



CENTRO STUDI SUL FEDERALISMO

research paper

PIER DOMENICO TORTOLA - LORENZO VAI

**WHAT GOVERNMENT FOR THE EUROPEAN UNION? FIVE
THEMES FOR REFLECTION AND ACTION**

(BACKGROUND PAPER)



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ABSTRACT

Faced with many domestic and external challenges to its politico-institutional order, the European Union is in the middle of a protracted critical juncture, whose eventual outcome(s) will likely set the course of European integration for many years to come. Political fluidity and uncertainty present both opportunities and responsibilities for the intellectual sphere, which now sees its chances to influence political developments dramatically increased. Reacting to this state of affairs, the Governing Europe research project gathers together a number of leading EU scholars and analysts with the double task of taking stock of the political and institutional status quo, and proposing new solutions to render the EU more legitimate, effective and resilient for the future. Consistently with the multi-faceted nature of Europe's political problems, the project is organized around five broad and cross-sectoral themes: intergovernmentalism vs. supranationalism; democracy and representation; asymmetric integration; economic governance; Europe in the world. For each, this background paper presents a brief overview and a sketch of some of the most pressing issues and questions.

Piero Domenico Tortola is currently Research Fellow at the University of Milan; from November 2013 to March 2015 he was Researcher at the CSF.

E-mail: pierdomenico.tortola@unimi.it

Lorenzo Vai is Researcher at the CSF and IAI.

E-mail: vai@csfederalismo.it

Background Paper of "Governing Europe", a joint project led by the Centro Studi sul Federalismo (CSF) of Turin and the Istituto Affari Internazionali (IAI) of Rome, in the framework of the strategic partnership with Compagnia di San Paolo - International Affairs Programme.

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Introduction

The European Union (EU) is undergoing probably the most important transition since the beginning of the integration process. Over the past few years several factors of various nature and provenance have converged to challenge the goals, structures and equilibria of integration, thus requiring political and institutional responses from the Union. The Eurozone crisis has demonstrated patently the unsustainability of a monetary union unaccompanied by adequate compensation mechanisms in adjacent areas, most notably fiscal and financial. At the same time, the consequences of and responses to the crisis have contributed to exacerbate the Union's longstanding democratic deficit. Always perceived as distant from its citizens, EU institutions are increasingly seen as outright hostile and in the hands of unaccountable technocrats - if not foreign governments. This, in turn, feeds Eurosceptic populism and a worrisome revival of nationalist sentiments in several member states, which requires a discursive as well as institutional response from European leaders.

Internal problems are compounded by a number of external challenges that have become particularly pressing in the past couple of years, and whose connections to the EU's domestic troubles are clearer by the day. Russia's annexation of Crimea and the on-going war in Eastern Ukraine once again have exposed diplomatic differences among member states, and the difficulty of constructing a common foreign policy able to extend beyond the Council's lowest common denominator. For its part, Putin's Russia is happy to exploit Europe's fragmentation in its attempts to "divide and rule" the Union not only through the traditional energy leverage, but also by financial means, as seen in the recent Greek bailout renegotiation saga. Meanwhile, on the Mediterranean front, Europe is ill-equipped to provide an effective response to civil strife in Syria and especially Libya, and to the new rise of Islamic terrorism. The latter, finally, is now further complicating the already thorny issue of illegal immigration and refugee management in many member states.

Those just overviewed are just some of the most visible problems currently facing the EU. In part, the Union has reacted to them by means of new policies and institutional arrangements: the creation of a European Stability Mechanism (ESM) to assist countries in financial distress, the European Central Bank's (ECB) activism under Mario Draghi's leadership, and the banking union are among the measures stimulated by the euro crisis. The Lisbon Treaty's strengthening of the High Representative and the creation of a European External Action Service (EEAS), as well as the introduction of new mechanisms such as the Permanent Structured Cooperation (PESCO), should contribute to the definition and implementation of a more coherent and effective response to external challenges. For the most part, however, the Union's reaction to its own political and institutional predicament so far has been both slow and insufficient - if not even counterproductive, as it is arguably the case for the EU's insistence on austerity as a response to

the economic crisis. In sum, much still needs to be done for the EU to ensure its own solidity - or, according to gloomier views, survival - for the years to come.

