

KATHOLIEKE UNIVERSITEIT LEUVEN  
FACULTY OF SOCIAL SCIENCES



## **EXPERIENTIA DOCET?**

### **AN ANALYSIS OF THE VARIOUS METHODS OF COOPERATION IN EUROPE'S INTEGRATION PROCESS**

Gilles PITTOORS

Prof. Dr. F. GOVAERTS

Master of European Politics and Policies 2010-2011

## TABLE OF CONTENT

<i>Table of Content</i>	i
<i>Acknowledgments</i>	ii
<i>List of Figures</i>	iii
<i>List of Abbreviations</i>	iv
<i>Executive Summary</i>	v
INTRODUCTION	1
QUESTIONS RAISED	7
Formulation of the Question	7
Structure and Methodology	8
Theories of Integration and Cooperation	9
Conceptual Definitions and Limitations	13
A VARIETY OF METHODS	15
Pressures for Integration	15
Listing the Methods	16
The Community Method	19
<i>Origins of the Community Method</i>	19
<i>Parliamentary Involvement</i>	22
<i>Commission Competences</i>	30
<i>Assessing the Community Method</i>	35
Intergovernmental Cooperation	38
<i>Cooperation through Europe's Councils</i>	39
<i>Qualified Majority Voting</i>	43
<i>States and Conferences</i>	51
Flexible Integration	53
<i>Outsider Input</i>	54
<i>Flexibility and Differentiation</i>	62
CONCLUSION: EXPERIENTIA DOCET?	68
<i>Bibliography</i>	74

## ACKNOWLEDGMENTS

Despite all the difficulties in writing a thesis, this is the part I find hardest to write. Who to thank? Now that is a tricky question. The easiest way, of course, is shooting the usual suspects. My thesis promoter, prof. dr. Govaerts of the Catholic University of Leuven has been of incalculable value to this paper by guiding and assisting me in my efforts. My fellow students at the MEPP programme I thank for discussing with me and distracting me. My parents, Guy and Danielle, are to be congratulated for enduring me all those years and are obviously to be thanked for ensuring my very existence. My love, Siem, has been invaluable for standing by me and supporting me in times of high and low need. He has been an undying source of encouragement. And, last but not least, my brother, Yannic, reminded me of the ‘bear’ necessities of life at times when needed most.

However, I do not believe in the randomness of an endeavour like this, as this thesis is the outcome of a process that goes beyond the actual paper. From birth, I have been influenced by other people and random events – experiences that all have had their weight on the development of my own ideas and beliefs. Hence, I would like to sincerely thank everyone who assisted me in this journey and all who have given me the chance to do so.

Thank you.

## **LIST OF FIGURES**

BOX 3.1. National Voting Weights in the Council 46

## LIST OF ABBREVIATION

CAP	Common Agricultural Policy
CFSP	Common Foreign and Security Policy
CM	Community Method
COREPER	Committee of Permanent Representatives
CSDP	Common Security and Defence Policy
EAEC	European Atomic Energy Community
EC	European Community
ECJ	European Court of Justice
ECP	Enhanced Cooperation Procedure
ECSC	European Coal and Steel Community
EDC	European Defence Community
EEC	European Economic Community
EMS	European Monetary System
EMU	Economic and Monetary Union
EP	European Parliament
EPC	European Political Cooperation
EU	European Union
EUROPOL	European Police Office
IGC	Intergovernmental Conference
IM	Intergovernmental Method
JHA	Justice and Home Affairs
MS	Member State
OEEC	Organisation for European Economic Cooperation
OMC	Open Method of Cooperation
PSC	Permanent Structured Cooperation
QMV	Qualified Majority Voting
SEA	Single European Act
SEM	Single European Market
UK	United Kingdom
US	United States

## **EXECUTIVE SUMMARY**

The aim of this thesis is to analyse the methods of cooperation that were used throughout Europe's integration process. Our main message is that from the Second World War onwards, the states of Europe have changed their attitude towards crisis solving from a policy of confrontation to a policy of cooperation, the result of which is known today as the European Union. Throughout that process of integration and cooperation, the participating countries have had varying ideas of how to deal with that process and how to engage in it, which sometimes caused political disputes between two distinctive approaches: intergovernmentalism and supranationalism. According to the intergovernmental approach, the main actors should be states and all decisions at the European level have to be taken by unanimity or consensus. The role of the European institutions is diminished to a minimum. The supranational perspective, on the contrary, believes that the best way of dealing with integration is to give a big role to those institutions and curbing the veto power of each individual member state, focussing on the institutional balance between Council, Commission and Parliament.

Long has the Union, and the academic debate on integration, been stuck in this dichotomy. Recently, however, a new approach can be discerned: flexible integration. This approach involves less rigid methods of cooperation and is based upon identification of policy targets that member states are requested to meet by benchmarking and peer review. Some would argue that these developments announce a new era of intergovernmentalism and strong member state

control. However, we would not support such a conclusion. We believe that these developments prove the typical European flexibility to deal with crises, as member states were tired of both the intergovernmental and supranational method and therefore invented something new that is workable for all. That is what European integration is all about: finding a way through which to overcome historical enmity, address common problems and strengthen European stability in an institutionalised way. If there is one thing we learned, it is that integration is not about creating institutions as big, grand and powerful as possible, but about jointly dealing with common crises.

