk, and all liable to the uncertainties of political support, national funding and, in some cases, industrial capacity. Finally, for most of the projects it is entirely

²⁴ See the more detailed analysis by Blockmans and Macchiarini Crosson (2019).

conceivable that they could have been launched also outside and independently of the PeSCo framework, raising the issue of the added value PeSCo will bring under the current conditions. It is even arguable that future EU co-funding will make or break a number of PeSCo projects.

Any qualitative assessment becomes even more difficult in terms of ‘ambition’, as the notion may be applied to the degree of integration to be generated as well as to the technological and operational gains to be produced to meet pre-defined goals. Discussions and deliberations in the EU on the military ‘level of ambition’ have made little progress since 2009 or have been formulated in general and mainly political terms rather operational ones (Barrie et al., 2018). In both cases, anyway, only time will tell, as it may take many years (possibly even beyond the 2025 horizon) to develop and procure some of the platforms envisaged in the projects, in particular those expected to meet the new capability requirements. And while national funding will remain subject to many political variables, contributions from the EU budget—mainly through the EDF (whose scope, however, is not limited to PeSCo)—are equally volatile at this stage—especially after Covid-19²⁵—and, at any rate, may be considered only for some projects.

To sum up, PeSCo has been eventually activated—and partly recast—in 2016/17 in order, first, to demonstrate the Member States’ political determination to reenergise CSDP and defence policy at large, while also managing internal diversity (of priorities, capabilities and resources); and, second, to show internal unity at a time when the EU appeared divided over other issues (Eurozone, migration) and potentially even disintegrating (Brexit). As such, PeSCo has proved to be extremely open and flexible at the source but also increasingly tight further downstream, with a maximum of inclusion at the macro level and a maximum of differentiation at the micro level, and with a clear prevalence of ‘mini-lateral’ clusters between like-minded, often neighbouring and similarly (or complementarily) equipped countries. This loose ‘hub-and-spoke’ construct—including a peculiar three-stage and three-level governance structure (treaty, Council decision(s), individual projects)—represents a

²⁵ According to the July 2020 European Council agreement on the Multiannual Financial Framework (MFF) for the years 2021–2027, a total of 7 billion EUR is allocated to the EDF, and 1.5 billion to the Military Mobility project. The initial Commission proposal earmarked, respectively, 11.5 and 5.8 billion. See Besch (2020).

significant shift from the original intent and design of PeSCo. This, however, had clearly struggled to be translated into reality.

This has made it possible to channel into a dedicated EU framework and bring under a single big tent a number of diverse old and new initiatives in the field of European defence (though not all), thus potentially reducing fragmentation. It has also offered the opportunity to resort to the EU budget to co-fund some of them. Yet PeSCo still has to prove that it can generate ‘positive differentiation’: it is working as a process, but its outcomes are a long way off. Yet awareness of the need to streamline and prioritise work on PeSCo projects is growing: in early May 2019, following the HRVP’s first annual report on the status of PeSCo implementation (circulated in March), the Council issued a recommendation that highlighted the need to ensure more coherence between PeSCo, CARD, the programmes launched by the Commission and ‘other EU defence initiatives’, as well as between all these and ‘the respective NATO processes’; it also invited the participating Member States to make ‘significant progress’ in various areas ‘in order to deliver tangible outputs and products’; and in June, following also a letter sent in late May by the four ‘founding’ members (France, Germany, Italy, and Spain), the Council invited the pMS to ‘make significant progress to further address the more binding commitments’ (Council Recommendation, CFSP/317, CSDP/193) (Council Conclusions CFSP/457, CSDP 285).²⁶

This said, if there is one project that is likely to become (and be considered) a crucial test of the credibility and effectiveness of PeSCo, it is indeed Military Mobility. Initially conceived within NATO and later branded as ‘the Schengen of defence’ or ‘military Schengen’, it is coordinated by the Netherlands and aims at facilitating the cross-border movement of troops, services, and goods (e.g. for military exercises) by harmonising rules and procedures (for customs, dangerous goods, trans-European transport networks) between participating countries. As such, it involves both national (sometimes even sub-national) and EU-level administrative competences, requires and foresees extra resources for improving infrastructure and facilities (including from the EU budget), and implies a degree of harmonisation and indeed ‘integration’ across

²⁶ The HRVP report had apparently outlined some of the commitments the pMS had hitherto failed to achieve, while the so-called PeSCo-4 had asked the Council to update and sharpen the selection process and raise the quality standards of projects; and, for those ‘not delivering as expected’, to ‘be either revived or terminated’.

virtually all Member States (and beyond). The overall impact and added value of PeSCo is likely to be measured against future progress in this field and will have repercussions on EU-NATO cooperation at large—highlighting also the sensitive issue of the involvement of ‘third’ countries, especially non-EU NATO allies (now including the UK). In this respect, the potential political interest in and practical benefit of involving them may clash with well-known legal and procedural constraints.

Another flagship project that will constitute a major test for PeSCo, albeit for different reasons, is the so-called Crisis Response Operation Core (CROC). Also part of the first batch of early 2018, CROC is meant to facilitate force generation by contributing to the creation of a ‘full spectrum force package’ for EU crisis management capabilities. Led by Germany, it includes also France, Italy, Spain—i.e. the four main contributors to PeSCo projects—and, interestingly, Cyprus (with Belgium, the Czech Republic, Portugal, and Slovenia as observers). CROC is not about setting up a standing force but rather creating a catalogue of military elements (at brigade level plus enablers) for possible future EU operations. And its main challenge will be precisely its evident overlap—and potential competition—with the other analogous initiatives currently underway outside the EU framework, including EI2 and NATO’s own force structures.

The forthcoming PeSCo ‘strategic review’ will have to take into consideration all these elements—and possibly others, too. The COVID-19 pandemic has slowed down both political consultation and administrative work also in this domain. While the military have often contributed to the collective efforts to contain and mitigate the spread of Coronavirus, it is conceivable that political and budgetary priorities shift in the months and years to come and impact also on defence spending. It is also possible that the next call for PeSCo projects, in 20121, includes capabilities related to stockpiling and delivering vaccines and medical equipment for both civilian and military purposes.

On the other hand, the strategic drivers that triggered PeSCo in the first place are still there, both inside and outside the EU. Brexit will probably facilitate internal decision-making but will surely also complicate force generation and reduce the Union’s global impact and external outreach. The security landscape in Europe’s neighbouring regions has become even more unstable and unpredictable—from Libya to Belarus, from the Eastern Mediterranean to the Levant—while Russia and China

have become ever more assertive. And the prospect of a US disengagement from the defence of Europe may prompt (and possibly impose) further EU defence efforts.

2 CONCLUSION

Over the past 25 years, and especially during the last decade, an evolving political context and a different set of drivers have substantially changed the way in which differentiated integration has been conceptualised, codified and eventually implemented. The original call for a *Kern-Europa/noyau dur/avant-garde/groupe pionnier* has given way to a more pragmatic and issue-specific approach to managing diversity. As a result, the Lisbon Treaty provisions explicitly designed to address the possibility of differentiated integration (i.e. EnCo) have thus been mainly used as tools to address political gridlock in the Council and/or to solve specific legal issues—in most cases successfully, but with a limited impact on ‘integration’ proper, at least so far.

For their part, the relevant Lisbon Treaty provisions devoted to defence (i.e. PeSCo) have been mainly used to show collective political commitment rather than overcome political gridlock, and to put in place a relatively loose framework for mostly *mini*-lateral cooperation. Their implementation so far has confirmed the special character of defence as a policy area where ‘differentiation’ is the norm and ‘integration’ is the challenge. Their practical impact can be measured only over time and will depend on a number of variables, some of which fall outside the remit of the EU as such. Yet it is likely that its flagship project on Military Mobility will constitute the main benchmark of their success and ultimate added value—for its political and strategic relevance, its essentially *multi*-lateral nature, and the combination of national, international, and EU-specific mobilisation (in regulatory and budgetary terms) it requires.

In other words, to date both EnCo and PeSCo have been predominantly used to facilitate *tailored* cooperation among large clusters of Member States in specific policy or legal areas. By comparing and combining the current EnCo and PeSCo participants, it is quite evident that different ‘Europes’ still overlap, even at this deeper level; but also that a ‘core of cores’ of presently 10 Member States is indeed identifiable—nine of which (bar Bulgaria) are also in the Eurozone, eight in the enhanced cooperation on the FTT (bar Bulgaria and Luxembourg), and four were among the original signatories of the Schengen accord—with a strong Western and Southern European flavour.

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The End of Enlargement? The EU's Struggle with the Western Balkans and Eastern Partnership Countries

Teona Lavrelashvili and Steven Van Hecke

1 INTRODUCTION

More than 70 years ago, in the early days of the European Coal and Steel Community which later became the European Union (EU), one could hardly imagine enlargement as a policy. Today it is often referred to as one of the most successful areas of European integration. Moreover, enlargement is credited with a transformative power in the applicant states and also in the EU's wider neighbourhood (Schimmelfennig & Scholtz, 2008). However, one must note that the path of enlargement as the EU's strategic policy has not been straightforward. It still encounters much scepticism from some Member States (MS) and outside powers, particularly Russia, which sees an enlarged and stronger EU as its competitor

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Table 1 EU Enlargement (1952–2020)¹

<i>Year</i>	<i>N</i>	<i>Member States</i>
1952	6	Belgium/Germany ^a /France/Italy/Luxemburg/the Netherlands
1973	9	Denmark/Ireland/United Kingdom
1981	10	Greece
1986	12	Portugal/Spain
1995	15	Austria/Finland/Sweden
2004	25	Cyprus/Czech Republic/Estonia/Hungary/Latvia/Lithuania/Malta/Poland/Slovakia/Slovenia
2007	27	Bulgaria/Romania
2013	28	Croatia
2020	27	<i>United Kingdom leaves the EU</i>

^aUntil 1990 West Germany only

notably in its near neighbourhood. Despite multifold challenges, the EU expanded from six founding members to 27 MS in 2020 (see Table 1).

Whereas the first enlargement was very much economy-driven, the following waves were largely ‘political’. This process has been epitomized as a logical continuation of the genuine democratic process. In other words, countries that suffered under dictatorships and communist regimes could finally embark on a democratic path by returning to their European family.

However, the EU faces a dilemma regarding future rounds of enlargement. On the one hand, the Union needs to manage its internal cohesion. On the other, it has to deliver on its promises to integrate the countries of the Western Balkans (WB),² and in a more distant future the countries of the Eastern Partnership (EaP).³ Although it is rather premature to claim

¹ Obviously, we also refer to the predecessors of the EU (which formally only exists since 1993).

² The concept of Western Balkans, launched under the Austrian Presidency of the EU in 2001, denominates the following countries that aim for EU membership: Albania, Bosnia and Herzegovina, Kosovo under the 1244 UNSC Resolution, FYROM (since early 2019 North Macedonia), Serbia and Montenegro.

³ The concept of the Eastern Partnership, launched in 2009, involves a strategic partnership between the EU Member States and six Eastern European countries—Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova, and Ukraine—to reinforce their political association and economic integration.

EU enlargement has come to an end, one cannot ignore the mounting challenges of this particular policy that puts the Union in struggle mode.

Why Does EU Enlargement Matter?

Unsurprisingly, enlargement remains a popular and widely researched topic among academics. Some even claim that the literature dealing with EU enlargement is on the verge of becoming a veritable sub-discipline of EU studies (Sedelmeier, 2006). Indeed, EU enlargement policy has been researched using various theoretical and analytical models. Scholars have shown particular interest in unpacking it through the lenses of EU democracy promotion, external governance, and conditionality models.

In the beginning of the century, the comparative study of EU democracy promotion has been the topic of several book-length analyses (see Kubicek, 2003; Pridham, 2005; Schimmelfennig et al., 2005; Vachudova, 2005). These studies have common findings regarding the effectiveness of EU democracy promotion. For instance, they share an assumption that the political accession conditionality has been the most effective of the EU's democracy promotion instruments.

Enlargement has been also understood as an instrument for the EU external governance model. The governance perspective takes a more institutionalist view of regional integration and the interrelation between internal policies and their external dimension. EU neighbourhood relations, together with EU influence, are viewed in terms of a process of gradual formal and informal 'horizontal institutionalization' (Schimmelfennig & Sedelmeier, 2002, p. 503) or as the extension of the EU's 'boundaries of order' beyond formal membership (Lavenex, 2004, p. 684). In this governance model, conditionality plays a key role and is identified as the main mode of external governance in EU enlargement politics (see Grabbe, 2005; Schimmelfennig & Sedelmeier, 2004, 2005).

While it is claimed that EU conditionality works in the case of a credible enlargement perspective, some scholars argue that the EU still provokes democratic changes in countries who do not have a perspective of membership due to its 'normative power'. This normative power stems from the attractiveness of the EU's own internal model, rather than from the purposive actions it undertakes through traditional diplomacy (Manners, 2002; Manners & Whitman, 2003). Supporters of this model argue that the EU enjoys a unique ability to offer grades of 'inclusion' into its own 'governance space' that should be exploited in its foreign policy (Pishchikova, 2019).

This brief overview of some of the major approaches to the EU's enlargement highlights the multifaceted significance of this policy and of the process itself, whose dimension of conditionality holds a transformative potential, with various forms and degrees however, to encourage the political, economic, and societal changes in the countries with different status of integration with the EU (see Table 2).

The EU and the Western Balkans—What Progress Under the Juncker Commission?

After the accession of Croatia in 2013, a number of countries from the WB as well as from the EaP remained in the EU's membership waiting room. However, in July 2014 in an atmosphere of 'enlargement fatigue', Jean-Claude Juncker started with a clear message that no major progress was to be expected in the process of EU enlargement: 'In the next five years, no new members will be joining us in the European Union' (Juncker, 2014). Although his statement was technically correct, its political message alarmed observers in the WB countries (Cheresheva, 2016) as well as those of EaP countries, for whom enlargement prospects seemed even more distant. It is no coincidence that the name of the Commissioner's portfolio⁴ was changed from 'Enlargement and Neighbourhood Policy' to the 'European Neighbourhood Policy and Enlargement Negotiations', expressly emphasizing that the Commission was ready for negotiations, but not necessarily for enlargement.

The Juncker Commission's engagement has been widely seen as downshifting (Fouéré, 2019; Troncota, 2014), yet we cannot ignore that some progress was achieved not only in the negotiation framework, but also in actual political processes in the WB countries. The notable success of the EU's diplomacy and political conditionality has been the resolution of the 27-year-long name dispute between Greece and the then FYROM in 2019. Besides, the so-called Berlin Process played a favourable role, which started in 2014 in a period of extreme enlargement fatigue among MS. This initiative gave birth to many new regional initiatives such as the Regional Youth Cooperation Office, the Western Balkan 6 Chamber Investment Forum, and the Western Balkans Research Foundation.

⁴ The college had a Commissioner for Foreign Relations and European Neighbourhood Policy from 1995 to 1999. After 1999, there was a separate Commissioner for Enlargement and Neighbourhood Policy.

Table 2 Overview of the integration milestones of WB countries to the EU (2014–2020)

<i>Country</i>	<i>EU Status</i>		<i>Membership negotiations</i>	<i>Current situation</i>	<i>Framework of relations</i>
Albania	2020	Candidate	Open	Negotiation framework to be adopted	SSA ^a
	2014	Candidate	–		
Bosnia and Herzegovina	2020	Potential candidate	–	Commission to give its opinion on the membership application	SSA ^a
	2014	Potential candidate	–		
Kosovo	2020	Potential candidate	–	Visa liberalization pending in the EP and the Council Commission gave positive opinion	SSA ^a
	2014	Potential candidate	–		
Montenegro	2020	Candidate	Open	Out of total 35, 32 chapters opened, 3 closed	SSA ^a
	2014	Candidate	Open		
North Macedonia	2020	Candidate	Open	Negotiation framework to be adopted	SSA ^a
	2014	Candidate	–		
Siberia	2020	Candidate	Open	Out of total 35, 18 chapters opened, 2 closed	SSA ^a
	2014	Candidate	Open		
Turkey	2020	Candidate	–	15 chapters opened, 1 closed	Ankara Agreement
	2014	Candidate ^b	–		

Source compiled by authors based on information found at the European Commission website: https://ec.europa.eu/info/research-and-innovation/strategy/strategy-2020-2024/euro-pe-world/international-cooperation/western-balkans_en

^aSabilization and Association Agreement

^bTurkey is candidate since 1999 by the decision of European Council (met in Helsinki)

The EU's enlargement portfolio theoretically includes Turkey, but in practice, the prospects of Turkey's EU membership are gloomy. Turkey applied for association status with the European Economic Community as early as 1959. The application was accepted and followed by the signing of the Ankara Agreement in 1963. Turkey continued developing its relations and in 1987 applied for full membership to the then European Economic Community and it was recognized as a candidate country in 1999. Although accession negotiations started in 2005, relations began breaking down shortly after due to various factors, but notably owing to authoritarian the tendencies of Erdogan's regime and the EU accession of Cyprus,⁵ which created new circumstances. After 2013, the political situation in Turkey stagnated, soon followed by criticism from the EU *inter alia* in the areas of human rights, justice, and freedom of speech. Concerns over purges and detentions mounted after the 15 July 2016 coup attempt and the erosion of the separation of powers with the introduction of a super-presidential system in 2017. The following year, the European Council decided to cut Turkey's pre-accession funds, and the accession negotiations later effectively came to a standstill.