Politico-institutional fluidity in Europe has spurred a great deal of intellectual activity and scholarly production. Analyses abound on the nature of Europe's woes, possible solutions and predicted directions. It is no exaggeration to say that the study of European integration has rarely been as vibrant a field as in the "interesting times" in which we are living. The times are now ripe for taking stock of these intellectual endeavours and build on them to propose a set of concrete prescriptions for the Union. It is with these goals in mind that the Centro Studi sul Federalismo (CSF) and the Istituto Affari Internazionali (IAI) have promoted this international research project, which aims to become a key reference for scholars and practitioners interested in understanding and influencing the transformations of the EU.

Generally speaking, the contributions presented here explore the question of what government the EU should equip itself with in order to best tackle its many domestic and external challenges. By "government" we mean primarily the "constitutional" apparatus of the Union. This polity-centred interpretation of the term should, however, be taken loosely, so as to include also any aspect and factor at the level of policy and politics that cannot be separated, both empirically and analytically, from the EU's structural features, and that are hence relevant to our main research question.

As already mentioned, linking systematically the analytical and normative dimension of EU studies is one of the main objectives of this project. We are convinced that the European integration project is now going through a political and institutional window of opportunity, which enhances (at least potentially) the role of ideas in the political arena (Tortola 2015). But sound and actionable prescription can only rest on solid and empirically grounded analysis. In the contributions to the project, both goals are pursued with respect to a wide range of topics and areas, with a view to combining, in a single study, analytical breadth and depth. The latter is achieved, more precisely, by exploring, whenever possible, the issue at hand through the lenses of three questions: what is the EU's politico-institutional status quo? What can be achieved within the boundaries of current treaties? Finally, what treaty amendments can be envisioned in a more radical scenario of change?

A final contribution to the existing literature is our approach to analytical breadth, which we do not achieve by looking sequentially at specific institutions or policy areas - as is customary in generalist analyses of the EU - but instead by focusing on a set of problems or, more broadly, themes. This approach will allow us to capture the complex and multi-faceted nature of the questions explored, and enhance the political and policy relevance of the project by tackling "real" issues rather than artificially compartmentalized aspects of the EU. In particular, we have selected five such themes, which we deem crucial for integration in the short and medium run, and which structure the entire project: intergovernmentalism vs. supranationalism; democracy and representation; the challenge of differentiated integration; the government of the economy; Europe in the world. For each, we have sought two contributions: one more general in character, and one on a more specific topic. The remainder of this introductory essay will go over each of the five themes, highlighting the main open questions and introducing briefly the contents of the research.

1. Intergovernmentalism vs. supranationalism: still a useful dichotomy?

The dualism between intergovernmentalism and supranationalism has dominated the academic and political debate on European integration practically from the start. The dichotomy works on two closely connected yet distinct planes: on the one hand, it indicates two worldviews on the nature, goals and possibilities of integration, with intergovernmentalists seeing the EU as little more than a sophisticated type of international organization, ultimately dominated by states (e.g. Moravcsik 1998), while supranationalists are more confident about the possibility of transcending the nation-state in Europe (and beyond) (e.g. Sandholtz and Stone Sweet 1998). On a different plane, the dichotomy indicates, more descriptively, the distinction between those parts and sectors of the EU that are still mostly in the hands of member states - such as foreign policy - and those in which instead supranational institutions (primarily the Commission and the European Parliament) have a key role.

It is a widely held view that the Eurozone crisis and its consequences have strengthened intergovernmentalism in the EU at the expenses of its supranational aspects (see for example Fabbrini 2013; Bickerton, Hodson and Puetter 2014). The ESM and the fiscal compact, two key tools in the EU's response to the crisis created entirely outside the "community method," are cases in point. More generally, the crisis has placed the European Council in a prominent position within the EU's institutional architecture. *Prima facie*, this "resurgence of intergovernmentalism" argument is attractive. Upon closer inspection, however, it needs to be qualified in at least three respects. First, and most simply, one should not underestimate the room for manoeuvre that even mostly intergovernmental arrangements may leave for the enforcer of such mechanisms, which is often supranational in character. It is the case, for instance, of the Stability and Growth Pact and fiscal compact rules, which afford the Commission a significant degree of discretion in deciding how to interpret macroeconomic and budgetary criteria.