We have grouped the different methods of cooperation into three major categories: intergovernmental methods, supranational methods and flexible methods. In the analysis, the historical evolution of each of these categories has been described and their value has been assessed in the light of recent developments. Many issues relating to the different methods have been studied: the evolution of Commission and Parliamentary involvement in the policy- and decision-making process, the evolution of the Council of Ministers and the European Council, the importance of Intergovernmental Conferences, grand projects outside the treaty framework (e.g. Schengen), and procedures of closer cooperation and open coordination. The analysis of all these issues has made us conclude that the EU is an ever evolving organisation that constantly reinvents itself based not only upon that what is desirable, but also upon that what is feasible within a historical and political context.

## INTRODUCTION

Throughout the European integration process, various methods of cooperation have been established. Each of these methods was created as a response in order to make cooperation within Europe better adapted to new situations, and each of these methods has had a varying influence on the integration process. Some have pushed the European states to accept that in certain areas they will not have the last word against European Union (EU) institutions, while others have confirmed the central role of national governments in decision-making processes. These methods have different forms, functions and backgrounds. An analysis of these various methods of cooperation used in the European integration process is therefore a useful exercise and the main subject of the thesis.

One of the key issues in the integration project and research on the topic is sovereignty transfer, or the tension between supranational institutions and national governments (MSs).<sup>1</sup> This matter is of vital importance as the transfer of sovereignty lies at the very heart of any integration effort and it is therefore essential to understanding the European integration process and the different methods used therein.<sup>2</sup> Therefore, the extent to which the several methods of cooperation pushed the integration process towards either a supranational or an intergovernmental project will be a recurring feature in the thesis.

Sovereignty indicates “the legal capacity of national decision-makers to take decisions without

---

<sup>1</sup> Nugent (2010), p. 428; Rosamond (2000), p. 1; Hooghe and Marks (1997), p. 2.

<sup>2</sup> Rosamond (2000), pp. 32-34.



being subject to external restraints.”<sup>3</sup> However, “no government in Europe remains sovereign in the sense understood by diplomats or constitutional lawyers of half a century ago. Within the (...) EU mutual interference in each other’s domestic affairs has become a long accepted practice” and supranational institutions have taken on many tasks that used to belong to national governments.<sup>4</sup> Yet, although supranationalism proved to be a durable solution to many problems, national interests remained dreadfully important: from its very beginning European integration was appreciated by the MSs in function of their national interest.<sup>5</sup> Integration created a “new and complex polity, but most analysts (...) find it difficult to factor the state out of their frameworks completely.”<sup>6</sup>

Nonetheless, in the second half of the twentieth century, the states of Europe witnessed a remarkable transformation. The focus of national governments shifted from high politics, concerned with safeguarding the state, to low politics, concerned with the welfare of the population. At the same time, a shift in ways of communication and cooperation occurred: “the traditional diplomatic means of interstate communications (...) have declined in importance as new channels and processes have become established. (...) Contacts range from the *ad hoc* and informal to the regularised and highly structured.”<sup>7</sup>

---

<sup>3</sup> Nugent (2010), p. 428.

<sup>4</sup> Wallace (1999), p. 503.

<sup>5</sup> Dinan (2004), pp. 321-322; Milward (2000); as referred to in Nugent (2010), p. 15.

<sup>6</sup> Rosamond (2000), p. 130.

<sup>7</sup> Nugent (2010), pp. 6-7.

Major catalysts in this transformation were the Second World War and the Cold War. Both the memory of WWII and the confrontation with the emerging Cold War created forces that made interstate cooperation in Western Europe not only possible but also desirable, due to the contemporaneous idea that “political, economic and cultural unity of Europe would be both an alternative to nationalism and a cure for the political and economic decline. [*translated*]”<sup>8</sup> A good account of this new European identity is given by Ian Manners, who argues that the “three factors of peace, unity and independence provided the greatest motivation for European integration.”<sup>9</sup>

Indeed, by the start of the 1950s, European cooperation was almost seen as a necessity, as several issues troubled Europe: the German Question, the increasing hostility between the United States (US) and Soviet Russia, and a growing sense of economic interdependence.<sup>10</sup> So although traditional power-politics were far from abolished, there was a growing sense of unity and political will to cooperate within Europe. For Jean Monnet, one of the founding fathers of the European project, this sense was so strong that he was convinced that “a start would have to be made by doing something more practical and more

---

<sup>8</sup> Boxhoorn and Jansen (2002), p. 52.

<sup>9</sup> Looking back at WWII, he refers to the ‘bull myth’, which tells the story of how “the forces of nationalism raped Europe, while at the same time Europe was (...) assisted in a journey from nation-states to a more post-national constellation.” Looking in the face of the Cold War, Manners talks of a ‘third force myth’, which was “formulated more as a desire for a peaceful, united continent separating the two superpowers.” See: Manners (2010), pp. 70-71.