One of the major documents adopted by the Commission during Juncker's tenure was the European Commission's Strategy for the WB (European Commission, 2018a). Its title 'A credible enlargement perspective for an enhanced EU engagement with the Western Balkans' touched broadly on the emphasis on EU credibility and the expectation, that despite the lack of specific dates, the EU was ready to commit to a genuine and enhanced partnership. Nevertheless, the strategy was met with mild optimism by WB leaders. For example, Serbia and Montenegro welcomed the document, Albania and North Macedonia commended the new dynamism of the strategy, whereas the President of Kosovo expressed his dissatisfaction claiming that the document failed to indicate any specific timeframe (Lilyanova, 2018). With the strategy, the Commission has further reinforced the conditionality principle and put a greater emphasis on the rule of law, public administration reform, and economic governance (European Commission, 2018a). The Commission's proposal for the Instrument for Pre-accession Assistance (IPA III) under the Multi-annual Financial Framework 2021–2027 is also strongly linked with

⁵ Cyprus is de facto partitioned with the self-declared Turkish Republic of Northern Cyprus since the 1974 Turkish invasion.

the conditionality principle, putting the fundamental requirements for accession first.

Although one could hardly imagine far-reaching steps on enlargement in the early days of the Juncker Commission's mandate, over the years the EU's attitude gained some momentum, boosting the WB expectations. For example, in March 2017, European Council President Donald Tusk reaffirmed the EU's commitment to the region (European Council, 2017); while President Juncker in his 2017 State of the Union address vigorously stated that the EU had to maintain a credible enlargement perspective for the WB (Juncker, 2017). Furthermore, the Commission was positive in recommending accession negotiations with Albania and North Macedonia three times, in 2016, 2018, and 2019 (see European Commission Annual Reports of 2016a, 2016b, 2018b, 2019a, 2019b). However, in neither case did the Council give the green light to opening these accession negotiations due to the resistance of some MS.

Despite this hesitation from the Council, it can nevertheless be argued that the Commission's conditionality triggered important changes at the domestic level in WB countries. For example, Albania embarked on justice reform, including the re-evaluation of judges. Bosnia and Herzegovina took a further step by submitting its membership application in 2016, about which the Commission published its opinion outlining 14 priorities.⁶ Montenegro opened 32 chapters out of 35 and the Commission has managed to encourage progress in a number of key areas of public administration. The rule of law chapters was opened with Serbia in 2015 and 19 chapters followed by the end of 2019. The Commission also adopted a positive opinion on visa liberalization for Kosovo, confirming that Kosovo fulfilled the last criteria for its visa liberalization roadmap, which had been issued in 2012.⁷ North Macedonia continued to deliver specific results in key areas identified in the Council Conclusions such as the judiciary, the fight against corruption and organized crime, intelligence services reform and public administration (see European Commission Reports, 2019a, 2019b).

However, it would be naïve to assert that this progress is sufficient for EU membership. The WB countries face fundamental institutional and

⁶ However, Bosnia and Hercegovina did fail to agree on the rules and procedures governing its meetings with the EP.

⁷ The European Council has not yet decided positively on Kosovo's visa liberalization. The EP backed the proposal in 2019.

political challenges. The general pattern of party competition is distorted, characterized by a divisive political culture and ideological vagueness. In addition, corruption remains deeply embedded in government structures (Reports of European Party Monitor, (2020/2021)). Opposition parties often tend to boycott parliament, giving up their mandates. This leaves the EU with no choice but to take the role of mediation to resolve the political impasse.

Recent academic scholarship takes stock of the current development in the WB and observes an increasing trend of authoritarianism. Bieber (2020), for instance, claims that the region experiences ‘constraint’ autocrats, whose legitimacy rests on external approval. The features of autocracy are engrained in state structures, and therefore autocracy does not disappear with the change of president or prime minister. Besides, the regimes that have consolidated themselves combine a formal commitment to democracy and European integration with informal authoritarian practices. These unfortunate trends are confirmed by the latest Freedom House report, according to which, for the first time since 2003, Serbia and Montenegro are no longer democratic states, but belong to ‘governments in transition or hybrid regimes’ (Freedom House, 2020).

The EU and Its Eastern Partners—Before and During the Juncker Commission

EU relations with the countries on its eastern neighbourhood and the South Caucasus were formalized in the late 1990s, when the Partnership and Cooperation Agreements (PCA) were signed. However, even before these agreements, the EU significantly supported ex-communist countries in their democratic transition with various programmes. Moldova and Ukraine were the first to sign a PCA in 1994, followed by three South Caucasus countries—Georgia, Armenia, and Azerbaijan in 1996. The relationship with Belarus started with a zigzag. Despite the signing of the PCA in 1995, its ratification was suspended shortly after due to the deterioration of human rights, which resulted in the EU imposing sanctions. Although Europe is Belarus’s second-biggest trading partner (European Commission, 2020a), institutionally it has the weakest relationship with the EU compared to other EaP countries (see Table 3).

Over the years, relations with the EU relations gained momentum as the Union gradually acknowledged the importance of stability in its

Table 3 Overview of the integration milestones of EaP countries to the EU (2014–2020)

<i>Countries</i>	<i>EU status</i>		<i>Current situation</i>	<i>Framework of relations</i>
Armenia	2020	Partner country	Implementing 20 deliverables and CEPA	CEPA ^a
	2014	Partner country		
Azerbaijan	2020	Partner country	Negotiations on a new agreement underway	PCA ^b
	2014	Partner country		
Belarus	2020	Partner country	Negotiations on partnership priorities underway	N/A
	2014	Partner country		
Georgia	2020	Associated country	Implementing 20 deliverables and AA	Association agreement (AA)
	2014	Partner country		
Moldova	2020	Associated country	Implementing 20 deliverables and AA	Association agreement (AA)
	2014	Partner country		
Ukraine	2020	Associated country	Implementing 20 deliverables and AA	Association agreement (AA)
	2014	Partner country		

Source compiled by authors based on information found at the European Commission website

^aEU-Armenia comprehensive and enhanced partnership agreement

^bPartnership and cooperation agreement

neighbourhood (Tracey, 2012). This gave a boost to a more comprehensive approach which I still today the general framework for the EU's relations with its neighbours. The European Neighbourhood Policy (ENP) was launched in 2002 and includes 16 countries to its East and South. The distinct features of participant countries did not go unnoticed, creating the need for a more focused program, that would consider their regional position and diverse characteristics. Besides, political developments (particularly the Russia-Georgia war in 2008) pushed the EU to increase its leverage in the region by its deeper engagement.

As a result, under the leadership of the Polish and Swedish governments, a joint initiative was launched in 2009 between, on the one hand the EU and its member states, and on the other, Armenia, Azerbaijan, Georgia, Moldova, and Ukraine. This was the beginning of the 'Eastern Partnership countries' label. Conditionality within the EaP is grounded in the so-called 'more-for more principle': the more progress on reform, democratization, and rule of law from a partner, the greater its proximity with the EU. The EaP aims at accelerating the political association

of the partner states—by, for example, concluding Association Agreements (AA)—fostering economic integration and socio economic and democratic reforms (Lavrelashvili, 2018).

However, the so-called Eastern crisis (Youngs, 2017) demonstrated the EU's limits in the region which required reshuffling the ENP. It was revised in 2015 with a call for differentiation, greater ownership, and flexibility (European Commission, 2015). Furthermore, the ENP Review and the 2016 EU Global Strategy downgraded the ENP from its originally transformative approach to a pragmatic and interest-based one (Wolfschwenger, 2019). Indeed, 'stabilization' not 'transformation' is the main political priority of the ENP review and strengthening the capacity of states, referred to as 'resilience building', has been declared a foreign-policy goal.

Obviously, these strategic documents reflect the mood of some of the MS who are hesitant towards EU integration. France, the Netherlands, and Germany have especially turned increasingly sceptic towards continued EU integration arguing, *inter alia*, that the EU needs deepening before widening. The UK's infamous decision to leave the Union and the actual Brexit in 2020, growing internal divisions in the EU MS (Bradford, 2020) as well as the increasing backsliding of democracy and the rule of law within the EU (Sitter & Bakke, 2019) have raised the issue whether the EU still has a realistic capacity, ability and willingness to enlarge. Member states like Romania, Poland, Sweden, and the Baltic States as well as the European Parliament have advocated for a stronger EU engagement. France, Spain, Austria and Italy remain more or less ambivalent towards the EaP, as their focus lies more on the southern dimension of the ENP.

Despite this enlargement fatigue, a certain level of progress was achieved on the rapprochement of EaP countries with the EU. Georgia and Ukraine were granted visa liberalization in 2017, while Moldova had visa-free travel since 2014 (European Commission, 2020b). The EU also has facilitation and readmission agreements in place with Belarus and Armenia (European Commission, 2020c, 2020d, respectively), which open up the prospect of visa-free regimes for these countries. Armenia, despite having no AA in place (European Commission, 2020d), signed a 'comprehensive and enhanced partnership agreement' in 2017.

Although many have built high hopes on the three frontrunners in particular—Georgia, Moldova, and Ukraine, serious political

and economic challenges impede these countries' transformation. For example, the party systems, in which the main political cleavage remains one of personalities, lack consolidation. Similar to the WB countries, the parties often tend to boycott the parliament which negatively affects the institutionalization of the party system (Reports of European Party Monitor, 2020/2021). Furthermore, there appears to be a worrying trend of oligarchization (Freedom House, 2020), preventing political competition and favouring to the centralization of power. Observers note that the rise of oligarchy across all EaP countries has resulted in the emergence of facade democracy, aggravated by a strong authoritarian push from Russia, which provides financial and political backing to favoured elites (Minzarari & Pistrinciu, 2020). While the reform of the justice system and the fight against corruption remains the Achilles' heel, the major threat comes from Russia, who incited the frozen conflicts in Georgia (Abkhazia and South Ossetia), Ukraine (Crimea and Eastern Ukraine), and Moldova (Transnistria) and continues its attempts to destabilize these countries. For Russia, these conflicts serve as a convenient tool to fuel inter-ethnic clashes and anti-Western sentiments when needed.

Enlargement and the New Parliament

Predictions about the 2019 EP elections were dominated by fears that mainstream political parties would decline and that the populist forces would advance, giving a push to the EU's disintegration. Amid these worries, the enlargement debate was largely forgotten during the electoral campaign. Since enlargement policy has become a delicate topic in recent years with fears of increasing migration flows and instability, parties had no intention to bring it up.

Indeed, EU public opinion was quite negative towards enlargement. According to the Eurobarometer survey that preceded the EP elections, EU enlargement enjoyed minority support with only 43% in favour, while for example 83% support the free movement of EU citizens and 76% support a common defence and security policy (European Commission, 2018c). In their electoral manifestos major Europarties duly considered these attitudes. For example, the European People's Party (EPP) Manifesto, 'Let's open the next chapter for Europe together', lacked a clear reference to enlargement. It only mentioned the European perspective of the WB with a conditionality that these countries should follow European standards and the rule of law (EPP Manifesto, 2019). The

European Green Party (EGP) mentioned the WB and the EaP countries without referring to the certitude of the accession process. According to their manifesto, the EGP is working to make the WB countries' accession possible based on European values and to deepen cooperation with eastern partners (EPG Manifesto, 2019, p. 13).

The Party of European Socialists (PES) has probably been the one less vocal on EU enlargement and neighbourhood policies. The 'Social Contract for Europe' and its language on enlargement is even more limited compared to the EPP and the EGP. It avoids mentioning enlargement, or membership perspective. Instead, the Europarty chooses a general formulation stating that the PES supports strengthening partnerships with developing countries (PES Manifesto, 2019).

The only Europarty that directly referred to 'enlargement' towards not only the WB region but even beyond in its campaign material, is the Alliance of Liberals and Democrats for Europe (ALDE). Among other policy priorities, ALDE expressed its belief in a greater strategic engagement of the EU in its neighbourhood and the future enlargement perspective for the countries of the WB and its common European neighbourhood, once these countries meet the accession criteria (ALDE Manifesto, 2018, p. 9). However, it would be misleading to draw conclusions about the degree of the Europarty's support towards enlargement based only on their campaign document. One of the explaining factors of ALDE's bold statement could be timing. The manifesto was adopted already in 2018, at their Madrid Congress. Therefore, it did not get the attention of European voters, who are usually quite sceptical towards enlargement.

This relatively weak political appetite for enlargement was clearly revealed during the debates for the *Spitzenkandidaten* as well. In the first debate held in Maastricht, the candidates simply left the enlargement topic untouched (Maastricht Debate, 2019). The second debate held in Florence was more significant in respect to the EU's foreign policy. The EPP candidate Manfred Weber argued that the EU's foreign policy should be based on values and not only on economic interests, and thus advocated for the introduction of qualified majority voting in the Council. Weber fiercely opposed Turkey's EU accession prospects and welcomed the aspirations of Ukraine to pursue EU integration. The PES candidate—Frans Timmermans—agreed on the need for a consensus over foreign policy but remained sceptical towards qualified majority voting claiming that this would not necessarily help the EU reach a common foreign

policy. The PES candidate emphasized the EU's special responsibility to create stability in the WB and the EaP countries but avoided referring to any enlargement prospects. Ska Keller, the lead candidate nominated by the European Greens, criticized the lack of coherence in the EU's foreign policy. Yet, her focus was more on China, the USA, Iran as well as on a better coordination on weapon export (Florence debate, 2019). The lead candidate of ALDE party, Guy Verhofstadt, who is known for his federalist outlook and general support towards EU enlargement (see e.g. Verhofstadt, 2018), did not bring the issue of enlargement to the fore in his speeches during the campaign.

Nevertheless, the new EP continued its vigorous support for enlargement policy and advocated for opening accession talks with Albania and North Macedonia, as well as developing closer ties with the EaP countries. For example, in 2019, the Lithuanian delegation in the EPP prepared the non-paper 'Trio 2030 Strategy', with an aim to strengthen the dialogue of three EU associated countries and the EU. The document acknowledges that a new long-term instrument is needed and called for the creation of a European Trio Process as a new dimension of EaP policy, to be led by the EU institutions and a coalition of like-minded countries of the Trio 2030 Strategy, replicating the 'Berlin Process' (Trio Strategy, 2030). The intensified cooperation of the associated trio triggered some resonance in Georgia, Moldova, and Ukraine, who had already signed a joint declaration in 2019 and pledged trilateral cooperation with the EU, whose outcome remains to be seen (Lavrelashvili & Cenusă, 2020).

The Von Der Leyen Commission

The new European Commission, which took office on 1 December 2019, is internally organized along six 'Commissioners groups' representing its priorities (European Commission, 2020e). One of the groups is 'A stronger Europe in the World' that includes the EU's enlargement and neighbourhood policies. The Commissioner in charge of 'Neighbourhood and Enlargement' is the Hungarian lawyer and diplomat Olivér Várhelyi.

While Juncker had claimed to lead a 'political Commission', the new President von der Leyen pledged to lead a 'geopolitical Commission'. Linking the EU to its geography has raised expectations that first the EU would increase its focus on external actions and second that these would

become more strategic and coherent. In the political guidelines for 2019–2014, von der Leyen stressed her full support to opening accession talks with Albania and North Macedonia (Von der Leyen, 2019).

The new Commission took some important steps to keep enlargement on its agenda by introducing a new enlargement methodology in February 2020 with a view to increasing the effectiveness of the overall accession process (European Commission, 2020f). This started with a particular push from France who blocked the opening of membership talks with Albania and North Macedonia in October 2019. The proposal included some key propositions of the French non-paper of November 2019, namely clustering the thematic chapters which, according to the Commission, allows a stronger focus on core sectors in the political dialogue and ‘phasing in’ (accelerated integration to individual EU policies) the candidates. Clearer sanctions are planned in case of backsliding in the area of the rule of law, including putting negotiations on hold or even suspending them entirely. Interestingly, the EU MS have a greater say in assessing the progress of the candidate countries through their experts and direct contributions to the annual reports. Before the adoption of this new methodology, the process was largely controlled by the Commission. Another important change is the introduction of reversibility which means that the EU MS can decide that negotiations are put on hold or even suspended, and that benefits of closer integration, e.g. access to EU programmes and the internal market, can be paused or withdrawn (*ibid*).

Arguably, this new methodology helped reach a positive decision in the Council to green-light accession talks with Albania and North Macedonia in March 2020 and request the Commission to integrate this new methodology in its future negotiating frameworks (General Affairs Council, 2020). Despite the Covid-19 pandemic, the EU continued its effort to engage with the region. In hopes of keeping the political priorities high, instead of cancelling the EU-WB Zagreb Summit, it was held virtually in May 2020. However, the Summit declaration failed to refer to the EU’s decision to begin membership talks with Albania and North Macedonia and only indirectly referred to WB membership prospects (Zagreb Declaration, 2020).

Yet, proof of the EU’s engagement was its assistance in fighting the pandemic in the region. The EU mobilized a significant aid package of 3.3 billion euro and organized immediate emergency support with protective medical equipment. The EU allowed countries that are negotiating their accession to apply for the EU Solidarity Fund, while all the WB

governments were invited to join the EU's Joint Procurement Agreement (European Commission, 2020g). In addition, the Commission adopted a package of 70 million euro to be distributed in the form of grants to help fund the access of WB countries to Covid-19 vaccines (European Commission, 2020h).