Second, alongside the establishment or reinforcement of intergovernmental mechanisms in the area of macroeconomic governance, recently we have witnessed an equally important strengthening of supranational institutions that is often overlooked by intergovernmentalists. For one thing, the Eurozone crisis itself, and its consequences on citizens' political dissatisfaction, were key stimuli to the introduction of the *Spitzenkandidaten* process for selecting the Commission president, which in turn promises to increase both the European Parliament (EP)'s role and the Commission's autonomy vis-à-vis the member states in the years to come (Tortola 2013). For another, and more generally, the recent Lisbon Treaty has fully confirmed the European Community/EU's historical trend of gradual supranationalization, for instance by eliminating the Maastricht pillar system and making the EP the Union's default co-legislator.

Finally, recent accounts often underplay the fact that the EU's new intergovernmentalism is taking place in areas in which the EU has recently acquired *more* powers compared to the past - what Bickerton, Hodson and Puetter (2014) call the "integration paradox." This introduces, on the one hand, a tension between the two meanings of intergovernmentalism expounded above (in this sense it is no coincidence that a more traditional intergovernmentalist like Moravcsik (2012) predicted stasis rather than further integration as a result of the crisis). On the other, and more importantly, it raises the important issue that, while all EU members are legally equal in the Council, politically they are not. This in turn means that the same intergovernmental arrangement

does not have the same effects on the power and autonomy of, say, Germany and Greece - or, to put it another way, may not be perceived as “intergovernmentally” by both. Naturally, the greater the integration paradox becomes, the more relevant these asymmetries will be.

The foregoing should make us, at a minimum, recast the scope of recent intergovernmentalist accounts, which are certainly helpful to capture some aspects and mechanisms of integration after the crisis but, as Schimmelfennig (2015) rightly notes, can by no means serve as general models of current EU politics. At a deeper level, however, we might have to problematize, if not question, the usefulness of the dichotomy for the study of today’s Europe. Analytically, they might just no longer be able to “contain” the empirical reality as well as they used to. Normatively, they might lead us to dubious conceptions of what is good and bad in European integration, for instance by associating sometimes illusory ideas of national sovereignty with intergovernmentalism or underestimating the potential for democracy in supranationalism.

In a similar vein, we should reflect on the appropriateness of the intergovernmentalism / supranationalism language for prescribing how the EU should move forward. If these categories do no longer capture the tensions and dynamics of European integration, they might also be insufficient to discuss how to make the Union more just and effective for the future. To the extent that this is the case, we might wonder whether the old dichotomy should not be integrated, if not replaced altogether, with alternative formulas—whether the latter are produced from the ground up or perhaps built on those “normalized” political categories that might be adapted fruitfully to the EU case, such as centralization/autonomy, or politics/administration.

2. Democracy and representation in the new European Union

The so-called democratic deficit has always been one of the foremost normative concerns for students and practitioners of European integration. It has become more so in the past couple of decades, during which the European Union has greatly expanded its powers and competences, so making issues of representation and participation more pressing than ever. The euro crisis has further exacerbated the EU’s democratic problems by generating new economic demands among European populations - and particularly its most vulnerable sectors - that have remained largely unanswered by common institutions. The Union’s (real and perceived) political unresponsiveness is in turn a key cause of the recent and worrisome rise of populist and nationalist movements throughout the continent.

Any diagnosis of Europe’s political troubles and recipe for its future therefore must feature the issue of democracy as one of its main components. To produce concrete and rightly targeted prescriptions - in an area that is too often subject to oversimplifications - an analysis of the EU’s democratic deficit should tackle and clarify at least three broad questions. First, to what degree should we aim for domestic-type democracy in the Union? Critics of the democratic deficit thesis such as Majone (1998) and Moravcsik (2002) have time and again remarked that much of what the EU does, like central banking and regulation, should actually be kept insulated from majoritarian politics. While these arguments become less solid the more Europe integrates, the need to problematize the appropriateness of traditional notions of democracy for EU politics

remains. This in turn points, more generally, to the need to distinguish between the democracy and legitimacy of EU action, with the former being only one of the ways in which the latter can be achieved. In other instances, conversely, output measures of efficiency or effectiveness might constitute better criteria for legitimacy. In those cases the problem then becomes how to reconcile, as Mair (2009) would put it, the need for governmental *responsibility* with citizens' demands for *responsiveness*.