<sup>10</sup> For a more extensive account of this period, please look at Nugent (2010), Dinan (2004) and Boxhoorn and Jansen (2002).

ambitious. National sovereignty would have to be tackled more boldly and on a narrower front.”<sup>11</sup>

This resulted in the creation of the European Coal and Steel Community (ECSC). On April eighteenth 1951, France, Italy, Belgium, Luxemburg, West-Germany and the Netherlands signed the Treaty of Paris, by which French and German coal and steel industries would be put under a singly supranational authority. This would not only boost the economic development of both countries, but also solve the political deadlock of Franco-German enmity.<sup>12</sup> Typical for the whole of the European integration process, however, in order to get all countries aboard, some intergovernmental concession were made and a balance was struck between a supranational High Authority and an intergovernmental Council of Ministers: the High Authority was given strong independent powers, while the Council was supposed to harmonise the actions of the institutions and the MSs.<sup>13</sup>

Mid the 1950s, the ECSC was perceived a success and the European states were eager to repeat the winning formula of cooperative action.<sup>14</sup> Initiatives to create a European Defence Community and a European Political Community failed, however, because of enduring concerns over sovereignty and

---

<sup>11</sup> Monnet (1978), p. 274; as referred to in Nugent (2010), p. 19.

<sup>12</sup> Boxhoorn and Jansen (2002), pp. 106-108.

<sup>13</sup> Amongst the powers of the High Authority were competences “on the prohibition of subsidies and aids, decision on whether or not agreements between undertakings were permissible, and action against restrictive practices”, while the Council only had limited supervision over the High Authority. See: Dinan (2004), p. 51; Nugent (2010), p. 22.

<sup>14</sup> Nugent (2010), p. 22; Dinan (2005), p. 46.

distrust between nations.<sup>15</sup> The unsuccessful outcome of these projects in spite of integrative dynamism generated the idea that further integration would be impossible to attain: it was clear that “quasi-federalist approaches in politically sensitive areas would meet with resistance”<sup>16</sup>. Consequentially, integrationists focussed on an agreeable *economic* integration project. The result showed some years later, when on the 25<sup>th</sup> of March 1957 the same six European countries signed the Treaties of Rome, establishing two new European communities: the European Atomic Energy Community (EAEC) and the European Economic Community (EEC).

This short account of the general alteration of the European idea, the creation of the ECSC and the collapse of high politics projects is a good framing of what the dissertation is all about. For one, it illustrates the rapid transformation of post-war Europe towards a region where cooperation/integration is seen as the best solution to disputes and the transfer of sovereignty considered the price to pay for peace and prosperity.<sup>17</sup> Indeed, “a blend of supranationalism and intergovernmentalism characterised the functioning of the Community from the beginning.”<sup>18</sup> Therefore, the trade-off between supranationalism and intergovernmentalism is a recurring feature not only in the European integration process, but also in this thesis.

---

<sup>15</sup> Dinan (2005), pp. 58-59.

<sup>16</sup> Nugent (2010), p. 23; Dinan (2005), p. 63.

<sup>17</sup> Dinan (2004), p. 76.

<sup>18</sup> Dinan (2004), p. 57.

## **QUESTIONS RAISED**

This first chapter will present the methodological framework of the paper, the key research questions and the theoretical foundation of the paper. The idea is to present a methodological, conceptual and theoretical outline that would allow us to better understand the character of the various methods of cooperation and integration.

### **1. Formulation of the Question**

The main issue of this thesis revolves around the various methods of cooperation in the European integration project and the levels of sovereignty transfer therein. These assertions provide us with two issues that merit analysis: the form of the methods and the logic of the methods. There is a large variation in ways to integrate and cooperate both in a practical and theoretical sense. It is therefore a useful exercise to have a closer look at how these different interpretations are expressed. My core research question thus is: what form do these methods of cooperation take on and why is this so? This involves analysing the function, use and background of the various methods of cooperation.

The question is supplemented by one grand question that also forms the title of the paper: *experientia docet*? What have we learned from our experiences? We feel it is important not only to describe – although that is the main focus here – but also to interpret and provide prospects to the future. Rosamond ponders on the same question in stating that “perhaps the experiment of the six original member-states could be shown to be part of a trend

that would come to affect other parts of the world. Perhaps, therefore, universal dynamics of regional integration could be revealed. Perhaps theorists could lead creative policy-makers into the design of rational institutions to secure better forms of governance in a modern, interdependent world.”<sup>19</sup> Although this dissertation has neither the ambition nor the capacity to deal with such a broad objective, one of our purposes is indeed to end the paper with a hint to the future.

## **2. Structure and Methodology**

Now we know what aim the thesis has, the next step is to clarify how we are planning to do this. In order to for us to answer the above stated questions, we will make use of mostly secondary literature and theoretical work on European integration and cooperation. We will also provide our findings with illustrations taken from e.g. EU policies or historical treaty making processes. The use of these sources will suffice to answer the needs of the dissertation, as there is no use in analysing statistics and other quantitative resources. Also, taking interviews or surveys would be more problematic than helpful, as the thesis is focussed on the integration process at large and the general workings of the EU. Where needed and useful, quantitative material will be used to clarify our account.