The new Commission presented its political assessments of the WB countries and published the long-awaited enlargement package in October 2020. With maybe the aim of avoiding the potential reputational damage that may be caused by the delayed adoption of the package, the Commission simultaneously adopted an ambitious 'Economic and Investment Plan for the Western Balkans'. The plan mobilized 9 billion euro of funding for the region to support sustainable connectivity, human capital competitiveness, and inclusive growth (European Commission, 2020i). In the words of Commissioner Várhelyi, the plan is part of the three-track approach, that is 'reinforced and renewed by applying the new methodology, preparing the negotiation framework and overcoming the economic and social challenges' (Várhelyi, 2020).

Yet, in the light of the EU's non-decision on enlargement, this statement sounds overpromising. While the Commission presented the negotiation framework in July 2020, membership negotiations with North Macedonia and Albania remained at a standstill. In November 2020, Bulgaria vetoed the start of the talks over the use of the Macedonian language that it does not recognize and considers to be a regional variant of Bulgarian (Barigazzi, 2020). Considering that the Bulgarian decision is supported by a cross-party consensus, it remains unclear how this standoff can be resolved. Moreover, despite increased pressure from Brussels, it is highly unlikely that the current caretaker government will voice any position.

The EU also assisted its Eastern partners of the EaP in the fight against the pandemic and mobilized 1.065 billion euro in emergency support for the six constituent countries. In addition, 11.3 million euro were allocated in small grants to civil society organizations and 300 million euro were made available for the small and medium enterprises (European Commission, 2020j). The political expectations of the Eastern partners have not been met, however. The call for membership prospects of the three frontrunner countries, Georgia, Moldova, and Ukraine, did not get the EU's attention. Neither did the EU endorse the sectorial integration initiative that has been forged for some time by these countries (European Council, 2020). In March 2020, the Commission

proposed long-term policy objectives for the EaP by emphasizing five 'resilient' policy priorities: resilient economies, accountable institutions, climate resilience, resilient digital transformation, and societal resilience (European Commission, 2020k).

However, one could question the extent to which these policy priorities remain relevant in the face of the recent worrisome developments and the rise of instability in all EaP countries. Since May 2020, there have been unprecedented demonstrations in Belarus against the regime, but despite these massive protests, Lukashenko violently holds on to power which makes a peaceful transition less likely. Armenia's state building-efforts and democratic aspirations, which one would have expected after the 2018 Velvet Revolution, were drastically challenged by a six weeks war with Azerbaijan over the disputed Nagorno-Karabakh. The fighting ended with the Russia-brokered peace deal that ultimately reinforced its own position, as almost 2000 Russian troops are deployed to monitor the agreement. Russia's determined role has also highlighted the EU's inaction and helplessness as a security actor who keeps a low profile in its immediate neighbourhood.

Ukraine continued navigating through multiple challenges, such as Russia's ongoing hybrid war against the country, including the illegal occupation of Crimea and the war in eastern Ukraine. Furthermore, the completion of the Nord Stream 2 gas pipeline between Russia and Germany that will bypass Ukraine, has cast some doubts on EU-Ukraine relations. In Moldova, although some positive developments unfolded following the July 2021 parliamentary elections, in which pro-EU and reform-oriented forces won a majority for the first time in history, an ongoing energy crisis put the country in a situation of emergency. Russia, on which Moldova is dependent for its gas, cut supplies by a third and doubled the price to keep gas flowing, pushing Moldova to hope for the EU's assistance (Financial Times, 2021).

The political situation in Georgia is not promising either. Next to the country's imminent security challenges, i.e. Russia's creeping occupation, a new political crisis hit the country. The results of the 2020 parliamentary elections were not recognized by the opposition, who boycotted the parliament. The EU took a leading role in mediating the talks by appointing a special envoy of the President of the European Council. After multiple attempts at negotiations, the dialogue failed leaving the country with a one-party parliament in the face of mounting social and economic challenges. To put an end to the political crisis,

European Council President Charles Michel, who visited Georgia several times, suggested an agreement with the major political parties. But this document has never materialized, leaving Georgia in a highly polarized situation.

2 CONCLUSION

This chapter analysed the track record of the Juncker Commission, the 2019 EP elections, and the von der Leyen Commission on the topic of enlargement and neighbourhood policies. Although a new enlargement methodology has alleviated some MS' concerns over accession, the future of enlargement seems uncertain as it is getting increasingly difficult to ignore the worrying political and security trends in the countries of the Western Balkans and the Eastern Partnership. At the same time, enlargement fatigue is not likely to disappear in the near future and one may even expect further decline in public opinion support amid the various challenges the EU is facing. Besides political willingness, there are technical challenges accompanying the process. For instance, the Commission lacks effective tools in the new methodology to measure progress on the rule of law which will eventually slow down the negotiation process.

Covid-19 is an imminent challenge to the EU in many ways but has also undoubtedly had an impact on the EU's enlargement policy. The pandemic made the EU change its priorities. The EU's agenda has shifted towards tackling the health crisis and its economic and social consequences. Yet, the crisis has been an opportunity for the EU to show its capacity both in decision-making and in development aid towards the regions of the WB and EaP. Despite the pandemic, the EU made some operational decisions, like opening accession talks with Albania and North Macedonia and holding the Zagreb Summit as well as supporting its EaP partners during the Covid-19 sanitary crisis. Besides, the EU provided significant financial assistance to both regions to mitigate the consequences of the crisis. However, despite the solidarity that has contributed to the EU's image, its credibility is being vigorously tested by the current political and security events unfolding in these regions. In fact, with unparalleled waves of instability in the aspirant countries, one can only question the EU's transformative power in the region. These developments also test whether the EU has the capacity to act in its immediate neighbourhood. By contrast, the countries of the WB and EaP expect the

EU to engage, putting the Union in a struggle mode to demonstrate its capacity to act and react as a geopolitical actor.

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From the Gulf of Aden to the Mediterranean Sea: The Institutionalisation of EU-NATO Maritime Relations

Lorenzo Giuglietti

1 INTRODUCTION

‘In times of existential crisis’ (EEAS, 2016), the EU has sought to reorient its strategy in view of coping with the threats stemming from the uncertain international context. In that vein, the EU kicked off a series of initiatives aimed at strengthening partnerships and ‘step[ping]-up its contribution to Europe’s collective security’ (EEAS, 2016). Starting with NATO, a renovated EU-NATO momentum occurred with the 2016 and 2018 Joint Declarations and, urged on by the deterioration of the global security context, the *rapprochement* involves establishing a ‘NATO-EU strategic partnership’ (Howorth, 2017). Along with this, the Von der Leyen Commission envisioned a renovated international course of action,

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a ‘geopolitical Commission’, that implies seeking to further adapt to the new global contingencies, *inter alia*, through partnerships (President Von der Leyen, 2019). Despite the disruption created by the COVID-19 outbreak, EU-NATO relations have further intensified (Lungescu, 2021; NATO, 2021b). In the aftermath of Russian’s war in Ukraine and the release of the Strategic Concept, the EU has fostered an even closer partnership with NATO, further encouraging cooperation and common approaches to cope with the critical challenges the Euro-Atlantic security community is facing (European Union & NATO, 2022).

Essentially, EU-NATO cooperation encompasses eight areas of collaboration and 74 engagements. This *détente* has led EU-NATO cooperation to reach ‘unprecedented levels’ (Anghel, 2021). The operational dimension stands out as pivotal, and the maritime cluster holds a key role. However, cooperation remains complicated due to the intrinsically different natures of the organisations—the EU is an actor, NATO an instrument (Biscop, 2018)—as well as the piecemeal cooperation framework.

Against this backdrop, this paper seeks to unpack EU-NATO maritime cooperation, evaluate accomplishments achieved so far and the extent to which the ‘geopolitical Commission’ narrative has somehow acted as a catalyst for further cooperation. Primarily, it addresses the following questions: (1) To what extent has this partnership boosted EU operations’ effectiveness? (2) By what means have the EU and NATO been able to tailor cooperation ties in the maritime field, and has a sort of *modus operandi* emerged? (3) Which preconditions guarantee a higher or lower level of interaction?

Exploring these issues, the study addresses the relations the Union and the Alliance have intertwined from the Gulf of Aden to the Mediterranean basin: EUNAVFOR *Atalanta* and NATO Operation Ocean Shield; EUNAVFOR Operation *Sophia* and NATO Operation Sea Guardian; EUNAVFOR Operation *Irini* and NATO Operation Sea Guardian. The relevance of this study is threefold. Firstly, the increased EU actor-ness in the maritime field reveals how far ‘the security of the sea is a clear priority of the EU’ (European Commission, 2014). While the EU has acquired a proven experience at sea (Pejsova, 2019), it is worth mentioning how its aspirations to become a ‘geopolitical actor’ require becoming a global maritime security provider able to generate cooperative naval dynamics with third players. The pandemic has revealed to what degree the maritime dimension remains vital for the Union (Fiott, 2021)

and the Strategic Concept further accentuated the security dimension of the maritime field (Council of the European Union, 2022). Therefore, the Commission's geopolitical claims should spark concrete plans to strengthen its maritime cooperative partnerships. Secondly, NATO currently represents a pivotal maritime partner for the EU (European Commission, 2020), and both the Union and the Alliance pursue similar goals as well as share comparable concerns (EEAS, 2016; NATO, 2016). On top of that, the situation on the other shore of the Mediterranean Sea and beyond is volatile. Since 2011, the EU and NATO have had to manage the chaos resulting from the Arab upheavals, the unleashing of migration flows, and the consequent security concerns. Thirdly, this is not a perfect match (Lindstrom & Tardy, 2019): despite the 'strategic partnership' narrative, these organisations often pursue dissimilar agendas; the NATO and EU rivalry persists; member states never endorsed the Declarations proving their different perceptions of them; some member states remain reluctant; cooperation is mainly confined to the informal level; the institutional architecture makes cooperation complex. In sum, 'political agreements [are] lacking, stalling key initiatives, and relegating cooperation to the staff level' (NATO Reflection Group, 2020).

After outlining the methodology, the paper first introduces EU-NATO cooperation, its benefits and hurdles. Then, it turns to the case studies, and it chronologically addresses the three interplays. The last section endeavours to trace the institutionalisation process both organisations have set up and evaluates the significance of EU-NATO cooperation for EU operations. As such, findings will show how interaction has fostered operations' effectiveness. Besides, a path-dependency is also underscored as well as the fact that ad hoc arrangements persist.

Methodology

The three research questions call for different approaches. Regarding the assessment of the effectiveness of EU operations effectiveness, the explanatory factors driving EU performance considered here are *interests*, *identity*, and *institutions*. They spell out a system of interdependence that shapes the EU's action from an endogenous perspective (Juncos, 2007). Regarding the third 'I' *institutions*, the hypothesis is that the institutionalisation process experienced by the EU with international actors affects the Union's effectiveness as well.

On the other hand, Historical Institutionalism (HI) will serve as a theoretical framework to enlighten how *institutions* matter and if a *modus operandi* has emerged (Fioretos et al., 2016, p. 3). In that perspective, formal and informal ties that actors have intertwined with each other shape behaviours and performance. Crucially, HI is intrinsically linked to five founding elements. First, *institutions* are ‘understood as collections of rules and practices [...] able to create order and predictability’ (Seeberg, 2018, p. 2). Then, the institutionalisation process, which namely ‘involves the establishment of some bureaucratic and political bodies, the development of formal rules and informal practices, which together constitute the institutions’ (Juncos, 2007, p. 63). Third, *path-dependence* and so the tendency to follow the pattern initiated when the institution took shape. Institutions hardly change, and their initial setup endures over time (Pollack, 2004, pp. 139–140). Nonetheless, developments can occur when a window of opportunity leads to institutional change: a *critical juncture*. Accordingly, the fourth feature is learning, i.e. the capability to adjust depending on external shocks or internal events (Juncos, 2007, pp. 73–74). Finally, socialisation is a cornerstone element because ‘international institutions have the ability to socialise agents’ (Checkel, 2005, p. 804).

This analytical approach is systematically applied to the three case studies. As such, for each case, the analysis will, first, unpack the operation by zooming on the mandate, its implementation, evolution, and constraints. Second, the analysis will explore the EU-NATO institutionalisation process, endeavouring to discover the critical junctures, consequently illustrating cooperation facets through HI. Finally, the last section evaluates the partnership through the ‘Three-Is’ and their impact on the EU’s performance. The analysis also outlines the nature and evolution of the cooperation, stressing the path-dependence, the socialisation process and the institutionalisation’s features through the prism of HI. Finally, it concludes by illustrating the conditions which have allowed higher or lower levels of interactions.

The paper is based on the current literature, public documents, SHADE Med webinars, semi-structured interviews with EU and NATO officials. The analysis relies on a qualitative approach. While secondary sources remain the main sources regarding the experience in the Gulf of Aden, in the other cases, interviews with experts, EU and NATO personnel as well as SHADE Med webinars play a crucial role in complementing literature and further expanding the research.

2 EU-NATO COOPERATION

A significant span of the EU-NATO relationship's lifetime has been characterised by an 'institutional fatigue' (Smith, 2011) resulting from political and legal constraints which have hampered more formal and structured cooperation. After the first collaborative inter-institutional partnership established by the 2003 Berlin plus agreement, which granted the EU access to NATO assets and operational structure to undertake military operations, a deadlock and frictions between the two institutions led to a freezing of their mutual relationship (Aversano Stabile et al., 2018, p. 4).

2010 saw a first thaw arrived when NATO referred to the EU as an essential and unique partner (NATO, 2010, p. 28). On the other hand, the EU Global Strategy (EUGS) explicitly conceives NATO as a partner with which to develop synergies and stronger cooperation (EEAS, 2016, p. 20). This promising path resulted in the 2016 and 2018 EU-NATO Joint Declarations, envisaging a stronger and deeper cooperation between the two organisations. 'In a world of carnivores' (Jones, 2018), the Declarations are meant to cope with the contemporary geopolitical challenges faced by the EU and NATO, safeguard the transatlantic partnership, and establish practical roadmaps on relevant areas (Lindstrom & Tardy, 2019, p. 3). Laced with the 'essential partners' (Council of the European Union, 2016b) narrative, the political impetus gave rise to regular high-level and routine informal meetings between the organisations' staff, in turn suggesting the emergence of communities of practices (Koehler, 2017, p. 3).

Crucially, the maritime chapter took on a far from secondary role, thereby revealing the relevance, both for NATO and the EU, of enhanced cooperation in that realm. Staff-to-staff interactions and annual reports followed compelling operational arrangements on the ground.

However, this rosy story hides well-known hurdles. First, member states have shown different perceptions of cooperation, and they still play a relevant role in steering new relations. Therefore, structured and formal cooperation is impeded by, for instance, the unresolved Cyprus-Turkish dispute and a legally grounded adjustment has become almost impossible due to Turkish reticence. Accordingly, apart from the Berlin plus agreement, it seems unlikely at present that there be enough room for

manoeuvre to arrange a new formal agreement able to meet today's challenges (Lindstrom & Tardy, 2019, p. 10). The first reverberation of these hurdles regards the inter-organisational classified information exchange and intelligence cooperation. Indeed, the 2003 'Security Agreement' has facilitated sharing classified information between the EU and NATO in Brussels, namely establishing a tie between the Supreme Headquarters Allied Powers Europe (SHAPE) and the EU Council (European Union, 2003). Nevertheless, those practices are restricted to member states that have signed the 2003 agreement, not including Cyprus, and they do not involve the operational level outside the Berlin plus format, where ad hoc solutions are commonplace. Second, there remains the question of how far the partnership can be considered strategic due to both organisations' evident divergent focus and strategic culture (Græger & Todd, 2015). Third, despite those constraints, the EU and NATO have been able to kick off operational collaborations on the ground, and they have reached a certain level of interaction through pragmatic measures. Nevertheless, arrangements are often unstructured, precarious, and uneven (Tardy, 2021). Therefore, operational boundaries are blurred, NATO and the EU diachronically interact, and a shared division of labour has not materialised *ex-ante*.

The Gulf of Aden

The Union's strategic maritime dimension lays down the conceptualisation of common interests and shared views, namely its 'strategic culture' (see Rynning, 2003). This heuristic concept allows the framing of the EU's set of 'ends' and of how it has intended to pursue them through a combination of 'means'. About the former, the 2003 European Security Strategy (ESS) provided the Union with a first set of 'ends', such as countering illegal immigration, arms trafficking, drug smuggling, terrorism, piracy and robbery at sea, overexploitation of sea resources, and marine pollution (Council of the European Union, 2003, pp. 4–5). Several brainstorming sessions further echoed this, whereby naval forces were identified as the vector guaranteeing the freedom of navigation, diplomacy, and force deployment (Council of the European Union, 2008b, p. 21). While the Integrated Maritime Policy introduced a horizontal integration, the '2010 Headline Goal' established the first linkage with the CSDP.

Based on these, the EUNAVFOR Somalia *Atalanta* represents the first implementation of those ends whereby the EU undertook anti-piracy actions and merchant vessel protection. Indeed, the piracy threat rampantly surfaced in the region and it peaked in 2008 when Somalia swiftly became the ‘piracy capital of the world’ (Smith, 2016, p. 124). Endorsed by the United Nations Security Council (UNSC) Resolution and pressed by international stakeholders (Rice & Gow, 2008), the EU first established the EU NAVCO to coordinate actors in this pivotal choke point and, in November 2008, Europeans set sail. The mandate ensured the EU’s monopoly of the use of force to primarily protect vessels of the World Food Programme as well as deter, prevent and repress acts of piracy and armed robbery off the Somali coast (Council of the European Union, 2008a). The headquarter (HQ) of the mission was based in Northwood, where the NATO command of the naval forces already operating in the area was installed. The mandate has progressively evolved and, along with the law enforcement, surveillance and police tasks (Tardy, 2017), coercive tools and a certain level of deterrence towards pirates have been progressively introduced. This hybrid nature immediately gave appreciable results in the aftermath of the launch, and pirate raids significantly decreased in the months that followed (Smith, 2016, p. 126).