Wherever it is more responsiveness that the EU needs, we should ask - the second question - to what degree the democratic deficit comes from legal or other types of causes. The case of the European Parliament - the EU's democratic body *par excellence* - is emblematic. Notwithstanding its current co-legislator status in most integrated matters, its role and functions within the EU's institutional architecture hardly compare with those of its national counterparts in their respective polities. This, however, is due only in part to the formal shortcomings of this institution, such as its inability to initiate legislation. To a great extent the reasons for the EP's flaws are to be found either partly or entirely outside the perimeter of formal institutions, for instance by looking at the lack of a proper EU-wide party system or the underdevelopment of a European public sphere, both of which perpetuate the decoupling of (national-level) politics and (EU-level) policy that is a key aspect of the EU's democratic deficit (Schmidt 2006). In this respect, the successful introduction of the *Spitzenkandidaten* procedure is an important, but only initial step forward. A further example is the recent experience of the European Citizen's Initiatives, an important tool for participatory democracy whose success has nonetheless remained questionable thus far, partly due to its formal design, and partly for the challenges posed by pan-European political mobilization (Mahony 2015).

Finally, and related to the foregoing, a study of European democracy needs to clarify the best ways to solve the everlasting tension between the will of the majority on the one hand, and the rights of the minority on the other, in a politico-institutional context in which minorities themselves often constitute *demoi*. Needless to say, this problem applies especially to the functioning and legitimacy of the intergovernmental side of the EU, embodied by the European Council and the Council of Ministers, in which the expansion of majority voting can be seen, depending on the angle, as either affirming or negating democratic principles.

3. The challenges of asymmetric integration

Despite the fact that important institutional and policy asymmetries have always existed in the EU (the Schengen area and the monetary union being two of the main cases), the opportunities offered by the notion of and procedures for "enhanced cooperation", expanded by the Lisbon Treaty, are still largely unexplored. Over the years, the idea of a multi-speed European integration has been seen alternatively as a negative (e.g. Adler-Nissen 2011) and positive (e.g. Piriš 2011) development. If, on the one hand, the economic and financial crisis has fostered an advancement of supranational integration among a defined group of member states, on the other hand it has contributed to increasing euroscepticism among sectors of the European electorates as well as several governments - to the point that some, like the UK, are now openly reconsidering their Union membership and others, like Greece, are questioning the opportunity to stay in (or join) the Eurozone.

From a theoretical point of view, the EU as a whole can be interpreted as a system of differentiated integration (Leuffen, Rittberger, Schimmelfennig 2013), characterized by two different types of differentiation: vertical and horizontal. The former refers simply to the different level of integration of different policy areas, so that the more integrated a certain policy area is, the less differentiation exists. Horizontal differentiation, on the other hand, relates to the level of participation of member states in the various EU policies. In this case, the more equally integrated states are, the less differentiation is in place (*ibid.*). It is to the idea of horizontal differentiation that the concept of a 'multi-speed Europe' usually refers.

From a diachronic perspective, the process of integration so far has shown a progressive reduction in its overall vertical differentiation, but at the same time it has seen, especially since Maastricht, an increase in horizontal differentiation. Explaining this phenomena involves a number of factors that can be summarized, roughly, in the need to tackle interdependence among member states on the one hand, and the (domestic) politicization of European integration on the other (*ibid.*). As demonstrated by the recent reforms in the economic governance of the Euro area, the need to better manage interdependence tends to promote further integration. At the same time, however, politicization - defined by Wilde (2011) as "an increase in polarization of opinions" - affects integration differently, bringing some member states to decide to take alternative integration routes. Put differently, politicization promotes differentiation. The EU responses to the financial crisis are, again, a good example. The high level of politicization involved in the reform of macroeconomic commitments has hindered the reaching of a general consensus among member states, which have consequently decided to deepen their integration differentially and outside the fundamental Treaties, such as through the Fiscal Compact and the ESM.