The thesis will further be divided into three chapters. This first chapter is the methodological and theoretical foundation of the dissertation. We feel it is important to clearly chart the different possibilities in

---

<sup>19</sup> Rosamond (2000), p. 1.

interpretation of the EU and the integration process, in order to better understand the position and rationale of this dissertation. In the words of Rosamond, it is necessary to be “constantly theoretically self-aware, conscious that theoretical perspectives – wittingly or unwittingly – inform our approach to the world that we observe.”<sup>20</sup>

The third chapter goes deeper into the nature of the different methods themselves and will deal with their functioning, usage and context. Three questions constitute the lead motives of the chapter: how do the various methods work, where are they used and why is this so? The methods are placed in their historical context and examined in order to present a clear image of their operation and function. We set up a framework that shows the methods’ different levels of sovereignty transfer and their either supranational or intergovernmental character. The conclusion finishes the dissertation with a short summary of our general findings and a normative note, considering what our past experiences have taught us and what to the future might bring us.

### **3. Theories of Integration and Cooperation**

Presenting all possible theories is way beyond the means of the dissertation. The idea is rather to present a brief review of the most important theories on European integration and to give a flavour of the various interpretations of the European project. Our general approach to EU theory is that, in the words of Warleigh, it is necessary to strive towards a “framework approach, in which individual theories

---

<sup>20</sup> Rosamond (2000), p. 3.

are assigned different functions (...) no theory is sufficient in itself, but taken together they offer an understanding of the Union”.<sup>21</sup> The early theorists on European integration were interested not only in the integration project itself and the role of the Westphalian nation-state therein, but also in the newly emerging system of inter-state cooperation.<sup>22</sup> From this, two grand theories emerged: neofunctionalism and intergovernmentalism.

Neofunctionalism was mostly developed by Ernst Haas and Leon Lindberg in the late 1950s and early 1960s. Unlike traditional international relations theorists, these scholars believed that the main actors in the integration process were not the nation-states, but the non-state actors – most importantly the European institutions.<sup>23</sup> This theory is strongly based upon the economic success of the early integration process and revolves around the concept of *spill-over*, which refers to “the way in which the creation and deepening of integration in one economic sector would create pressure for further economic integration within and beyond that sector, and greater authoritative capacity at the European level.”<sup>24</sup>

However, with the slowdown of the integration process during the 1960s neofunctionalism lost much of its empirical base as the theory proved unable to explain the revival of intergovernmental approaches.<sup>25</sup> The most important scholar in this intergovernmental movement was Stanley Hoffman, who opposed the neofunctionalist ‘logic of

---

<sup>21</sup> Warleigh (2000), p. 174.

<sup>22</sup> Jachtenfuchs (2002), p. 652; Rosamond (2000), p. 1.

<sup>23</sup> Hix (2005), p. 15.

<sup>24</sup> Rosamond (2000), pp. 59-60.

<sup>25</sup> Hix (2005), p. 15.



integration' and proposed a 'logic of diversity' that "suggests that, in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance, to the uncontrolled uncertainty of the untested blunder".<sup>26</sup> The background of the 1960s, when French president De Gaulle forcefully defended nationalist interests and the 1966 Luxembourg Compromise put the principle of intergovernmentalism above that of supranationalism, provided this new school with ample empirical evidence.<sup>27</sup>

The academic world was long caught in the dichotomy between neofunctionalism and intergovernmentalism. However, new attempts to theorise the EU and the integration project emerged, crossing the borders of grand theory, and the "clear embeddedness in one single sub-discipline"<sup>28</sup> was lost. Some scholars focussed away from integration studies towards international interdependence studies. Others were convinced that "European integration should be studied not just through a traditional international relations approach but also, and arguably more so, through other subdisciplines of political science."<sup>29</sup>

Theorising work on the EU and the integration project accordingly split up into three trends: those who try to conceptualise the organisational nature of the EU, those who theorise the nature of the integration process and those who

---

<sup>26</sup> Hoffman (1966), p. 882; as referred to in: Hix (2005), p. 15; Rosamond (2000), pp. 78-79.

<sup>27</sup> Rosamond (2000), p. 75.

<sup>28</sup> Jachtenfuchs (2002), pp. 651-652.

<sup>29</sup> Nugent (2010), p. 437.

deal with “particular aspects of the functioning of the EU”.<sup>30</sup> Besides the classical integration theories, comparative politics was interested in politics, and the governance approach in policy outcomes.<sup>31</sup> These newly emerging theories are often called ‘middle-range’ theories, as contrary to the old ‘grand’ theories. Both grand theories have been subject of extensive debate and thorough reassessment. Neofunctionalism knew resurgence in the 1980s with the revival of supranational methods and also formed the base for many new perspectives to emerge such as the supranational governance theory.<sup>32</sup> In the intergovernmentalist camp we see the rise of Moravcsik and liberal intergovernmentalism.<sup>33</sup> The grand theories can thus no longer dominate the academic debate on integration. The focus of the thesis, however, lies with the larger integration process and the general nature of the EU and we will therefore make use mostly of neofunctionalism and intergovernmentalism.