Nonetheless, *Atalanta*’s drawdown did not occur as planned, and the operation is still active today. This extension is due to the complexity of tackling piracy and its root causes by sea. The EU has attempted to strengthen its efforts by establishing parallel and complementary missions. The land-based EUTM Somalia and EUCAP Nestor strived to project maritime power over land by training local forces and boosting capacity-building programmes.

EU-NATO Maritime Cooperation: First Steps

Notwithstanding these issues, EUNAVFOR Somalia has emerged as an ‘orchestrator’, coordinating the entire gamut of maritime cooperation in the area. Regardless of the nationality or the organisation, *Atalanta* embraced all activities of coordination and information-sharing (Smith, 2017, pp. 236–237), a task further facilitated by establishing the Mechanism Security Centre—Horn of Africa (MSCHOA) in Northwood. Besides, since 2008, both *Atalanta* and NATO (Operation Allied Protector and immediately after Ocean Shield Operation) have deployed naval forces to counter piracy in the area and, despite similarity of the

activities they steered, their respective mandates did not envisage any form of cooperation between them. They separately pursued a twin-track strategy, an overlap that they have been capable of converting into an opportunity (Gebhard & Smith, 2015, pp. 112–113).

Formally, any EU-NATO intelligence-sharing was not permitted outside official networks, but the co-location of HQs in Northwood allowed officials belonging to NATO and the EU to mastermind informal ways of becoming acquainted with the other organisation's information. Eased by the physical proximity and the 21 coinciding member states, the socialisation meant that unofficial exchanges made Northwood a hub where the EU and NATO developed pragmatic solutions to meet their operational needs and overcome the evident political limitations (Gebhard & Smith, 2015).

Operationally speaking, cooperation at sea rebounded too. Here, NATO and the EU undertook a collaboration, however, *ad hoc*. Although coordination arose in the case of the custody of captured pirates (Smith, 2017, p. 230), the information-sharing and intelligence gathering are the foundations of collaboration at sea (Marcuzzi, 2018, p. 4). Apart from the ELMA database, there was a tailored intelligence-sharing arrangement at the operational level. Notwithstanding the robustness of the 2003 Security of Information Agreement, operationally, an in-house unilateral agreement within *Atalanta* was designed to pass material, such as photographs, to NATO. The latter, in turn, replicated the same agreement internally (Gebhard & Smith, 2015, p. 115). Besides, participation in neutral regional forums, SHADE, represents the second great success. Designed in 2008 to provide tactical coordination between the actors operating in the Gulf of Aden, SHADE was a forum for de-confliction and information-sharing with periodical meetings about technical matters to deliberately 'keep politics out' (Gebhard & Smith, 2015, p. 117). In the shadow of a multinational settlement, the EU and NATO had the chance to fine-tune a common understanding of practices as well as joined planning. Accordingly, EU-NATO cooperation has likely been to be 'more hidden and, therefore, more effective' (Smith, 2011, p. 257). Lastly, relations were boosted with the MERCURY system aimed at unclassified information exchange in real-time.

Therefore, even though the absence of linkages between the chains of command and at the intra-organisational level, mandate similarity and geographical proximity allow both organisations to develop a distinctive form of relationship, yet neither backed by the Berlin plus political and

legal framework or disposing of intelligible technological systems. These dynamics should first be understood through the unique maritime culture and the so-called ship-to-ship cooperation ‘that transcends any political boundaries and limitations at the tactical level’ (Gebhard & Smith, 2015, p. 119). Second, the membership overlap evidently reduced the boundaries between the organisations by marshalling joint assets and human resources which facilitate the transfer of personnel and a common mutual understanding. Accordingly, a collaboration between NATO and the EU quickly emerged, and ad hoc arrangements resulting from a bottom-up pressure eased the institutionalisation of joint maritime practices (Smith, 2011, p. 257).

Operation Sophia

In 2013 the EU Maritime Security Strategy (EUMSS) reoriented EU maritime priorities and, based on the lesson learned in the Horn of Africa, it turned its attention to the alarming situation in the Mediterranean. Relations in the southern neighbourhood faced a further dramatic setback in 2014 (Toaldo, 2016, pp. 5–7), and the EUMSS was adapted accordingly when the Union focussed on more specific goals (Council of the European Union, 2014). Besides, the pressure arising from the volatile neighbourhood drove the EU to craft compelling actions and a CSDP response off the Libyan coast was top on the agenda (Council of the European Union, 2015b).

The tremendous political sensitiveness of migration flows gave impetus to an intense high-level debate about taking action (Johansen, 2017, p. 519). The perception of the EU’s readiness for a sea operation was flawed due to the comparison with the positive experience of *Atalanta*. So, the EUNAVFOR Med *Sophia* took shape in a context of remarkable political momentum. With a four-phase mandate, it first aimed at collecting information to acquire a situational awareness of human trafficking routes at sea. Second, *Sophia* was meant to ‘conduct boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking’ in international waters. The third phase regarded the extension of the second phase into Libya national waters if requested by a UNSC resolution or ‘the coastal State concerned’. The fourth stage addressed the deployment of forces on Libyan territory to ‘take all necessary measures against a vessel and related assets’ (Council of the European Union, 2015a, p. 6). The mandate has two noticeable peculiarities: first, the appearance of an internal–external

security *nexus*, a bridge which had never materialised before; second, the third phase involves peace enforcement and the proactive use of coercion against smugglers, so that, unlike *Atalanta*, *Sophia* just needed the UN Resolution *laissez-passer* to exert its monopoly of force on Libyan territory. Thus, coercive initiatives were at the EU's discretion (Tardy, 2015, pp. 2–3). Nonetheless, those ambitions rapidly faced political and legal deadlocks, and after four months *Sophia* was unable to operate openly in Libyan national waters (Marcuzzi, 2018, p. 1; Tardy, 2017, p. 2). So, *Sophia* stood in limbo, unable to operate within Libyan waters and counter the root causes of migration. Confined to international waters, *Sophia* irreversibly became a police and search-rescue operation with little impact on the source of the problem.

Operationally, as already advocated by the EU Military Committee and the EEAS during the preparation stages (Johansen, 2017, p. 517), a maritime mission was inadequate to confront the root causes of migration in such a theatre of operation:

Sometimes people want to make a parallel to EUNAVFOR *Atalanta* but from a military perspective, the two operations are not comparable. When a pirate is kidnapping someone, he does not get his money right away. He needs to negotiate first. In the case of migrants, once they have left the shore or the coast of Libya, the smugglers have already won because they have gotten their money. [...]The smuggler wins his war when he is in Libya, not at sea. At sea, it is already over for him. [...]. (Johansen, 2017, p. 517)

To curtail those phenomena, new tasks were added to the original mandate. In 2016, the EU undertook a training programme aimed to prepare the Libyan coastguard to carry out the tasks *Sophia* was not able to implement within 12 miles off the Libyan coasts, compensating for its inability by delegating its tasks. Second, the EU incorporated the UNSC Resolutions and the enforcement of the arms embargo. Third, in 2017, activities of surveillance of illegal trafficking were added to the mandate of *Sophia*, thus enhancing its role in building maritime security in the area. Again, the Union distinguished itself as an 'orchestrator' in the area. Nonetheless, the complex Libyan context hindered any EU effort to reach a broader and integrated strategy, finally hampering EU action and the possibility of projecting stability from the sea. In sum, *Sophia* went from

being a humanitarian-driven operation to a maritime security instrument (Tardy, 2017, p. 1).

EU-NATO Cooperation off the Libyan Coast

In November 2016, NATO also joined the operation area with its maritime forces. In the aftermath of the 2016 Warsaw Summit, the Alliance agreed to increase its efforts in the area, finally launching more relevant actions to meet the security needs (NATO, 2016). Two alarming phenomena resulting from the volatile Libyan situation were concerning for the Alliance: the terrorism spreading across the region and its embedding in the Mediterranean security dynamics; the intertwining of the terrorism and smuggling networks—smugglers have a polyvalent market, and the migrant business is only an arrow in their quiver (NATO, 2011). First, NATO deployed the Standing NATO Maritime Group Two (SNMG2), which started its surveillance activities in the Aegean Sea in close cooperation with the Turkish, Greek, and FRONTEX forces (see Jacobs, 2016).

Nevertheless, the 2016 apex in migration flows coupled with the evident hurdles faced by *Sophia* led to a broader NATO engagement in the central Mediterranean (Wintour, 2016). In November, *Operation Sea Guardian* (OSG) was launched to embrace a full range of tasks correlated to the enhancement of security at sea. In that vein, the OSG was modelled to perform and comply to ‘support maritime situational awareness, support maritime counterterrorism: this involves the planning and conduct of a range of operations to deter, disrupt, defend and protect against maritime-based terrorist activities, contribute to maritime security capacity building’ (NATO, 2021a, 2021b).

These three core tasks were complemented by the other four additional activities, which enabled the OSG to uphold freedom of navigation, conduct maritime prohibition and inspections of suspected vessels, tackle the proliferation of weapons of mass destruction, and, finally, protect critical naval infrastructures.

Operationally, although OSG’s mandate is narrower in focus than that of *Sophia*, first, they share similar objectives, such as situational awareness, and their proximity has led to an operational convergence. As a result, OSG was meant to implement the UN embargo and, on the other hand, to assist the EU capacity-building programme to train the Libyan coastguard (Dibenedetto, 2016, pp. 10–11). Second, units belonging to

different countries or organisations operating in the area were already collaborating due to theatre of operations constraints (Foggo, 2021). This basically generated a prolific ecosystem within which EU-NATO relations developed. Then, politically speaking, the 2016 EU-NATO Joint Declaration evidently gave new impetus for stronger inter-organisational cooperation. Moreover, member states were likely to give their consent for stronger relations.

These preconditions encouraged and backed cooperation. As such, NATO pledged to support *Sophia*, when requested, by providing logistical assistance, such as medical and re-fuelling, and sharing information (Dibenedetto, 2016, pp. 11–12). This assistance came along with a clear quantum leap when an informal agreement between operational HQs was set up in 2017. It was supported by staff-to-staff dialogues in Brussels and by a general political consent that made it possible to establish a direct tie between HQs by bypassing the arduous Council procedure. Situational awareness rapidly emerged as the crucial realm of cooperation, and the EU's gaps were partially plugged by NATO's experience and the Global Hawk UAV system (Dibenedetto, 2016, p. 12). Besides, the establishment of SHADE Med replicated the Gulf of Aden experience, an international forum wherein stakeholders, governments and international organisations sought to improve maritime security (Tardy, 2017, p. 3). Hence, it eased information-sharing between NATO, the EU and beyond, establishing a de-confliction system through collaborating with partners (Interview 1, 2020). Moreover, a MERCURY-like system was designed, SMART, a platform allowing the exchange of unclassified information between all stakeholders in the area in real-time (Council of the European Union, 2016a, 2016b, p. 16).

This comes along with the joint acknowledgement process via personnel 'exchange'. Thanks to the arrangement at MARCOM, the EU and NATO endeavoured to safeguard a direct channel of coordination between HQs. Despite *Sophia* HQ being in Rome, an EU-liaison office was maintained at MARCOM and, on a case-by-case basis, information-sharing happened through informal channels (Marcuzzi, 2018, p. 3). Parallely, exchanges between NATO Allied Joint Force Command Naples and *Sophia* HQ intensified when military liaison officers of the other organisation were respectively in charge in each HQ. Overall, a clear socialisation pattern emerged, an excellent boost for inter-organisational relations: 'when you pick up the phone and you need help, and you know the person at the other end it breaks the ice easier' (Foggo, 2021).

Finally, common membership and the ability of the EU to act as a coordination centre facilitated interactions with other actors that the crucial European ones involved in the operation theatre, namely the US:

We figured ways around that, and if I had an American ship down there and I saw something that was of interest that was a potential illicit, illegal activity, then I reported to a NATO ship that was part of Sophia contributing to SHADE or our command centre for SHADE in Rome, and we shared information that way, and that was perfectly OK with everybody stayed out of the higher headquarters level, and it was down at the deck plate level with the commanders who were facing the problems. (Foggo, 2021)

The EU-NATO channel definitely strengthened EU-US relations in the area as well.

Therefore, from the Gulf of Aden to the Mediterranean Sea, the nature of the interplay did not change. On the contrary, it even expanded thanks to the administrative arrangement. The endurance of informal relations mirrored two rationalities. First, it allowed officers to have enough room for manoeuvre to reach a compatible arrangement. This arose from commanders' real frustration at the lack of EU-NATO linkages and the need for actual collaboration. This bottom-up *modus operandi* remains flexible and able to meet specific operational needs. In that vein, the complementarity between co-located operations was encouraged through an ad hoc solution (Interview 1, 2020). Secondly, it is also true that informal ways of cooperation are preferred due to technical and procedural issues. Indeed, sharing information through formal channels requires the compatibility of programmes and strict procedural rules. Even though the 2003 Security Agreement remains the official intelligence cooperation and information exchange network, it does not meet operational needs (Interview 1, 2020). In conclusion, the entire spectrum of information-sharing activities remained informal and ad hoc solutions were reached in order to equip *Sophia* and OSG with appropriate instruments to fulfil their mandates. From the EU side, cooperation with NATO certainly plugged inefficiency gaps and supported the EU's actorness at sea, but regular interactions remained confined to a limited set of tactical actions i.e. information-sharing and logistical support.

EUNAVFOR MED Operation Irimi and NATO

After the end of *Sophia*, in March 2020, the handover led to the launch of EUNAVFOR Med *Irimi*. Its mandate confirmed the shift that had already occurred with *Sophia*, significantly focussing on the implementation of the UN arms embargo and the deployment of units for ‘inspections of vessels bound to or from Libya where there are reasonable grounds to believe that such vessels are carrying arms or related material to or from Libya, directly or indirectly, in violation of the arms embargo on Libya’. *Irimi*’s mandate stipulates its active engagement on three secondary clusters: ‘monitors and gathers information on illicit exports from Libya of petroleum’, ‘disruption of the business model of human smuggling and trafficking networks’ as well as the training of the Libyan Coast Guard (Council of the European Union, 2020). The latter remained dependent on requests from the Government of National Accord (GNA) and then Government of National Union (GNU). High Representative Josep Borrell pointed out that ‘this operation is very different from the one it will replace, Operation Sophia’ (Brzozowski, 2020) since its bulk was a renewed attention on the situation in Libya and the ceasefire rather than on the humanitarian crisis. Accordingly, the objectives remain officially related, but their importance has been reversed. This change of pace ultimately originates from the unpredictable and precarious escalation in Libya, the consequent involvement of several third states and the resulting chaos of colliding interests.

Therefore, although members states have acknowledged the mission’s value (Interview 4, 2021) and the subsequent renewal of the mandate until March 2023, *Irimi* performs in an increasingly difficult context, followed by new hostilities which have heavily shaped the political environment. First, tensions in the Eastern Mediterranean and the resulting chaos has potentially rekindled the fire of military conflicts, crucially opposing Europeans and Turkey (see Aydıntaşbaş, 2020). Changes in the Mediterranean security governance arrived shortly after. The Turkish ambitions in Libya coupled with Libyan endogenous dynamics became the first source of tension with the EU when Turkish support for the GNA manifestly spiralled into the impossibility for *Irimi* to provide the GNA and then GNU coast guard with any kind of training or equipment. This came with suspicions of violations of the Libyan embargo by Ankara coupled with the Turkish Government’s refusal to allow *Irimi*’s inspections of Turkish vessels (EEAS, 2020). This tense situation dramatically

made the central Mediterranean Sea a hostage of the geopolitical narratives of a new power game. Spill-over effects reverberated on NATO as well, when Paris stopped its contribution to OSG in response to Ankara's behaviour.

Theoretically, the similarities in mandates, geographical proximity and the successful pattern of collaboration experienced with *Sophia* may bring us to the conclusion that *Irimi* has been able to tailor even closer bonds with OSG. Crucially, the similarities between the mandates of *Irimi* and OSG are even greater, mutually upholding maritime security. Besides, the EU and NATO still operate in the same area, and their previous good practices potentially remain a blueprint. Additionally, the 2018 EUMSS Action Plan once again reiterated the importance of naval cooperation between the EU and NATO (Council of the European Union, 2018). Notwithstanding this promising scenario, cooperation is jeopardised. First, the informal bureaucratic arrangement between operational HQs was never materialised. Although the EU has repeatedly proposed a roll-out to extend the previous agreement (Interview 3, 2021), NATO did not endorse the inter-organisational unclassified information exchange and logistical support already elaborated with *Sophia*. Consequently, the direct ties between HQs via liaison officers were interrupted as well. So, although 'EU and NATO share 21 members are well as well as myriad threats and challenges, at the moment *Irimi* does not have any kind of cooperation with the Sea Guardian operation' (Admiral Agostini, 2021). Hence, relations are hampered and direct information exchange is limited solely to the cases in which to dangerous situations arise.