The implications and problems implied by an asymmetric integration of the European system(s) of governance remain to be explored beyond these general theoretical considerations. A key question concerns the justification of asymmetry: is it possible to assess when a differentiated integration is preferable to a uniformed one (Lord 2015)? Secondly, how to tackle the thorny issue of ensuring democratic representation in a multilevel and differentiated system of governance (Fossum 2015)? And thirdly, which institutional structure should be adopted in order to govern this multi-speed Union effectively avoiding the risk of institutional gigantism or duplication? These questions need to be explored not only in the abstract but also applied to concrete and contingent cases, most notably that of the United Kingdom's future relationship with the rest of the Union.

Last but not least, the acceptance of the EU as a system of differentiated integration casts doubts on the founding assumption that all members states are bound - whether sooner or later, and probably at different speeds - to ultimately reach the same political destination, so to speak. The consolidation of a multi-speed Europe might eventually certify the need to rethink such an assumption, and with it the final outcome of the European integration process.

4. Further steps for common economic governance or one step into an economic government?

In the past few years, the relationships between EU institutions in the area of economic governance have changed substantially due to the need to respond to the economic crisis. The deficiencies of the EU's governance architecture have contributed to exacerbate the crisis, which has spread throughout the euro area, driven by many of its members' macroeconomic imbalances and weaknesses in their financial systems (Pisani-Ferry 2014). To respond to this situation, the EU has implemented a series of governance reforms and created institutional mechanisms to tackle its economic problems and prevent future crisis, in the first place in the eurozone. These developments have followed two main tracks. On the one hand they have reinforced the macroeconomic surveillance functions of the Commission so as to better promote economic convergence among the member states and prevent potential factors of structural fragility. The creation of the so-called European semester, the approval of the six-pack and two-pack regulations, the signing of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (better known as the Fiscal Compact), and the recent moves towards the realization of a banking union, are all responses related to this first track's objectives. On the other hand, financial safeguards have been created to provide economic assistance to those member states experiencing or threatened by financial uncertainties. Prominent example here include the creation of the €700 billion-worth ESM.

The eurozone members have been the primary targets of these reforms which, even when read from different theoretical standpoints (e.g. Ioannou, Leblond, Niemann 2015), have undoubtedly deepened European integration. Nonetheless the consequences of these actions and the future of the European system of economic governance are still largely unclear. The structure of the new system is, in the first place, based on a number of norms and instruments of varying legal nature. For instance, while the regulations contained in the six- and two-pack are legal acts of the European Union, the Fiscal Compact and the ESM are instead the product of two distinct international treaties involving all the eurozone members states but not all EU members. The current lack of political momentum for a revision of the European Treaties and the urgency imposed by the crisis have left intergovernmental cooperation as the only feasible road for better economic governance open to the member states. This has led to the emergence of an architecture mostly based on the European Council, the Council of Ministers and the Eurogroup, at the expense of the role of initiative and coalition building usually played by the Commission, and the democratic legitimation given by the full participation of the European Parliament in decision-making. The ECB, finally, has acquired a central role in the management of the crisis. Formally a fully independent institution, the ECB has however played an undeniably political role in the past few years which needs to be investigated further.

A lot has been done to bring the EU out of the storm, but it may not yet be enough. As advanced by many studies, the eurozone - which has proved not to be an optimum currency area (Krugman 2012) - is incomplete in its institutional and economic architecture, stuck as it is between an intergovernmental oriented method and federal elements of governance (De Grauwe, P., 2011; Glinicker group 2013; Pickford, Steinberg, Otero-Iglesias 2014). The absence of a transfer mechanism from the stronger to the weaker economies, an only partial European fiscal integration which lacks substantial own resources, the lack of an official lender of last resort,

scarce macroeconomic coordination, and incomplete financial and banking integration are the main shortcomings still affecting the monetary union, which hence remains vulnerable to financial shocks. For the member states, at this point, any further reform implies definitive transfers of sovereignty towards the European level - hardly an easy outcome, given the many tensions between national interests. The path “towards a genuine economic and monetary union” was already traced in 2012, by the so-called “Four presidents’ report,” which still represents, thanks to the political influence of its authors, the main reference for those envisioning a stronger economic, banking, budgetary and - most ambitious - political union (Van Rompuy 2012). It remains to be seen to what extent the recent review of this plan - the new “Five president’s report published in June (Juncker 2015) - will be achievable and what the implications and issues of alternative institutional scenarios could be.