However, this thesis has no ambition to become an implicit defence for one particular school and we intend to make use of a framework approach, taking perspectives and insights from different school

---

<sup>30</sup> Nugent (2010), p. 419.

<sup>31</sup> Jachtenfuchs (2002), p. 651.

<sup>32</sup> Nugent (2010), p. 432.

<sup>33</sup> Traditional state-centred scholars have tended to “downplay the significance of politics *within* nations for the operation of politics *among* nations.” Moravcsik, taking this critique into account, has come up with two levels pushing the integration process: a supply side and a demand side. “While the demand side of the process highlights the advantages of cooperative activity and the coordination of policy, the supply side demonstrates the restricted range of possible integration outcomes.” See: Rosamond (2000), pp. 135-137.

to explain different things. The grand theories of intergovernmentalism and neofunctionalism will form the theoretical foundations of this paper, but other theories are definitely interesting and useful for particular aspects but they cannot be considered to be the base-theories of this dissertation.<sup>34</sup>

#### **4. Conceptual Definitions and Limitations**

In the previous sections a variety of concepts have been used that are often loaded terms. The way we interpret and define some of those concepts also has an impact on the scope and depth of the paper – and is intrinsically linked with its limitations. The first issue is: what is European integration? We would agree with Dinan's 'ever closer union' perspective, which sees European integration as "the EU's extraordinary growth from an association of six member states in the immediate aftermath of World War II to a union of twenty-five member states (and rising) in the early twenty-first century."<sup>35</sup> This definition basically includes everything that is concerned with the development of the EU, but obviously also has its

---

<sup>34</sup> For example the regime theory, which stresses the importance of patterns of behaviour of states and other organisations. A regime is "a set of integrated principles, norms, rules, procedures and institutions that actors create or accept to regulate and coordinate action in a particular issue of international relations." Although the usefulness of this theory for EU studies has been subject of heavy debate, we would agree with the view that "the EU is embedded within a regime and that regime theory could help to unravel the nature of the rules and patterned behaviour that constitute the regime". See: Downie (2005), p. 64; Rosamond (2000), p. 168.

<sup>35</sup> Dinan (2005), pp. 7-8. Of course, by now we already are at 27 – and rising.

limitations. One of the major limitations is its focus on the EU and neglect of other forces of integration that exist or have existed in Europe – e.g. the NATO project. Only those processes that directly link to the development of the EU are subject of the thesis.

We would further agree with those scholars who see European integration efforts as endeavours by states to jointly deal with problems that affect all or most of them. Verdier and Eilstrup-Sangiovanni, for example, see European integration as a ‘solution to war’, while Kühnhardt observes that crises are the motors of the integration process.<sup>36</sup> Dinan explains this very clearly:

*“Why (...) does such an elaborate system exist? The answer, quite simply, is that it developed in response to national governments’ efforts to increase their countries’ security and economic wellbeing in an increasingly interdependent and competitive global environment. Europe has a history of instability and war; tying countries together politically and economically is a way to consolidate democracy and resolve the traditional causes of conflict.”<sup>37</sup>*

‘European integration’ is thus defined as the process of widening and deepening cooperative efforts in order to increase the joint wellbeing of the participating states. Nugent elaborates on this issue: he defines the deepening of the EU as the “ever more intense nature” of the integration process, referring to the expansion of EU policy areas, while the widening of the project refers to the “growing geographical

---

<sup>36</sup> Verdier and Eilstrup-Sangiovanni (2005); Kühnhardt (2006).

<sup>37</sup> Dinan (2005), pp. 1-2.

spread of the EC/EU via the accessions of new member states.” The deepening and widening of the European Community (EC) and the EU thus refer to, respectively, the vertical and horizontal aspects of the integration project.<sup>38</sup> Accordingly, we define the ‘methods of cooperation’ as the ways in which countries are tied together in this elaborate system and engage in the process.

A last threshold is the omnipresent issue of sovereignty (cf. *supra*). Customarily, the transfer of sovereignty is seen from the perspective of the nation-state and understood as the intrusion of external actors in domestic national affairs.<sup>39</sup> However, in this paper the issue of transfer is read from the perspective of the supranational organisation and understood as the quantity in which nation-states have decided to assign competences to that organisation. Therefore, we will not deal with the amount of direct EU involvement in policies of the MSs, we will deal with the decisions of the MSs to participate in supranational integration and transfer competencies to the EU.

---

<sup>38</sup> Nugent (2010), p. 33.

<sup>39</sup> However, as explained above, sovereignty in its traditional sense of the absence of external pressure on domestic decisions has long been gone within Europe. See: Nugent (2010), p. 428; Wallace (1999), p. 503.