The personnel of these operations remains strongly concerned about greater inter-organisational interactions. Likewise, the strategic significance of the Mediterranean has not decreased and operation needs have persisted. The element determining such a negative shift lies in the political stage and the impossibility for NATO to replicate the HQs informal arrangement (Interview 2, 2021). Regardless of the other preconditions and the pivotal role of information-sharing at sea, the resistance of even a single member state within the Alliance hinders the cascade effect, freezing the tools aimed at sharing unclassified information, asset support, liaison officers exchange. Remarkably, the political landscape has heavily shaped EU-NATO cooperation at sea, revealing the vital significance of states over those dynamics.

Individually, both NATO and the EU have been able to preserve specific channels. First SHADE Med. which currently represents the

main communication channel as a forum with an informal personnel working group and information exchange. *Irini* staff distinguished themselves with their entrepreneurship. They have consistently tried to expand its impact by launching a series of webinars with experts and officers, including those from NATO, to better improve dialogue, steer the de-confliction process and share strategic views. Notwithstanding *Irini*'s 'orchestration', unfortunately, it seems that SHADE Med cannot address the entire array of issues of cooperation required by the theatre of operation. This is mostly because this platform is not designed to provide operational output, therefore, cooperation remains stuck.

The Institutionalisation of Maritime Cooperation

EU-NATO interactions have definitely shaped the effectiveness of EUNAVFOR *Atalanta*, EUNAVFOR Med *Sophia* and EUNAVFOR Med *Irini*. By analysing the case studies through the prism of the '3 I Triangle', *interests*, *identity*, and *institutions*, the following picture appears.

Focussing on *interests*, the united stance among member states on the Gulf of Aden and Libya made it possible for a firm political willingness to back the launch of *Atalanta* and *Sophia*, respectively. However, the evolving situation in Libya has also hindered the delicate consensus among member states (Davies, 2019), and the initial political traction gave way to a bargaining process as well as the shrinking of the initial ambitions. Passing from a humanitarian-driven to a maritime security operation, the reshaping of *Sophia* also hides a fragmented political context ruled by the lower-common denominator. On that basis, the Union renewed its action through the launch of *Irini*, which has gathered the support of member states and re-established the EU presence.

Zooming in on the second 'I', the EU remains a polyhedric actor able to combine normative-based stances with pragmatic or even realist behaviours. If a normative narrative essentially guided *Atalanta*, it pursues in fact very pragmatic objectives. *Sophia*, on the contrary, experienced a shift from humanitarian rhetoric to a security and stability focus, while *Irini* seems to carry on the latter tendency. This evolution has undoubtedly reverberated on the identity of the Union and its performance. This has been more evident in the Libyan case, where the EU went from a humanitarian-driven behaviour to a more security-driven one.

Besides, *institutions* have ultimately left their mark in the EU's action in the Somali and Libyan contexts. The EU-NATO relations is the key to grasping the weight of institutions on EU effectiveness. Looking at the EU-NATO ties in the Mediterranean, NATO and the EU first replicated the best practices they experienced in the Horn of Africa. Firstly, the EU has always profited from its ability to perform as an orchestrator, and SHADE has become an off-the-shelf blueprint for all three CSDP naval operations. Moreover, *Sophia* introduced new practices and bonds that allowed more structured relations. The informal arrangement between *Sophia* and OSG ensured that NATO embraced additional cooperation tasks with the EU, including logistic assistance and information exchange. NATO's proximity helped the EU lean on the Alliance's assets and plug specific gaps. This trend went crescendo, and the EU-liaison office in Northwood and Naples oversaw information exchange. Benefiting from the physical proximity, *Sophia* imitated what was previously undertaken between the *Atalanta* and Ocean Shield HQs, respectively. Those dynamics enhanced the EU's effectiveness, yet with different outcomes, due to the diachronic trend. Indeed, the cooperation footprint is of little relevance when we look at *Irin*i. Thus, the added value of the current relations with OSG is questionable. Unfortunately, this is a massive loss for both operations and hinders the development of further synergies. Indeed, first, joint naval initiatives have a mutual added value for information-sharing and situational awareness. This is a considerable loss for all the actors involved in the area which cannot exchange tactical relevant information (Interview 4, 2021). Second, regardless of the direct support *Irin*i enjoys -naval, air and satellite assets-, it also counts on associate support coming from national units in the area that perform within other chains of command (Interview 3, 2021). The associate support enhances its operational capability and expands *Irin*i's effectiveness thanks to a multiplying effect. However, the impossibility of including NATO in this virtuous circle ultimately damages *Irin*i, OSG, and the US Navy.

Furthermore, a clear *modus operandi* emerges, giving rise to a proper institutionalisation process. Looking at the informal EU-NATO relations in the maritime domain through HI, path-dependence manifestly materialises. In the Gulf of Aden, the absence of a formal framework coupled with the non-compatible information exchange system determined a multi-layered institutionalisation of practices: first in Northwood and then at the operational level. This was the tip of the iceberg of intensive and informal exchanges of information. With *Sophia*, the lessons

learned were not ignored, and *Sophia* reproduced similar or identical arrangements. Not by chance, the successful pattern initiated in the Horn of Africa kept on in the subsequent maritime cooperation, thus strengthening the common practices and procedures. Besides, the launch of operation *Sophia* clearly represented a window of opportunity and created a critical juncture. Confronting a new crisis with increasing complexity, the EU and NATO responded by expanding the areas of interactions, finally seizing the window of opportunity, such as the novel informal agreement between HQs. Conversely, the launch of *Irimi* is a negative critical juncture interrupting the hitherto upward trend. *Irimi* does not fully benefit from the institutionalised practices, and the lack of political support by member states makes it arduous to implement further cooperation initiatives. However, *Irimi* and the EEAS personnel have worked to set up the previous arrangement, attempting to pursue the same pattern. Accordingly, predictability and the continuation of established practices confirm that institutions barely change. Besides, the socialisation dimension has remained crucial, and, notwithstanding the obstacles, *Irimi*'s personnel has sought to preserve the socialisation process via SHADE Med, potentially bolstering it via conferences and webinars and keeping the stakeholder network active. Remarkably, MARCOM has contributed to organising a few webinars, and the annual SHADE Med conference is co-hosted by both organisations.

Despite the evident positive results, the dark side of this institutionalisation pattern is threefold: first, the predictability of transaction costs is at stake, and the capability to learn from past experiences also locked the EU-NATO interplay into the informal mode; second, the institutionalisation process is a universe unto itself and passing it on to a new operation is far from straightforward; third, although *Irimi* has been capable of holding the socialisation achieved previously, its case illustrates well how the unstructured cooperation format may delay deeper inter-organisational socialisation in the long term.

In addition, regarding the drivers behind the operational maritime cooperation, the mandate similarities, geographical proximity, strategic sensitiveness, and political cohesiveness is absolutely crucial. At the same time, if there is a convergence of scopes, geographical area and strategic perception for all the three case studies, political cohesiveness seems problematic. Therefore, although the EU-NATO Joint Declarations resulted in political momentum, formally, EU-NATO cooperation at the operational level remains sub-optimal due to, *inter alia*, (geo)political

constraints, which can, as in the case of *Irimi*, severely hamper the partnership. The challenges represented by the lack of a framework have evidently forced officials to figure out other mechanisms to preserve the vital inter-organisational information-sharing. However, that remains sub-optimal, and any development seems unrealistic at this stage due to the political stalemate.

3 CONCLUSION

Findings have shown the EU's evolution in the maritime field and to what extent relations with NATO directly impacted the improvement of the EU's performance, first and foremost in situational awareness and information-sharing. The relationship that NATO and the EU eventually established in some areas has undoubtedly demonstrated the added value of this partnership. Furthermore, framing the cooperation chronologically, a common EU-NATO relations format has been reproduced from the Gulf of Aden to the Mediterranean, revealing a certain level of institutionalisation.

In all the case studies, the EU's natural inclination to behave as a maritime 'orchestrator' has ultimately made it easier to create ties with third actors, definitely strengthening the EU's role as a geopolitical player as well. However, findings also reveal to what extent this layout eventually challenges the 'geopolitical commission' rhetoric. Path-dependence intrinsically shows that, despite the new momentum, it is almost business as usual. Indeed, first, NATO and the EU have struggled to keep up with operational needs, and *Irimi*'s case reveals the limitations of ad hoc arrangements. Second, the absence of distinct roles between NATO and the EU has consequences on the division of labour. Despite their potential added value, EU-NATO operational relations remain nebulous. This begs the question about which tasks one organisation should undertake rather than the other. The absence of guidelines and of a clear division of labour makes the interplay less efficient: two operations with similar goals in the same operational theatre is a waste of budgetary and personnel resources. That is, unless the EU and NATO decide to specialise themselves on specific and complementary tasks through a comprehensive inter-organisational cooperation agreement. If the ice has been broken, the rule of the game should be adjusted. Therefore, the Commission may prove to be a 'geopolitical' one by establishing structured and effective partnerships. Third, this study has shown that, if

institutions matter, states do as well, and EU-NATO cooperation remains the hostage of institutional and intergovernmental dynamics, creating a complex loop. This illustrates how far a state-centred perspective and an intergovernmental approach remain decisive to frame EU-NATO operational cooperation. Overall, current geopolitical tensions and the resulting power game coupled with inter-state antagonisms definitely challenge the EU and NATO Brussels-centred strategic partnership rhetoric.

In conclusion, despite the new Commission's change of path in 2019, the EU-NATO Joint Declarations remain the main framework. EU ambitions remain bound by political and structural issues, and the 'geopolitical' claim seems to have had a limited impact so far. The release of the *Strategic Compass* certainly helps the reform process, but the fog of war that characterised the EU-NATO partnership does not allow to foresee accurate outcomes. The launch of a new Joint Declaration can undoubtedly boost the political dialogue, but its impact at the operational level will remain limited if the aforementioned issues are not fully addressed. Accordingly, if a change of paradigm in the EU's external action is underway, its implementation is hard to see when we examine EU-NATO maritime cooperation. Both the Union and the Alliance should attempt to tie new and more effective bonds of cooperation to effectively tackle the post-pandemic global context.

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The EU's Embrace of Geopolitics: Insights from the EU-China Relationship

Steven Langendonk and Edith Drieskens

1 INTRODUCTION

As part of this book's exploration of key tensions and challenges facing the EU, this chapter analyzes its embrace of a geopolitical discourse through the lens of the EU-China relationship. Since the von der Leyen Commission (EC) took office with the declaration that it would be a “*truly* geopolitical Commission” (original emphasis; von der Leyen, 2019a, 2019b), the notion of the EU as a geopolitical actor spread throughout EU foreign policy (EUF) rhetoric (Xie & Zhang, 2020). A recent poignant example of this is found in the High Representative (HR/VP) for Foreign Affairs and Security Policy Josep Borrell's assertion that the COVID-19 pandemic represents a stage for a “global battle of narratives” with a “a geo-political [sic] component including a struggle for influence” between the EU and China (EEAS, 2020a).

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Whereas key EU policymakers and EU-based observers regard the turn to geopolitics as a logical response to a world of power politics with China as its primary *driver* (Barigazzi, 2019; Blockmans, 2020; Small, 2020; von der Leyen, 2019b), this is less obvious to China and Chinese EU scholars. From their perspective, China is often portrayed as the primary *target* of a worldview alternatively informed by the EU's insecurity amid US-China competition (Xie & Zhang, 2020), the preponderance of US influence on EUFP, or Germany's hegemonic ambitions within Europe (Xiong, 2021).¹ Viewed through a relational and discursive lens, however, both perspectives are rather problematic. Indeed, previous studies on the operation of geopolitical discourse in the EU illustrate that the origins and effects of discursive change are not easily disentangled (Browning, 2018; Guzzini, 2013; Kuus, 2011). Their interwovenness means that designating China as either a driver or a target of the EU's geopolitical *revel* risks caricaturizing the processes which conditioned changes in the EU's (external) identity by according an unreasonable amount of agency to either side. A useful understanding of these processes and China's role in them requires closer investigation of recent dynamics in the EU-China relationship. It is with this purpose in mind that this chapter should be read.

For this purpose—and congruent to the book's emphasis on the role of defining moments for the EU's evolution—the chapter develops a singular causal analysis (in the form of an analytical narrative) of how dynamics in the EU-China relationship shaped its embrace of geopolitical discourse between 2012 and 2021. The ideal-typical model which it employs to structure this account combines three components.² Firstly, the model is grounded in Morozov and Rumelili's relational and discursive approach to processes of identity construction, and thereby trains the analysis on the effects of relational dynamics on discursive shifts at the

¹ Policy-oriented and official accounts tend to reflect the positional insecurity argument (senior official from the Mission of the PRC to the EU, video interview, October 7, 2021; see also Centre for European Studies at Fudan University, 2021).

² The benefits of an analyticist methodology are twofold (Jackson, 2016). Firstly, because it requires theoretical commitments be made explicit a priori, it provides greater transparency on the foundations of knowledge claims about the case. Secondly, the attention to contextuality and the imperative to identify counterfactuals makes it suited to decomposing complex phenomena into causal factors, and establishing whether they are adequate, coincidental or incidental to the "*ideal-typically specified causal configuration*" (emphasis added; *ibid.*, p. 163).

EU level (2012).³ Per this move, it takes the EU-China relationship as the primary object of analysis. Secondly, to zoom in on the mechanisms through which such dynamics translate into discursive shifts, it integrates parts of an established framework for analyzing the emergence of geopolitical thought *within* a polity's foreign policy imaginary (Guzzini, 2013). This sets the chapter apart from relational and discursive approaches which maintain a strong focus on identity and actorhood at the EU level (Diez, 2004; Kinnvall et al., 2018; Morozov & Rumelili, 2012). The third and final component consists of the historical role of the EU-China relationship in EU identity construction and that of two emerging relational dynamics, and informs the focus on the period between 2012 and 2021.

The remainder of this chapter is divided into three parts. The first part elaborates on the background for the analysis: the tripartite analytical model. The second part develops the analytical narrative to illustrate when and how EU identity formation was affected by relational dynamics and outlines four distinct phases which shaped its embrace of a geopolitical discourse. In doing so, it shows that reading China as a driver of said discourse underestimates the EU's intrinsic insecurity, while reading it as a target overestimates its ability to reflexively compensate for this insecurity. It is in the twists and turns of the narrative that tensions between stability and change, cooperation and conflict, and expectations and delivery, as well as the EU's politicization and capacity to act are drawn out. The third part discusses the consequences for the relationship and EU foreign policy. The conclusion discusses chapter's findings in relation to the tensions and challenges facing the EU. The key insight provided by this chapter is that such tensions and challenges are inherent to the EU's evolution in the world, particularly in relation to China. The chapter concludes with a warning that conceiving of tensions and challenges as obstacles (as opposed to opportunities) impedes our understanding of the EU.

Background

The way in which categories and assumptions are integrated into the composite model has important implications for how it cuts into the social

³ This includes their notion of othering as a multidimensional practice which may be positive, negative, or hybridizing in nature.

reality of EU-China relations. Drawing on Guzzini, it is assumed that there are three mechanisms that contribute to the mobilization of (geopolitical) foreign policy thought under a condition of identity crisis: “the ‘*common sense*’ embedded in the national-interest discourse that predisposes for it, the *institutional structure and political economy* in which foreign policy thought is developed, and the *mobilization of agents* in the national political game” (emphasis added; 2013, p. 4).⁴ Furthermore, mobilization of geopolitical discourse is assumed to lead to a vicious circle of essentialization of self and other.⁵ Importantly, the relational and discursive foundation of the model means that identity crisis is not seen as an *event* which occurs when dominant self-understandings are sufficiently challenged by an “Other” (ibid., 2013, p. 267), but as a situation in which agents that are perceived as legitimate question the suitability of relatively stable identity configurations and articulate alternatives.⁶ Combined, the three mechanisms are conceived of as a discursive filter through which developments in the relationship are interpreted and translated into discursive resources which said agents draw on to perform the “social practices of social stabilization” that produce relatively stable ideational configurations such as the EU or China (Jackson, 2006, p. 40).⁷

The EU-China relationship constitutes an (increasingly) important space for such practices due to the recent aggravation of relational imbalances. The EU for its part depends on relationships with major powers to construct a collective identity as a (normative) great power, and work

⁴ In line with the analyticist approach, these mechanisms and assumptions are taken as useful categories for ordering empirical observations rather than representative of actually existing social mechanisms.

⁵ The full argument is that mobilization of geopolitical thought must lead to spatial ordering and essentialization of physical and human geographies, because a geopolitically informed worldview must depart from environmental determinism to be compelling. The consequence is a “militarization of politics”, which totalizes international politics into a perennial struggle between geographically defined essences (Guzzini, 2017, p. 427).

⁶ This reading draws on Jackson’s (2006) seminal work. Although the present account is informed by a similar inclination to studying how discursive shifts produce the boundaries of acceptable action (p. 31), it restricts itself to a comparatively broad overview and pays minimal attention to micro-level debates, due to a lack of historical distance and source material.