5. What kind of, and how much Europe in the world?

In the aftermath of the Lisbon Treaty the EU’s international ambitions were stronger than ever. The establishment of the position of High Representative for Foreign Affairs and Security Policy in charge of bringing coherence to Europe’s foreign action, and the birth of the European External Action Service - the first attempt to build a supranational diplomatic corps - caused much enthusiasm among scholars and analysts. Looking back, however, such expectations have in large part remained unfulfilled (Edwards 2013). Events such as the Arab spring uprisings, the military intervention in Libya, the coup d’état in Mali pretty soon reminded practitioners and observers of the difficulty of transforming 28 member states’ foreign policies into one. Broadly speaking, the EU’s external action is still based on two distinct institutional pillars. The first, intergovernmental, is embodied by the Common Foreign and Security Policy (CFSP) and its defence component, the Common Security and Defence Policy (CSDP). The second relates to all Commission policies with an external dimension, such as development cooperation, humanitarian aid, trade policy, and enlargement and neighbourhood policy. To a significant extent, this dual structure overlaps with the classical division between high politics and low politics in the analysis of European integration. Besides implying well-known problems of political inconsistency and ineffectiveness (Bretherton, Vogler 2013; Mayer 2013; Thomas 2012), this separation reveals also theoretical implications and further questions. In the CFSP/CSDP area, where the integration process now seems unable to proceed significantly into the core political aspects of member states’ foreign policy, are we experiencing the inherent limits of a neo-functionalist approach? Or else, the technical footholds in pursuing the transfer of competences at the supranational level are still not exhausted, as shown by the recent developments of the EEAS in the management of diplomatic relations or by the operational needs of the European military and civilian missions?

While the urgency of a common response to the economic crisis has brought, as mentioned, to the enhancement of Europe’s common economic governance, other types of emergency have not produced similar results in the area of the EU’s external action. Thus, neither the aforementioned cases nor the most recent theatres of instability, like Syria, Libya and Ukraine, so far have pushed the member states towards the adoption of a genuine common diplomatic and military action. Notwithstanding domestic financial constraints, which would make some sort of enhanced cooperation among member states mutually advantageous from an economic

standpoint (e.g. the benefits from a hypothetical federalization of the European defence are undeniable (Briani 2013)), a lack of political will - backed by heterogeneous national interests - remains. In sum, to a large degree the European foreign policy seems to be still affected by the same old capability-expectation gap (Hill 1993) that has always characterized it.

In this not so optimistic picture, however, something has changed. The (hesitant) extension of the qualified majority vote and the introduction of a permanent presidency for the Foreign Affairs Council and many of its working groups, have created more consistency and continuity at the procedural level. The consolidation of the EU delegations network supported by a unified diplomatic service is also changing operational practices in the conduct of the EU's external activities.

As mentioned, the possibilities for stronger cooperation among the member states ingrained in the treaties have been by no means exhausted. In light of this, a revision of the European Security Strategy (last updated in 2008) can certainly stimulate a debate on these issues and lay the groundwork for greater 'actorness' on the part of the EU. However, especially in times where the nexus between external and internal security is becoming ever more important, to what extent a new strategic vision can concretely help to tackle the international challenges remains an open question.

The existence, effectiveness and legitimacy of a distinct EU foreign policy lies on a path marked by three bottlenecks: the identification of European interests compatible with the national ones and with the "flagship" European values; the search for greater horizontal and vertical coherence at all institutional levels; finally, the strengthening of the democratic nature of the CFSP/CSDP decision making. Any further progress towards a more active role of the EU will have to tackle these issues in the first place.

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CENTRO STUDI SUL FEDERALISMO

Via Real Collegio 30
10024 Moncalieri (TO)
Tel. +39 011 670 5024
Fax. +39 011 670 5081
www.csfederalismo.it
info@csfederalismo.it