## A VARIETY OF METHODS

This third chapter will go deeper into the nature of the different methods of cooperation. We will work around three central questions: how do the various methods work, where are they used and why is this so? The first step in answering these questions is listing the methods that will be discussed. In a second step we will have a closer look at the workings of these methods and place them in the historical context in which they were established.

### 1. Pressure for Integration

Before continuing, we would like to draw attention to the fact that the European states are under multiple pressures for integration: they do not always want to integrate, but sometimes both internal and external pressures push integration forward. One of the more important pressure is the spill-over effect: MSs cannot fully enjoy the advantages of integration in one domain unless there is cooperative action in other domains as well.<sup>40</sup> This is what we call internal pressures: demands for further integration emanate from the workings within and amongst European states. Nevertheless, spill-over has its limits: even when integration in a certain area would seem desirable, actual action in that direction heavily depends on MSs' perception of and capacity to operationalise the decisions made.<sup>41</sup> So although the spill-over effect is real and important, the MSs still have a great influence on the process.

---

<sup>40</sup> Rosamond (2000), pp. 59-60.

<sup>41</sup> Nugent (2010), pp. 280-281.

However, arguably as important are the external pressures for integration. An example of this is the active role the US took in pushing the European states into cooperation in the 1950s, both ideologically and practically through the Marshall Plan. Without going any deeper into this, it is clear that without American pressure the European states would have been neither able nor willing to embark on this new adventure.<sup>42</sup> There also are more abstract discourses of globalisation and interdependence. Many scholars argue that increased international economic interdependence fuels integrative and cooperative efforts all over the world and the argument that Europe needs to integrate further in order to withstand global economic demands or to be taken serious as an important international actor has more than once been key in convincing reluctant national governments.<sup>43</sup>

Both internal and external pressures are thus important in understanding the integration project as a whole due to their significance “in helping to persuade European states to transfer policy responsibilities to a ‘higher’ level in an attempt to shape, manage, control, take advantage of, and keep pace with the modern world.”<sup>44</sup>

## **2. Listing the Methods**

According to the European Convention that drew up the Constitutional Treaty the EU has about 28

---

<sup>42</sup> Boxhoorn and Jansen (2002), pp. 65-70.

<sup>43</sup> Rosamond (2001), pp. 179-185; Dinan (2005), p. 205; Kühnhardt (2002).

<sup>44</sup> Nugent (2010), p. 279.

different procedures through which to cooperate.<sup>45</sup> It is thus rather impossible to give an in-depth analysis of each and every one of them. Our scope is quite broad and we do not wish to focus upon one particular aspect of one particular method used in the integration process. Therefore, we will try to categorise the different methods into a limited number of groups, representing their archetypes.

Several factors have to be taken into account when trying to categorise the multitude of cooperation procedures, practices and formulas. Looking at each policy area individually, however, is not practical for this paper, and neither is classification based solely on inclusion in the treaties, as Nugent points out that “treaty provision is no guarantee of policy development, [and] lack of provision is no guarantee of lack of development.”<sup>46</sup> Instead, since one of the key issues in this thesis is the way in which sovereignty is transferred to the European level, it will also be the basis for categorisation.<sup>47</sup> Where MSs have wanted to retain national sovereignty, integration works based upon intergovernmentalism; where sovereignty was not considered that precious, cooperation works through supranationalism. All is thus based upon the willingness of states to give up independence.

Consequently, the methods of cooperation that have been used throughout the integration process

---

<sup>45</sup> Nugent (2010), p.294.

<sup>46</sup> Nugent (2010), p. 280.

<sup>47</sup> Nugent uses a similar system and an important factor in his work is the degree to which policy competences rely on EU law. Where policies rely on EU law, a large amount of sovereignty has been transferred to the European level. See: Nugent (2010), pp. 282-284.



have been “as much about what is possible as what is desirable.”<sup>48</sup> Only there where the MSs saw advantages in empowering the European level could agreement be found on expanding its policy competences. The importance of the issue of sovereignty transfer in the European integration process can thus not be overestimated and forms an upright basis for classifying the methods of cooperation.

With this knowledge in the back of our heads, we have set up three categories that group the different cooperative methods, reflecting the issues explained above. Ranging from a high amount of sovereignty transferred to a low amount of sovereignty transferred, these three groups involve:

1. *Community Methods – with a lot of sovereignty transferred to the European institutions, which are the main motors for cooperative action.*
2. *Intergovernmental Methods – with hardly any sovereignty transferred, the main drive for cooperative action lies with the MSs at the national level.*
3. *Flexible Methods – a combination of supranational integration and intergovernmental cooperation, based upon voluntary action and differentiation.*

These categories represent the archetypes to which all cooperative methods relate. In the remainder of this chapter we will go deeper into the details of these different methods.

---

<sup>48</sup> Nugent (2010), p. 287.

### 3. The Community Method

We start with explaining the Community Method (CM) because the shifting importance of the European institutions is typical for the wider integration process. The CM involves those cooperative procedures where the EU's supranational institutions, i.e. the European Commission and the European Parliament (EP), are heavily involved. From the very beginning of the integration project European states have created supranational and intergovernmental institutions, transferring sovereignty to them in order to manage certain policy areas. The Founding Treaties established "a system of joint interdependence management in order to secure economic growth and political stability. This system necessitated both cooperation between the member states and the existence of proactive transnational institutions to achieve optimal efficiency."<sup>49</sup> However, the role of these institutions evolved significantly over the years, ever adapting to new circumstances.