⁷ ‘Agent’ is taken to include both individuals and collectives (such as the EEAS or a member state). Furthermore, references to agents and relationships in the analysis should be read as descriptive short-hands for the multitude of discourses which sustain them.

towards the multilateralist conception of international interaction where its influence is maximized (Song & Hall, 2019). In concert with its efforts to shape neighbouring regions through accession and partnership policies (Browning, 2018; Lavrelashvili and Van Hecke, this volume), these partnerships feature prominently in its pursuit of influence and recognition in international affairs.⁸ Recognition also plays a role for China, but is subordinated to the prism of avoiding US-led containment and securing the economic and technological foundations for its development (Chang & Pieke, 2018; see also Xie & Zhang, 2020). This means that Brussels' need to engage China is greater than vice-versa (Christiansen et al., 2019, p. 6). After all, China's willingness to engage the EU as a political unit follows from its independence from the US as well as its capacity to shape China's relationships with individual EU member states (EUMS) (Chang & Pieke, 2018). This is illustrated by the shallowness of political relations (Christiansen et al., 2019). The relational imbalance leaves EU identity formation in relation to China comparatively vulnerable to contestation, the consequences of which this chapter will illustrate by looking at the effects of two emerging relational dynamics.

These (interrelated) dynamics started to be felt during the tail-end of the Eurozone crisis and gained EU-wide attention since 2016. The first dynamic is *China's growing influence as an economic player* in Europe as a result of the externalization of its economy, which irritated long-standing concerns about imbalances in the economic relationship and introduced concerns about technological competitiveness. The onus of the EU's concerns falls here on China's Belt and Road (B&R), policy programmes such as *Made in China 2025* (中国制造 2025), and the confidence expressed by China's leadership about its development path (Lavery & Schmid, 2021; Zenglein & Holzmann, 2019). The second emerging dynamic is the *deterioration in US-China relations* since the early 2010s (European Think-tank Network on China, 2020). This intersected with the effects of China's economic externalization in three main ways. Firstly, intensifying US scrutiny of Chinese outward foreign direct investment (OFDI) increased the relative attractiveness of the EU as an economic partner. Secondly, it increased pressure from the US and China on EUMS

⁸ It is therefore not surprising that accounts of geopolitical discourse in the EU focus on these two areas, and particularly the role of Russia (Browning, 2018; Kuus, 2011; see also Morozov and Rumelili, 2012).

and the EU as a whole to align themselves, resulting in the politicization of previously technocratic issue areas (such as emerging technologies) within the EU-China relationship. Finally, due to the preeminent place attached to the US-China relationship by Beijing and the deterioration of EU-US relations between 2016 and 2020, the intensification of the US-China rivalry further compromised the EU's position vis-à-vis China. From this perspective, it can be argued that the COVID-19 pandemic primarily reinforced previous fault-lines.

The next part traces how these relational dynamics (growing Chinese economic clout and deteriorating US-China relations) shaped the EU's embrace of geopolitical discourse via the three mechanisms (common sense, political economy of knowledge production, and agent mobilization). This is done on the basis of policy documents, elite interviews and secondary literature. It argues that four phases can be usefully distinguished in this process: from a period of passivity until 2016; to a re-articulation of the relationship in that year; to a period of impeded mobilization ending in another sudden re-articulation in early 2019; and, finally, official endorsement and rapid proliferation of geopolitical discourse.

Analysis

Phase 1: Passivity in the Face of Emerging Relational Dynamics (2012–2015)

For the European Commission (EC), the question of China's increasing clout on the continent first appeared in the context of the Eurozone crisis. The initial surge of Chinese OFDI into the EU in 2011 and 2012 aggravated concerns about reciprocal market access and investment protection, prompting a discussion within Barosso II about the need for a CFIUS-like mechanism to curb problematic take-overs (Meunier, 2014). However, the perceived need for Chinese investment and macro-economic support to boost growth and maintain the Euro's value in the aftermath of the financial and Eurozone crises meant that calls by several European Commissioners and the European Parliament (EP) for such a mechanism fell flat.⁹ These concerns did lead the EC to initiate negotiations of a bilateral investment agreement with China in 2013 (ibid.).

⁹ A similar tension between national interests and the institutions was apparent in the struggle over dumping-tariffs on Chinese solar panels.

The latter half of Barroso II and the first half of the Juncker Commission saw a deepening of the EU-China relationship and a growing divergence between EU and US discourse about China. China's western pivot, which President Xi framed as "[building] a bridge of friendship and cooperation across the Eurasian continent" during a 2014 visit to Bruges, facilitated the creation of a High Level Political and Security Dialogue and the EU-China 2020 Strategic Agenda for Cooperation (Christiansen et al., 2019; Xi, 2014). Concerned with growing Chinese economic influence as a result of the B&R and the newly erected Asian Infrastructure Investment Bank, the Obama administration pressured its European allies not to join the bank. As most EUMS, including the traditionally Atlanticist United Kingdom, Sweden and Poland joined the bank despite US efforts, the episode is commonly understood to bear out the EU's continued openness to Chinese initiatives during this period (Brown, 2018). The same holds for the EU's initial response to the B&R, as both sides agreed to establish an "EU-China Connectivity Platform" during the 2015 High Level Economic and Trade Dialogue in Beijing. This incorporated B&R-related engagement into the multitude of existing sectoral bilateral dialogues, a far cry from US activism regarding the B&R (Christiansen et al., 2019). As such, the prevailing frame for EU-China relations in Brussels remained centred on engagement (Brown, 2018).

Phase 2: Relational Dynamics Inform the First Re-Articulation of the Relationship (2016)

As evidenced by the remarkable change of tone in the EC's communication *Elements for a New EU Strategy on China* (hereafter 2016 strategy), China's role in EU identity formation increased in the mid-2020s (EC, 2016). The extraordinary level of B&R- and MIC 2025-related OFDI and controversial take-overs of entities such as the port of Piraeus in Greece and the German high-tech company KUKA aggravated concerns about technological competitiveness and control over vital infrastructure, particularly in Germany (Defraigne, 2017; Xiong, 2021). This was reinforced by Chinese signals, such as the visibly increased role of the state in the 13th Five Year Plan and the explicit targets set by the MIC 2025 action plan for establishing dominant market positions in emerging sectors (Zenglein & Holzmann, 2019). Because this openly advocated the displacement of established interests from high added-value global value chains, economic issues which previously pervaded the EU's discourse on China (such as investment barriers and forced technology transfer)

increasingly became interwoven with notions of dependency and relative power. In the words of a senior EEAS official: “when Germany started to move after KUKA, [most of] the DG’s also slowly became aware that China issues are not just about trade” (senior EEAS official, phone interview, March 10, 2021). At the same time, Hungary and Greece’s role in the toning-down of a common statement regarding the Permanent Court of Arbitration ruling on China’s claims in the South China Sea reinforced perceptions of Chinese OFDI and cooperation under the 16 + 1 format as vehicles for political influence (Brown, 2018; EEAS Official, Phone Interview, 2020b).¹⁰

In the 2016 strategy these developments are reflected by a series of (implicit) critiques regarding the effects of 16 + 1 cooperation on EU unity, and the lack of transparency and reciprocity regarding the economic relationship and the B&R (EC, 2016). What emerges is a common sense understanding of China as a potential (economic) threat to the EU in terms of its aspirations to unity and a capacity to act, and to its influence over key economic and geographical spheres.¹¹ This constituted a substantial break from the comparatively uncoordinated and normatively ambitious approach to China, and a move towards “pragmatic” policy consolidation (EC, 2016, p. 19; see also Michalski & Pan, 2017).¹²

It should be underlined that this occurred as part of the broader re-evaluation of the EU’s external action with the EU Global Strategy (EUGS), that reframed the EU as undergoing “*times of existential crisis*”, and as a “*Union [...] under threat*” (emphasis added; EC, 2016, p. 13; see also Pishchikova & Piras, 2017, p. 112). The fact that China is barely mentioned in the EUGS and that the 2016 strategy was put forward separately for the Council’s endorsement suggest that the relationship was a sensitive issue, but also an important spearhead for achieving “unity of

¹⁰ Most respondents organically mentioned China’s actions in the South China Sea and the enactment of domestic legislation (such as the 2015 Counter-terrorism and National Security Laws, and the 2016 Foreign NGO law) as key events for the re-appreciation of the relationship.

¹¹ An influential 2017 publication of the European Council of Foreign Relations titled ‘China at the gates’—an epigram alluding to the Roman invocation of Hannibal Barca to scare children—illustrates this shift (cited in Rogelja and Tsimonis, 2020).

¹² Another development is the intensification of alternative-signaling, whereby the deepening of cooperation with ‘like-minded’ countries such as Japan and Australia is presented as part of the scope of EU-China relations (EC, 2016).

purpose between Member States and across institutions” under the Janus-headed mantra of “principled pragmatism” (EUGS, pp. 16–17). Indeed, just as the EC, Germany and France increasingly deployed the unifying melody of the EUGS in security and defence areas post-Brexit (Béraud-Sudreau & Pannier, 2020), they were also the most active in “getting everyone on board on China policy” (EU Official, Phone Interview, 2020).

The production of a novel *common sense* in the EU’s foreign policy discourse and the *mobilization of agents around* it also adjusted the *political economy* of knowledge production about the relationship.¹³ Rogelja and Tsimonis note a steep rise in European think tank publications on the relationship between 2016 and 2018 and identify three ideational tendencies that played into this novel common sense: a focus on threats to EU unity; a reduction of Chinese (business) actors’ agency to the state; and the othering of China as an authoritarian threat to “European” interests and values (2020).¹⁴

Phase 3: Constrained Mobilization and Sudden Identity Shocks Force Another Re-Articulation (2017–2019)

During the latter half of the Juncker EC, internal divisions and their exacerbation by the deterioration in US-China relations laid bare the limits of mobilization around the new common sense in relation to China. A first example of this was the renewed discussion about an EU-wide investment screening mechanism (Defraigne, 2017). Together with concerns over technological competitiveness, reciprocal market access and the deadlocked BIA negotiations, the perceived centrifugal effects of China’s economic clout led France, Germany and Italy to request the EC to formulate a proposal in early 2017 (Cerulus & Hanke Vela, 2018). However, during the Council summit in June, a group of “free-traders” (the Netherlands and the Nordics), together with Greece, Portugal, Czechia and Malta negotiated a reduced mandate for the EC (Cerulus & Hanke Vela, 2018). This illustrates that although enough had changed

¹³ The central role of the EEAS in coordinating and guiding the EUGS process, informed by the Juncker EC’s pursuit of closer integration between the supranational and intergovernmental dimensions of external affairs, arguably increased the importance of EU-level identity concerns in EUFP rhetoric (Pishchikova and Piras, 2017).

¹⁴ They also identify a strong Western European bias in knowledge production.

since 2012 to spur a collective response, the variety in EUMS perspectives limited its scope.

At the rhetorical level, there was a notable tendency to publicly articulate and define in detail the issues singled out for scrutiny in the 2016 strategy. At the first Belt and Road Forum (BRF) in 2017, the 28 EUMS refused to endorse a statement on trade because it did not include their concerns (Heide et al., 2018). In April of 2018, a critical statement delivered by all EUMS ambassadors to Beijing except the Hungarian one noted that the B&R “runs counter to the EU agenda for liberalizing trade and pushes the balance of power in favour of subsidized Chinese companies” (ibid.).¹⁵ In some cases, such articulations carried an implicit geopolitical rationale, such as when German Chancellor Merkel questioned the “free trade spirit” behind the B&R and warned China not to use its economic clout in the EU and Western Balkans for political ends (Agence France-Presse, 2018). Although EU geopolitical rhetoric about this area predates the relational dynamics, recent proliferation can be linked to efforts to counter the influence of China and others, such as under the Berlin Process (Pavličević, 2019; see also Lavrelashvili and Van Hecke, this volume).¹⁶

The Joint Communication *Connecting Europe and Asia—Building blocks for an EU Strategy* of September 2018 is a particularly important symbolic move with policy roots in the 2016 China strategy (it is mentioned in its ‘suggested future steps’). It signalled an ambition to compete with China on a larger geographic scale (EC, 2018b). While it contained no reference to the B&R, its emphasis on “sustainable, comprehensive and rules-based connectivity” was widely perceived as a response to the B&R’s operation up until that point. Going beyond the

¹⁵ According to ETNC, both France and Germany expanded consultation with Visegrád countries on China policy during this period (2020). Germany also coordinated with France, Spain and the United Kingdom at the second BRF in 2019 to jointly argue that only a collective European B&R Memorandum of Understanding (MoU) would be acceptable.

¹⁶ As Pavličević notes the Berlin Process is a framework for the “synchronization of [...] foreign policies with the EU’s, increased EU’s investments in the regional infrastructure, integration of the Western Balkans in the EU’s transport and energy networks [...], policy areas perceived to be both channels and expressions of China’s influence in the Western Balkans” (2019, p. 461).

EU-China relationship, an EEAS official involved in connectivity policy argued that this strategy was part of an effort by the EC and EEAS to secure additional resources for external action and increase the visibility of the EU's exercise of its economic heft abroad (EEAS Official, Phone Interview, 2020a). Connectivity and China thus became intertwined not only with the imperative of horizontal and vertical policy coordination, but also with concrete proposals to expand the external action budget for 2021–2027 and increase the scope for external investment under a consolidated Neighbourhood, Development and International Cooperation Instrument (NDICI) (EC, 2018a; von der Leyen, 2019a).

A final discursive shift in response to China's growing economic clout can be seen in the re-invigoration of the debate on a common industrial policy during the US-China trade war. Here too France and Germany took the initiative, as seen in the February 2019 *Franco-German Manifesto for a European industrial policy fit for the 21st Century* (EPSC, 2019). Despite not mentioning China, the manifesto outlined three pillars which are congruent with the by now established EU discourse on the problems of its economic externalization: pooling and managing investment at the EU level to incentivize high-tech development; loosening merger and state aid controls to create industrial champions for competing globally; and forcing reciprocity at the global level through expanded defensive controls such as investment screening and public procurement rules. An explicitly China-centred articulation can be found in the Bundesverband der Deutschen Industrie's (BDI) influential position paper of January, that outlined a similar method in response to "*systemic competition* by China" (emphasis added; cited in EPSC, 2019).

As the common sense deployed by the 2016 strategy was being extended and specified in response to China's economic externalization, US-China competition suddenly gained salience from late 2018. As a case in point, pressures on individual EUMS regarding Huawei's role in national 5G networks largely bypassed the EU-level (ETNC, 2020). According to an EU official involved in drafting the 2019 strategic outlook on China, these pressures paled in comparison to the experience of being "systematically ignored by Beijing due to its fixation on the trade war with the US" (EU Official, Phone Interview, 2020). Discussing the origins of the outlook, published just before the European Council summit where the 2019 EU-China Summit was to be prepared, the official noted that: "our legitimate concerns were not recognized, and we feared that an early deal with the US would weaken our position" and

that “all those frictions built up over the years that were not publicly outed finally came to the surface in the outlook”.

Phase 4: systemic competition and geopolitics enter EUFP rhetoric (2019–2021)

Thus informed by a looming impotence in maintaining its relational position vis-à-vis China, the 2019 outlook describes China as:

[...] a *cooperation partner* with whom the EU has closely aligned objectives, a *negotiating partner* with whom the EU needs to find a balance of interests, an *economic competitor* in the pursuit of technological leadership, and a *systemic rival* promoting alternative models of governance. (emphasis added; EC, 2019, p. 1)

Although the introduction of a discourse of “systemic competition” into “principled pragmatism” did not signify an immediate break in the relationship—enduring diversity was accommodated under the new triple designation—it did represent a significant step towards mobilization around a novel geopolitical common sense. According to EEAS and other EU officials involved in its formulation, the outlook was “oriented towards the EU itself, [for it] to find its own way [...] and meant to clarify offensive and defensive interests [...] in the run up to the European Council meeting” (EU Official, Phone Interview, 2020). Another official added that “it was necessary to ground the debate [between EUMS] in a formulation which included the notion of China as a systemic threat, given China’s recent behaviour” (senior EU Official, In-Person Interview, 2020). Despite not being officially adopted until October 2020, the reframing of the debate along these lines legitimated the tougher line articulated by France and (to a lesser extent) Germany that had evolved since 2016.¹⁷ The degree to which geopolitical thought operated in the background of systemic competition rhetoric is evinced by French President Macron’s argument at the European Council meeting that “the relationship between EU and China must not be first and foremost

¹⁷ The 2019 outlook featured prominently (and favorably) in publications by European think-tanks since its publication, and is often pointed to as an important event in the EU’s evolution towards a geopolitical worldview (see for instance Blockmans, 2020; Small, 2020).

a trading one, but a *geopolitical and strategic relationship*" (emphasis added; Blenkinsop & Emmott, 2019).¹⁸

The discourse of systemic competition prefigures EC President von der Leyen's framing of the incoming EC as a geopolitical Commission in important ways. For instance, it defines exclusivity of EU influence in the Western Balkans ("full adherence to EU values, norms and standards") as a "key interest", reminiscent of sphere of influence thinking. It demands "full unity" (juxtaposing a threat to EU unity emanating from China) to "restore the balance of interests upset by China's ambition to become a global power" (EC, 2019). This sentiment is furthermore apparent in the focus on "adapting and strengthening the EU's domestic policies and industrial base" (as in the Franco-German manifesto). The strategic outlook thus re-inscribes connectivity, emerging technologies, and the economic relationship in general, by reconfiguring them as potential threat vectors which, depending on the severity of China's transgressive behaviour, require "a whole-of-EU approach enabling a principled defence of interests and values" (EC, 2019, p. 1).