#### *a. Origins of the Community Method*

Treaty of Paris already created a supranational entity, a High Authority with extensive competences, but the Treaty of Rome established the institutional setting we know today.<sup>50</sup> The Rome Treaty created four grand institutions: a Commission, a Council of Ministers, an Assembly and a Court of Justice. The Commission would be the main policy initiator and guardian of policy implementation. However, with

---

<sup>49</sup> Warleigh (2000), p. 184.

<sup>50</sup> Tsebelis and Kreppel (1997), p. 8.

only negligible decision-making powers, this Commission was far less able to impose policy upon the MSs than the High Authority. The final decision-making power lay with the intergovernmental Council, able to take decisions either by unanimity or Qualified Majority Voting (QMV). The Assembly, the predecessor of the EP, was a weak institution with merely advisory and very limited supervisory powers.<sup>51</sup>

Rome's outcome was "a compromise between the pure intergovernmental cooperation of the OEEC [Organisation for European Economic Cooperation] and the strongly supranational character of the ECSC"<sup>52</sup>. Indeed, from the Treaty of Rome onwards, the Commission and the Court were institutions that could not be ignored, but ultimately the decision-making powers were still in the hands of national representatives. However, "the ability of the Commission to manipulate the eventual legislative outcomes of the Community decision-making process through strategic action was built into this balance. By allowing the Commission to initiate legislation while requiring unanimity in the Council for any amendment of a Commission proposal (...), the Rome Treaty established the Commission as conditional agenda-setter"<sup>53</sup>.

The first decades of European integration thus set the stage for the founding of a CM in which the supranational institutions had a comfortable position alongside the intergovernmental Council and the MSs. The dynamics within this institutional triangle – Commission, Council and Parliament – ensured that

---

<sup>51</sup> Nugent (2010), p. 26.

<sup>52</sup> Tsebelis and Kreppel (1997), p. 8.

<sup>53</sup> Tsebelis and Kreppel (1997), p. 8.

legislation would be adopted through interaction between institutions and MSs – which is the essence of the CM. However, “the Treaty did not set out a single procedure to govern this interaction; instead the procedure to be used was specified in each individual article”.<sup>54</sup> Consequently, the balance of the Rome Treaty would be trialled and tested and subject to many adaptations “in response to changing needs, demands and circumstances” – most important in the areas of Parliamentary involvement and Council voting procedures.<sup>55</sup>

Our focus here is twofold: we will describe the mounting areas of competence of the Commission and the increased involvement of the EP in the policy-making process. These two elements are crucial to the evolution of the CM, as they are indicative for the varying importance and use of that method. The increasingly important role of these two institutions is also symptomatic of the wider integration project, as it shows that integration can be pushed by the institutions themselves and not only by the MSs, “indicating a certain fluidity and strength in Union institutions which is beyond the confines of an intergovernmental regime whilst lacking the formality of a federation.”<sup>56</sup>

---

<sup>54</sup> Hix (2005), p. 76.

<sup>55</sup> Nugent (2010), p. 294. The evolution of QMV is indicative for intergovernmental concerns of the member states and their desire to retain national sovereignty. For this reason, the debacle around voting procedures in the Council will be dealt with in the next section.

<sup>56</sup> Warleigh (2000), pp. 198-190.

*b. Parliamentary Involvement*

The EP, which saw its first direct elections only in 1979, has had a very hard time putting itself on the map in the policy-making process. The Founding Treaties did not give the Parliament's predecessor, the Assembly, much credit and "for long after it was first constituted as the Assembly of the European Coal and Steel Community, the European Parliament – the title it adopted for itself in 1962 – was generally regarded as a somewhat ineffectual institution."<sup>57</sup> Indeed, "to its supporters, the Parliament is the voice of the people in European decision-making, but to critics it is little more than an expensive talking shop."<sup>58</sup> Nevertheless, the EP has succeeded in steadily increasing its involvement in the legislative process and hence also its general influence.

The EP always made the most of its limited powers and used them to the full. Most authors agree that the EP's functions can be divided in three large groups: legislative functions, supervisory functions and budgetary functions. Today, its supervisory powers are particularly strong regarding the Commission, with the EP organising hearings on individual Commissioners and being able to cast a vote of no-confidence on the Commission as a whole – a powerful tool that, for example, made the Santer Commission step down in 1999 before a vote was even cast.<sup>59</sup> Its supervision over the Council, however, is rather weak, the only mechanisms available being the submission of written and oral

---

<sup>57</sup> Nugent (2010), p. 179.

<sup>58</sup> Bomberg, Cram and Martin (2003), p. 56.