Whereas the account up until this point goes some way in explaining China's role in the emergence of the notion of a "geopolitical Commission", the final leap (the specific act of articulating the term as a vision for the EU) was contingent on the EP elections and the nomination of von der Leyen as EC President by the European Council. It is likely that her ambitious positions on European integration, defence and foreign policy made her acceptable to France. Indeed, the congruence between von der Leyen and Macron's articulations of a geopolitical EU in the following months suggest a key role for the former in bridging an explicitly geopolitical French position and fragmented German and EU level foreign policy discourses (The Economist, 2019; von der Leyen, 2019a; Xiong, 2021). Therefore, rather than the result of an active campaign by France to "upload" the notion of geopolitics (as with the inclusion of 'strategic autonomy' in the EUGS), its adoption was a consequence of the convergence of national and supranational foreign policy imaginaries

¹⁸ It is likely that Italy's signing of a MoU on the B&R with China during Xi's state visit after the European Council summit also played a role in the formulation of the outlook and the debates at the summit. The fact that Xi met with the French, German and EC leadership at Macron's behest during the subsequent state visit to France further illustrates this point (ETNC, 2020).

in the person of an unlikely *pontifex*.¹⁹ The prior discussion shows that the EU-China relationship played a causal part in this convergence.

The initial consequences of this evolving identity for the relationship and the EU as a whole are visible in the way geopolitical language proliferated throughout major policy documents and leadership rhetoric. In terms of language, HR/VP Borrell's introductory letter to EU foreign ministers posited a need to "speak the language of power" and "become a true geo-political actor", a sentiment frequently reiterated in interviews and blog entries (Barigazzi, 2019; Borrell, 2020).²⁰ The *Industrial Strategy* points to "moving geopolitical plates which affect the nature of competition", and posits that "[t]his is about Europe's sovereignty" (EC, 2020a, p. 1). In relation to China the Western Balkans remained centre stage, as shown by President von der Leyen's first State of the Union Address where she argued that they are "part of Europe—and not just a stopover on the Silk Road" (2020). These examples illustrate how the final discursive leap from "systemic" to "geopolitical competition" inscribes the EU as a geographically ordered unit which struggles against Chinese transgression of its sphere(s) of influence. Following the outbreak of COVID-19 in the EU, issues such as supply-chain security in health-care, and even virtual disinformation campaigns and (Chinese) health diplomacy came to be redefined along geopolitical lines. Marshalling military metaphors, the HR/VP noted that "[i]n the battle of narratives, we have also seen attempts to discredit the EU as such" and "we must be aware there is a geo-political component including a struggle for influence through spinning and the 'politics of generosity'. Armed with facts, we need to defend Europe against its detractors" (EEAS, 2020a). Recent policy documents such as the 2021 Trade Policy Review, and the EC's proposed agenda for deepening EU-US relations and even a Joint Communication on multilateralism show that the COVID-19 pandemic likely accelerated the EU's embrace of geopolitical language (EC, 2020b, 2021a, 2021b).

¹⁹ This is not to suggest that there were no conscious efforts underway to introduce geopolitical thought into the common sense. However, such concerns fall largely outside the analytical model. In Jackson's words: "important action for legitimization processes takes place not inside of individual heads, but in the intersubjective space *between* individuals" (original emphasis; 2006, pp. 31–32).

²⁰ See for instance HR/VP Borrell's blog "A Window on the World" (EEAS, 2020b).

2 DISCUSSION

Although the above might suggest that “being geopolitical” improves the EU’s “capacity to act autonomously” and pursue its interests within key relationships (von der Leyen, 2019b), such an assessment misses a number of constraints it puts on EUFP and the EU-China relationship. A case in point is the aftermath of the conclusion of the seven-year BIA negotiations in January of 2021, where commentators from think-tanks and influential MEPs publicly and privately criticized the EC and German Council presidency for not living up to the EU’s geopolitical ambitions (Senior EEAS Official, Phone Interview, 2021).

As such, instead of deriving policy implications from the rationale behind the “geopolitical Union”, it may be more fruitful to take into account the intra-EU effects of the discourse to explore its consequences for EUFP. As a starting point, this chapter points to its legitimization of industrial and defence policy integration and the harmonization of foreign policy of EUMS and candidate members in the Western Balkans, effects which seem to be in line with the objectives of its main proponents (France, Germany and the EC). When seen from this perspective, the EU-China relationship is likely to undergo serious strain as a sacrifice on the altar of an integrated European foreign policy with the Council in the driver’s seat.

3 CONCLUSION

By historicizing the EU’s turn to geopolitical rhetoric via the case of the EU-China relationship, this chapter shows that defining this development as a natural response to changes in its international environment does not do justice to the way relational dynamics shaped identity formation processes at the EU level. Employing a composite ideal-typical model, it suggests that the geopolitical Commission may instead be understood as the result of a gradual convergence around a worldview wherein the notion of the EU as a boundary-guarding power subsumes its transformative and representative ideals as the primary locus of its identity, and that the role of the EU-China relationship in this process has increased over time. In demonstrating the causal importance of evolving perceptions of the political economy of the relationship and the EU’s relative positional weakness in the EU-US-China triangle for this (contingent) convergence process, it highlights in particular the centrality of the EU’s

(including EUMS) anxieties about its role in world affairs. At a theoretical level, both dynamics point to the importance of pre-existing perceptions in shaping the content of a geopolitical imaginary when it is deployed in the wake of perceived identity crises. As it is unlikely these dynamics will dissipate, the chosen epithet of the von der Leyen Commission may come to define the relationship for the foreseeable future. Finally, the chapter teases out an important implication for the book and a few dimensions which require further investigation.

The key insight of this chapter is that the notion of “tensions and challenges” facing the EU may be improved as a heuristic by viewing them as both opportunities and obstacles, as they are imbricated in the EU’s relation to China and the world. The analytical narrative shows that cooperation in inter-institutional relations was spurred on by the convergence of perspectives on China and the Council’s role in nominating the EC leadership, but that this new *form* of cooperation likely entails problems of its own. Most relevant here is that such change may enable to the EU to expand policy convergence in some arenas (such as industrial policy), while also hollowing out the supranational component of its relationships with major powers. The account also suggests that the reconfiguration of expectations from a normative exceptionalism to a geopolitical realism has produced new questions regarding the EU’s ability to deliver on “being geopolitical”. In a similar fashion, politicization of the EU in relation to China lessened between the institutions and between EUMS but is starting to rear its head more forcefully elsewhere (notably in the EP). Most significantly, the chapter draws out how a geopolitical identity may have heightened the EU’s capacity to act, at the cost of narrowing its range of options (particularly in relation to major powers).

This chapter only provides a small part of the puzzle of how the EU’s international identity is evolving. While it analyzed the emergence of a geopolitical paradigm, it did not examine in detail its relation to other discourses in EUFP rhetoric. Making this comparison would allow for the painting of a fuller picture. Two elements which the narrative brought to the surface invite sustained inquiry, to flesh out the analysis of this phenomenon. Firstly, the role of actors based outside Europe in the circulation of geopolitical discourse was left out. Secondly, an in-depth investigation of the nomination of von der Leyen as EC President and subsequent discussions with other national leaders may illuminate the degree to which geopolitical discourse was present, and how it featured in the rationales of key leaders in the nomination process.

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PART IV

Conclusion



Conclusion: The European Union Between Resistance, Resilience, and Reinvention

Olivier Costa

The authors of the 22 chapters gathered in this volume have written contributions on a great variety of topics and case studies but have many shared analyses and conclusions. The sequence of events that happened at the EU level since the 2019 European elections appears quite chaotic, but there are common trends and a limited number of logics at play. And the more recent developments of European integration—with the war in Ukraine, the relaunch of the EU defence policy, the conclusion of the Conference on the Future of Europe, and the perspective of further enlargements—have since confirmed those trends. Let's first recap the main conclusions and findings of our authors before putting them in perspective.

The first part of the book deals with politics. In his chapter, **Alberto Alemanno** claims that the establishment of mechanisms of participatory

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democracy at the EU level is an important change, as representation cannot be the sole foundation for a legitimate regime in the EU. Moreover, processes of participation provide a comparative advantage to democratic quality of the EU when compared to most of its Member States. The Conference on the Future of Europe was very symbolic of this new approach to democratic life at the EU level. However, this change is challenged by the path dependency of the system: participatory opportunities are vastly underutilised, and governments and EU institutions are sceptical of citizens' ability to contribute directly to decision-making. This situation fuels distrust among citizens, who express a growing demand for participation beyond elections at all levels of governance. But at the EU level true change is only possible when a crisis is severe: apparently, the democratic crisis is not perceived as being strong enough to foster a revolution in the governance of the EU. The main EU institutions thus remain the key-players.

Michael Kaeding and **Stefan Haufner** analyse turnout in the 2019 European elections, especially the regional and national differences in this respect, and the socio-economical biases that lie beneath. They show that participation has much improved and that EU elections are in fact not more socio-economically biased than the main national elections—as often suggested. However, the social and economic structure of European societies cause certain population groups to withdraw from the political process, including for European Parliament (EP) elections. The EU thus suffers, as any other political entity in Europe, from a distortion of representation. This issue has not been taken into account so far by EU institutions and has been masked by the spectacular rise in participation in 2019. The authors argue that future reforms of European electoral laws should take the issue of social distortion into account in order to further legitimate EU decision-making and increase the feeling of ownership within the general population.

Isabelle De Coninck also explores the 2019 European elections with a focus on the turnover of EP members, which was historically high. Not only had there never been so many newcomers, but never had so few incumbent members been reelected. This is mainly the result of the success of the ecologist and populist parties, and of the strong decline of forces of the moderate left and moderate right. However, this exceptional level of turnover is linked to other factors, especially to the selectoral choices of the parties. The high renewal rate of the European representation is often presented as a symptom of its democratic vitality, as it goes

against the “professionalisation” of legislatures that affects most national political systems. But an in-depth analysis of the true drivers of this trend is needed.

Steven Van Hecke, Wouter Wolfs, and Toine Paulissen discuss the *Spitzenkandidaten* system which was presented by its promoters as a means to strengthen the pan-European aspect of European elections and increase voter turnout by raising the stakes. Its effects however are various and uncertain. Currently, the evaluations are quite contradictory since the experiences of 2014 and 2019 were very different. The “lead-candidate” system has impacted the profile of the candidates: it tends to favour politicians who seek to take a defining career step. It also limits the space for traditional political bargaining. Overall, the authors argue that the system is not necessarily favourable to the EP, as often stated. Indeed, in most Member States, the so-called “parliamentarisation” of the political system—embodied at the EU level by the *Spitzenkandidaten* system—paradoxically leads to strong governments that dominate weak parliaments. In the long run, this evolution may thus weaken the EP vis-à-vis the Commission.

Olivier Costa analyses the EU political regime through the prism of the confirmation of the von der Leyen Commission by the EP. He shows that the EU, as an atypical and syncretic political regime, is driven by conflicting dynamics and remains subject to differing interpretations. The EU regime is especially marked by a twofold, somewhat paradoxical, evolution towards more intergovernmental governance, on the one hand, and strengthening of parliamentary and partisan logic, on the other. Because of its indeterminacies and ambiguities, fuelled by its constant evolutions, it lends itself to different readings, allowing actors to favour whichever approach best serves their interests and ideas. The controversies around the *Spitzenkandidaten* procedure, and the contrasted views about the need to institutionalise it, perfectly mirror this situation of ambivalence and conflict. The introduction of a new procedure or institution does not necessarily clarify the political nature of the EU or end the struggle between the various institutions: on the contrary, it can lead to new uncertainties and new struggles, and reactivate existing dynamics.

Nathalie Brack, Olivier Costa, and Awenig Marié examine the new political equilibrium and coalition dynamics within the EP. The 2019 elections were a turning point, putting an end to the persistent domination of the informal or formal coalition of the two largest groups—the EPP and the S&D—who lost their absolute majority. This new political

configuration has led specialists to fear that an increasingly fragmented parliament would hinder the EU decision-making process. However, it has once more proven its resilience, and coalitions are now more consensual and inclusive than before. Despite a higher fragmentation, most of the votes during the 9th term have been adopted by oversized majorities comprising all centrist pro-EU party groups. Also, the Eurosceptic fringes in the EP are not as excluded from the legislative process as they were before. In sum, to keep their institution on the map, parliamentarians and party groups have been able to cope with the new challenges resulting from this increased political fragmentation.

The second part of the book deals with institutions. **Martin Westlake** examines the post-2019 interinstitutional dynamics in the EU. He underlines the existence of long-term trends that explain why the European Council has regained its consensual instincts, why the EP has continued to create centrist coalitions to support the Commission, why the Commission has become even more presidential, and why the institutional triangle is increasingly linked to strict programming. More specifically, he shows that the *Spitzenkandidaten* procedure did not really fail, even if the European Council refused to propose Manfred Weber, the EPP's lead-candidate. Westlake considers that it is far from dead, since it is part of a process of "parliamentarisation" of the EU, that goes back to the 1970s and will probably be further strengthened in the future. The same reasoning applies to U. von der Leyen's commitment to granting the EP a right of the legislative initiative: it can be seen as the latest step in the restriction of the Commission's right of initiative—by the increased role of the European Council, the Council and the EP, and the growing use of programming.

Hussein Kassim proposes an assessment of the von der Leyen Commission. He states that, although she was not a *Spitzenkandidat*, she has not been disadvantaged, if we consider the authority that she has exerted over the Commission or her policy performance. She reached office through a different route than J.C. Juncker but has adopted the same approach to the Presidency. Her policy priorities have shaped the Commission's programme and she has organised the College so as to ensure her authority. This continuity suggests that the powers of the presidential office have become institutionalised, and no longer rely solely on the president's personal capital or political experience. Indeed, the main constraints on the von der Leyen Presidency—despite the Covid-19 situation—have been political or institutional, especially the balance

between political groups in the EP, and relations with the President of the European Council.

Dimitri Lorenzani and **Manuel Szapiro** also analyse the first years of the von der Leyen Commission, focusing on its claim to be “geopolitical”. They show how the idea that “*geopolitics starts at home*” has modified the classic internal–external security node and led to reflections aimed at “open strategic autonomy”—that have become crucial with the war in Ukraine. The central role of the Commission in the management of the Covid-19 pandemic and in defining the recovery strategy have reinforced its geopolitical leadership. However, because of the specificities of the EU regime, the Commission is constrained to share that leadership with the Member States, other EU institutions, and even with actors from the private sector. The Commission’s geopolitical role is thus much more about organising collaborative frameworks and acting as “system integrator”, a new role that comes on top of the ones it already has. The Covid-19 crisis has been an opportunity to experiment this. However, path dependency remains: the European Council is still a “*passage obligé*” for any important decision regarding external affairs, and the logic of “competitive cooperation” between the two institutions is still powerful.

Andrea Sabatini and **Wolfgang Wessels** explore the relations between the EP and the European Council, which have evolved at a rapid pace. They consider that the 2019 elections were a major setback for the EP, which was unable to define a coherent strategy and take advantage of the ambiguity of the Treaty provisions to assert its position in the appointment of the Commission. It thus allowed the European Council to take the lead. Nevertheless, even if the EP has failed to institutionalise the *Spitzenkandidaten* process, it has obtained many concessions from the newly elected Commission President. Also, the EP was able to be more assertive during the Recovery and Resiliency Facility and Multi-annual Financial Framework (MFF) negotiations, thanks to its renewed internal political coherence. More surprisingly, the assembly was even able to assert its role and positions in providing a European response to the Covid-19 crisis. The EU political system remains complex and undetermined, but the pandemic has been a critical juncture: it has reshaped the interinstitutional balance and benefited the EP to some extent.

Sabina Lange and **Michael Kaeding** turn to another aspect of interinstitutional relations, namely the way the EP scrutinises the Commission’s delegated acts. The delegation of rule-making powers is today the norm in most modern legal systems and was introduced at the EU level by the

Lisbon treaty (2009). The EP monitors the Commission's exercise of its delegated powers but rarely uses its veto capacity. It has indeed developed a strategy of "preventive scrutiny" that allows for a more subtle approach, one that encourages the Commission to anticipate and accommodate legislative opposition. This happens mainly at the level of parliamentary committees. In this area as in others, the EP has been able to impose a *de facto* legislative right of amendment, through compromises. Thus, the low number of objections does not mean that the EP is not successful in its oversight: on the contrary, it takes the form of a discrete and efficient bargaining process, especially at the earlier stages of the process. The EP has once again proven its capacity to invent procedures and play with the dialectic of conflict and cooperation at the interinstitutional level in order to maximise any new competence allocated to it by the treaties.

Oriane Gilloz explores the empowerment of the General Secretariat of the Council, and its consequences for the institution, and especially for the semestrial presidencies. Many experts consider that the Lisbon Treaty has deprived the Council's Presidency of any substantial influence because of the institutionalisation of the European Council. Also, the General secretariat has gone far beyond its traditional role; it has especially structured loose areas with its normative and cognitive frameworks and progressively increased its legitimacy *vis-à-vis* the rotating Presidencies. However, the latter still enjoys a specific position that is not only intergovernmental, as often stated, but also supranational. Thus, despite real limitations, it remains possible for the Presidency to shape the agenda by prioritising specific issues. In fact, the relations between the Presidency and the General secretary are mostly not competitive or conflictual, but more symbiotic, as the former benefits from the empowerment of the latter, especially at the interinstitutional level.

Ariadna Ripoll Servent and **Alfredo De Feo** observe the adaptations of the EP to the Covid-19 pandemic. They show that the assembly experienced a massive disruption to its working culture and was confronted with the traditional domination of the executives in times of crisis. The EP has nevertheless proved its capacity to adapt to adverse circumstances to remain active and influential. Its political and administrative hierarchy used quick executive decisions to adapt and introduced new digital tools allowing for remote deliberation, interpretation, and voting. The authors show that the changes in the EP's working method were made possible by a pre-existing strategy of digitalisation: the pandemic simply accelerated

the process and weakened resistance. Nevertheless, this process of transformation has created tensions among the political groups and between them and the EP Secretariat. In sum, the EP has taken the opportunity of the crisis, as well as the historical level of turnover of MEPs following the 2019 elections, to brainstorm on its internal organisation and institutionalise some of the working methods developed during the confinement. Overall, it has once more demonstrated its resilience and capacity of adaptation to new challenges, as well as the willingness of MEPs to rethink the functioning of their assembly and of the EU political system in general.

The last part of the book deals with policies. **Michele Chang**, **Gabriel Glöckler**, and **Laura Pierret** show how much central banking has changed focus at the EU level since the global financial crisis. In 2019, Christine Lagarde inherited a central bank with limited room for manoeuvre regarding conventional monetary policy and made ample use of its balance sheets. The ECB has evolved in a direction that is broadly in step with the general development of central banking: it played a pivotal role in the euro crisis and Covid-19 pandemic, but the economic recovery of the euro area also rests on other institutions. The issue is however conflictual, as shown by the debates on the Next Generation EU budget, especially between the so-called “frugals” and Member States advocating for more solidarity. The evolution of the German position has nevertheless allowed for massive innovation and the adoption of a unique recovery plan.

Anne Vitrey and **Frederik Mesdag** assess further the EU budget and the recovery plan. Facing unprecedented challenges in the framework of the 2021–2027 budgetary negotiations, the EU found itself at a turning point. As usual, it is a matter of continuity and change. Continuity if we consider the capacity of EU institutions to find an agreement on the new MFF and on the recovery plan package. But also change, as the proposals presented by the Juncker Commission already promoted a new approach on budgetary issues, in the difficult perspective of the Brexit. This strategy was endorsed by the new majority in the EP after the June 2019 elections and by the von der Leyen Commission. The Covid-19 crisis has led to a new approach to the budget: it is no longer about adapting the political priorities to the budget, but adapting the budget to the needs. The choices made for the 2021–2027 MFF and the Next Generation EU are probably not a “Madisonian moment” for an EU federation in the making, but they will certainly shape the Union for the future.

Katja Biedenkopf, Ellen Vanderschueren, and Franziska Petri analyse the “green turn” that followed the 2019 European elections, with the relative success of green parties and the “Green Deal” proposed by the new Commission. With the loss of a joint majority for the EPP and S&D, the Greens/EFA became a potential source of support for Ursula von der Leyen when she sought an absolute majority for her election as President. The greens asked for an ambitious climate policy plan; ultimately, they did not vote for von der Leyen, but they contributed to the emergence of the “Green Deal”. Of course, since 2019 at least, climate and environmental policy is no longer a topic specific to the Greens and is found in the electoral manifestos of most other parties. Nevertheless, the Greens have played a pivotal role. They offered to be constructive with the Commission, as the Green Deal demanded the adoption of numerous pieces of legislation. They also contributed to the definition of the strategy of the EP, which made ambitious demands during legislative negotiations. In sum, the authors consider that the results of the 2019 elections had a direct impact on the overall strategy of the Commission, and on the emergence of the Green Deal.

Steven Van Hecke, Toine Paulissen, and Britt Vande Walle examine the way the EU political system has managed the Covid-19 pandemic. After some initial hesitations, European institutions proved to be resilient, combining short-term crisis management with mid-term policy-making and long-term innovative solutions. Despite the fact that it has limited competence in terms of disaster management and public health, the EU has played a major role. It has affirmed that public health should be guaranteed by the cooperation of the various levels of government. The EU proved to be efficient in this respect, given its experience in vertical and horizontal policy coordination. The Covid-19 crisis was also an opportunity to test the relations between the Member States: the first reactions were not encouraging, but the EU managed to act collectively much faster than during the previous crises and to show solidarity among States. In sum, the added value of the EU appeared obvious: it presented a more political dimension, not limited to public health management. Political taboos on debt mutualisation and the EU’s financing through its own resources were surmounted. It is however unclear whether this move announces a new dimension of European integration, or if it is only temporary.

Antonio Missiroli and Luigi Lonardo examine the enhanced cooperations in the field of EU external affairs, and detail how the EU moved

from the EnCO (2009) to the PeSCo (2019). They explain how the solutions of differentiated integration provided by the treaty of Lisbon have allowed some Member States to overcome the political gridlock in the Council and to show collective political commitment. Defence appears today as a policy area where “differentiation” is the norm. Indeed, both EnCo and PeSCo have been mainly used to facilitate tailored cooperation among a large share of Member States. The author also note that differentiated integration experiences have led to the emergence of several groups of Member States, but that a cluster of 10 is identifiable, among which most are also members of the Eurozone, of other enhanced cooperations and of the Schengen space. It is obvious that not all Member States are equally capable or willing to cooperate further, especially in the field of defence. However, the war in Ukraine has already brought about important changes in EU military capacity and convinced some Member States to join existing initiatives.

Teona Lavrelashvili and **Steven Van Hecke** examine the relations of the EU with the Western Balkans and Eastern Partnership Countries. They show that, even if the methodology of enlargement has been adapted to meet the expectations of some Member States, the perspectives remain uncertain. It is indeed getting increasingly difficult to ignore the worrying political and security trends in the Western Balkans and the Eastern Partnership—not to mention the war in Ukraine. Also, the so-called “enlargement fatigue” is not likely to disappear and the degree of support of public opinion is a real concern. At the operational level, the new approach to measure the progress of candidates, especially in the field of the rule of law, is problematic. Finally, the pandemic made the EU change its priorities: its agenda has shifted towards tackling the health crisis and its economic and social consequences. The EU provided help to the candidate countries and has supported the Eastern partnership countries during the Covid-19 crisis, but its transformative power is challenged by the political developments in those regions.

Lorenzo Giuglietti focuses on the EU and NATO cooperation, which is key to the development of the European security and defence policy—as shown with the war in Ukraine. The relations between the two organisations are not self-evident, but they have established cooperations in some areas that have demonstrated their added value. The author recalls that a common EU-NATO relations format has been reproduced from the Gulf of Aden to the Mediterranean and even experienced a form of institutionalisation. However, those operations show that the division of

tasks between the EU and NATO is nebulous, and they rely largely on intergovernmental dynamics. To become “geopolitical”, the Commission should establish structured and effective partnerships with NATO and impose itself as an actor in the field of defence. The release of the *Strategic Compass* will help change the paradigm of the EU’s external action, but its implementation will require the Union and the Alliance to tie new and more effective bonds of cooperation.

In the last chapter of the volume, **Steven Langendonk** and **Edith Drieskens** assess the way the EU embraces geopolitics by focusing on the EU-China Relationship. They argue that the “geopolitical” turn of the Commission is not only a logical adaptation to changes in the EU’s international environment, but the result of an incremental convergence around a new vision of the nature and role of the EU. The authors analyse this change of paradigm in the case of the EU-China (as well as US) relations, underlying the partial reconfiguration of expectations from a normative exceptionalism to a geopolitical realism, that narrows EU’s range of options.

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The 2019 elections were presented by some columnists as the beginning of the end for the EU, with the loss of the absolute majority by the two major pro-European parties, the rise of the Eurosceptics, the never-ending Brexit negotiations, and the failure of the *Spitzenkandidaten* procedure. Nevertheless, the institutions soon put themselves in order of battle, the EP showed its cohesiveness and the President of the Commission announced an ambitious programme and affirmed her authority. A bit later, experts and politicians claimed that the Covid-19 crisis would be the final one for the EU, pushing Member States towards protectionism and individual solutions, proving the inadequacy of EU treaties to address crucial challenges, and revealing the incapacity of EU institutions to take initiatives and conduct reforms. After a slow start, however, the pandemic led to very ambitious moves at the EU level, with the decision to develop a strong push for action in the field of public health, to increase the autonomy of the EU at the global level, to launch the Next Generation EU recovery plan and to “leave no country behind”. It is commonplace to tell, as Jean Monnet did in his memoirs, that European integration is made of crises and is the sum of the solutions to those crises, but the recent sequence of events has proven this to be true.

Building on the 22 chapters gathered in this volume, we can draw four main lessons from the recent developments of European integration.

1. The 2019 elections strongly impacted the internal dynamics of the EP, the composition of the Commission, the interinstitutional relations, and the overall direction of the EU's actions—especially with the Green Deal. The spectacular increase in participation also proves that citizens care more about EU affairs than is often said, and that there is a growing interconnection between national and EU politics.
2. The Covid-19 crisis has led to important changes at the institutional level. Every crisis since the 1950s has been the occasion to redefine and adjust an original and complex institutional system, based on a large number of actors—national and European, elected and appointed, institutional and non-institutional. The Covid-19 crisis is no exception: it has been a booster for executive institutions but has also fostered change in the EP and allowed it to remain on the map.
3. At the policy level, the crisis has induced a focus of the EU on public health as a public good to be saved and has allowed the launch of an ambitious recovery plan—despite the resistance of the “frugal countries”. As always in times of crisis, institutional actors have been very active: some have seen the Covid-19 crisis as a window of opportunity for change, while others have organised resistance to that change. But overall innovative solutions were found, and the main objectives of the EU have been redefined.
4. We can see that those evolutions—regarding both institutions and policies—are not unique, unpredictable or the result of a given context: they follow trends that reach far in the past and are quite stable through time. However, they are not easy to read or understand. For the last 20 years, the EU regime has been driven by three diverging logics: the original “Community method”, in which the Commission, as a sort of agency, plays a fundamental role; the “parliamentarized” approach that leaves more influence to the EP, to European elections and to European parties; and the “new-intergovernmental” approach, sometimes called the “Union method”, which gives a central role to the European Council and Member States representatives. The three approaches coexist: they apply to different policies or levels of decision, but also compete for various aspects of EU policy-making and political life, because of the vagueness of the treaties. When urgent action is needed, especially to fix an unprecedented crisis, solutions often rely on soft law

mechanisms or ad hoc intergovernmental solutions because of the lack of a clear legal basis or of the impossibility to find a consensus. Nevertheless, the process of bargaining continues, and each institution then tries to institutionalise those innovations within one of the existing decision-making frames, providing some clarification.

The evolutions of EU institutions and policies since 2019 have confirmed that the changes induced by European elections or crises result from intense interactions between EU institutions. Those interactions, be they cooperative or conflictual, are functional. Indeed, they are not limited to the defence by the main institutions of the solutions that are most favourable to them; they also bring creativity and allow treaties to be interpreted to the greatest extent, to play with their grey zones, and to invent new approaches. In short, the EU institutional setup, which is driven by several conflicting logics, the multiplicity of its cogs, and their constant efforts to maximise their own influence via strategies of rivalry or cooperation, allows the EU to adapt to an evolving context and to new and unpredictable challenges.

Nevertheless, we also note that the EU political system, despite its tensions, is tending to become increasingly cooperative, with the institutionalisation of routines of negotiation at several levels, and a mainstreaming of the main ways to do. Notwithstanding episodes of confusion and conflict, such as during the appointment of the new Commission in 2019 or the first months of the Covid-19 crisis, the EU regime has proven its capacity to adopt smoothly decisions that are not limited to the minimum common denominator between the players.

2019 was a turning point, but there is more to come. The 2024 elections will be just as important, in several respects. They will determine whether the 3 centrist groups, which currently form a coalition, still hold the majority, and if the Eurosceptics will finally be capable of weighing in on the EP deliberation. There will probably be a struggle around the *Spitzenkandidaten* process: it will be supported by the main European parties and probably the majority of MEPs and fought by other political forces and possibly several national leaders. The new actors to be elected or appointed (MEPs, Commissioners, leaders of the main EU institutions) will have to make crucial choices for the EU, especially regarding its external policy, the protection of EU values within Member States, and its enlargement strategy.

The Union is facing immense challenges, and not all of them are likely to be redeeming crises and moments of truth conducive to deepening integration and clarifying the EU's institutions and objectives. Some could have devastating effects on the cohesion and efficiency of the Union: the hostility of other blocks at the global level; the "illiberal" drifts of some Member States; the degree of Euroscepticism; the decline of the traditional pro-European forces; the uncertain prospects of the war in Ukraine; the spectre of recession; the lack of budgetary means; the unlikelihood of treaty reform. Nevertheless, if we look at how far the Union has come since the last European elections, we cannot but underline its resistance, resilience, and ability to reinvent itself.

INDEX

A

Ambition, 342, 350–352, 358

B

Budget, 336, 337, 339, 344, 355

C

Candidate selection, 69

Central banking, 317, 329

Coalition formation, 122

Commission President, 170–172, 176, 177, 179, 180, 182, 188

Common Foreign and Security Policy (CFSP), 406

Conference on the Future of Europe (CoFoE), 24, 26, 34, 35

Consensus, 153, 156, 158

Council of Ministers, 240, 243, 246, 248

Council of the European Union, 261, 265, 274

Covid-19, 170, 180, 181, 216, 223, 226, 311, 325, 326, 329, 381, 382, 385, 386, 389, 392, 394, 446, 449

Crisis/Crises, 221, 223, 226, 231, 315, 320, 335, 343–345, 347, 358

Crisis management, 382, 384, 389, 394

D

Delegated acts (DAs), 239, 242, 247

Democracy, 24, 26–28

Differentiated integration, 402, 404, 405, 408, 419, 422

Disaster management, 394

E

Eastern Partnership (EaP), 434, 441, 449

ECB, 309, 311, 312, 314, 315, 317, 319, 320, 322, 324, 325, 329

Enhanced cooperation, 402, 405, 407, 409, 411–414
 Enlargement, 433–436, 438, 439, 443–445, 447
 2019 EP elections, 71, 72
 EP political groups, 363, 369, 372
 EU-China relations, 479–482, 485, 493
 EU foreign policy (EUF), 479
 EU identity, 481, 483, 485
 EU-NATO, 455, 458, 459, 461, 465, 467, 469, 470, 472
 EUNAVFOR, 456, 461, 468
 European Commission, 108, 153, 155, 196, 201, 210, 362, 371, 372, 375
 European Council (EUCO), 215, 217, 223, 224, 226, 227, 232
 European elections, 46–48, 50, 53, 54, 58, 85, 86, 88, 93, 102, 108, 113, 117, 123, 129, 134, 143, 152, 161, 164, 241, 361, 364, 366, 367, 369, 371
 European Green Deal (EGD), 363, 373
 European Parliament (EP), 63–65, 71, 80, 84, 87, 89, 93, 96, 102, 113, 115, 121, 123, 130, 138, 215, 224, 226, 231, 239, 241, 248, 285, 287, 293, 298, 301, 361, 371, 375, 376
 European political families, 87, 92
 European political parties, 84, 89, 90, 94, 95, 97
 European Union (EU), 23, 87, 382, 433

G

General Secretariat of the Council (GSC), 261, 268, 269
 “Geopolitical Commission”, 197, 200, 205, 209, 211

Geopolitics, 196, 201, 202, 206, 207, 392, 480, 490, 491
 Greens/European Free Alliance (Greens/EFA), 361, 363, 364, 367, 371, 372, 374, 375

I

Identity formation, 481, 493
 Incumbents, 63, 65–68, 72, 77, 78
 Institutional balance, 217, 231, 233
 Institutional changes, 268, 269, 272, 277
 Institutionalisation, 457, 458, 470–472
 Intergovernmentalism, 102–104, 106

L

Leadership, 197, 200, 204, 206, 210
 Legislative veto, 239, 241, 243, 245, 247, 248, 255
 Legitimacy, 49, 197, 216, 219, 232

M

Majorities, 158, 165
 Maritime security, 456, 463, 464, 469
 Multiannual Financial Framework (MFF), 335, 338, 339, 343, 345, 346, 348, 350, 355

N

NATO, 455, 459, 461, 465, 466, 468, 469
 Neo-functionalism, 102–104, 106, 118

O

“Open strategic autonomy”, 200, 201, 206, 207, 210
 Own resources (OR), 336, 354, 356

P

Participation, 24–28, 30, 33, 37, 38
 Participatory democracy, 24, 34, 37
 Permanent Structured Cooperation (PeSCo), 403, 405, 417
 Political elite, 68, 70
 Political fragmentation, 122, 123, 127, 128
 Political sociology, 272, 277
 Post-functionalism, 102, 103, 105, 106, 118
 Programming, 160, 163, 164

R

Recovery and resilience, 207
 Recovery fund, 227, 228
 Recovery plan, 337, 343, 347, 354
 Re-election, 67, 70, 73, 76
 Roll-call votes (RCV), 122, 137
 Rotating presidency, 261, 265, 267, 276

S

Second-order elections, 48, 50, 55, 57
 Six priorities, 183, 186

Small-scale city district level, 46
 Socio-economic imbalance, 46, 51
Spitzenkandidaten, 83, 84, 88–90, 93, 101, 108, 112, 116, 216, 222, 224, 225
Spitzenkandidaten procedure, 152, 163
Strategic foresight, 200, 201, 208, 210

T

Teleworking, 297–299, 303
 Turnover, 63–65, 68, 73–76, 79

U

Unemployment, 46, 52, 57

V

von der Leyen, Ursula, 169–171, 174, 176–181, 183, 186, 189, 362, 371, 373
 Voter turnout, 45–49, 53–55, 58

W

Western Balkans (WB), 434, 436, 449