<sup>59</sup> Hix (2005), p. 61.

questions in an attempt to open a debate or discussion.<sup>60</sup>

Thanks to important pecuniary treaty amendments in 1970 and 1975, the EP also got very strong budgetary powers.<sup>61</sup> These amendments gave the EP the power to modify compulsory expenditures (although the final decision remained with the Council), amend non-compulsory expenditures in its own right and reject the proposed budget as a whole in cooperation with the Council. The Lisbon Treaty further bolstered these powers by abolishing the distinction between compulsory and non-compulsory expenditure, thereby ensuring full equality between Parliament and Council as the budgetary authorities.<sup>62</sup>

Much more awe-inspiring are the evolutions in the EP's legislative powers. The EP originated as an assembly that had some vaguely described advisory functions, but evolved into a parliamentary institution whose participation is acknowledged by all players in every step of the legislative process in almost all policy areas. The importance of this evolution cannot be overestimated, as the institutional triangle finally became a real triangle and not just a Commission-Council tête-à-tête. Nugent sees several ways in which the EP can influence legislation. First, it can exchange ideas with the Commission on future legislation, either in the pre-proposal stage, or on its own initiative when putting forward certain issues it believes the Commission should deal with. Second, it

---

<sup>60</sup> Bomberg, Cram and Martin (2003), p. 57; Dinan (2010), p. 256, 321.

<sup>61</sup> These were the 1970 Treaty Amending Certain Budgetary Provisions of the Treaties and the 1975 Treaty Amending Certain Financial Provisions of the Treaties.

<sup>62</sup> Dinan (2010), pp. 253-254..

can pronounce its opinion on the Commission's annual legislative programme, thereby indirectly influencing it. Third, it can also favour certain policies by ways of budgetary support. Fourth and most importantly, "the EP's views must be sought in connection with important/significant/sensitive legislation, with its powers varying according to the legislative procedure applying."<sup>63</sup> It are these procedures that are the focus of our interest here.

In the first decades of the European integration process the EP was active under what was called the consultation procedure. The consultation procedure is "a single reading procedure in which the Council is the sole final decision-maker."<sup>64</sup> Under this procedure, the EP had no direct influence whatsoever: "the Commission made proposals, and Council decided upon those proposals after taking into account the 'opinion' of Parliament"<sup>65</sup>. The EP thus gets to read the proposal once and then gives an opinion that could very well be completely ignored by the Council. The only real power the EP has under this procedure is the 'power of delay'. Since the Council is obliged to ask and await an EP opinion before it can make its decision, the EP has the power to stall the process by refusing to give its opinion in case it is (obviously) unhappy with the content of the proposal.<sup>66</sup> The EP made effective use of this power in 1989, when it threatened to delay the start of the first phase of the

---

<sup>63</sup> Nugent (2010), p. 181.

<sup>64</sup> Nugent (2010), p. 310.

<sup>65</sup> Earnshaw and Judge (1999), p. 97.

<sup>66</sup> The Council often disregarded even this limited power up to the 1980 Isoglucose Court ruling, when the European Court of Justice (ECJ) formally forced the Council to await an EP opinion before deciding upon a proposal. See: Earnshaw and Judge (1999), p. 97.

Economic and Monetary Union (EMU) project because neither the Commission nor the Council took its request for a stronger role for the committee of central bank governors seriously. As a result, “anxious not to jeopardise the EMU timetable, the Commission accepted the relevant EP amendments.”<sup>67</sup> The consultation procedure originally applied to all policy areas, as it was the only procedure available. Yet with the development of new procedures that expand the EP’s influence, this original procedure is now used in only a limited number of (important) fields, such as agricultural policies and policies relating to justice, home affairs, asylum, immigration and citizenship, and also aspects of fiscal and social policies.<sup>68</sup>

The first amelioration of the EP’s situation occurred in 1987, when the Single European Act (SEA) introduced two new procedures: cooperation and assent. The assent procedure required approval by an absolute majority of the Parliament before the Council could decide anything. Although the EP could not make any amendments through this procedure, it did get some sort of veto power over Council actions – and “by having the power to say ‘no’ to proposals the EP also has the power to indicate to what it would say ‘yes’.”<sup>69</sup> Its use, however, is very limited, as the assent procedure “is not used for ‘normal’ legislation, but is reserved for special types of decision”<sup>70</sup> and only applies to fundamental issues such as international treaties, civil rights and breaches

---

<sup>67</sup> Hix (2005), p. 78.

<sup>68</sup> Bomberg, Cram and Martin (2003), p. 59; Nugent (2010), p. 310.

<sup>69</sup> Nugent (2010), p. 319.

<sup>70</sup> Nugent (2010), p. 319.



of core EU principles by MSs, EU enlargement, the multiannual financial framework and the cohesion fund.<sup>71</sup> This procedure was kept in the Lisbon Treaty, but is now called the ‘consent’ procedure.

The cooperation procedure basically added a second reading to the consultation procedure. When the Commission proposes legislation, the proposal goes to the EP that gives its opinion about it and possibly makes amendments; the proposal then goes to the Council that sends a ‘common position’ on the proposal back to the Parliament for a second reading; the EP then has three months time for the second reading in which it can do three things: it can accept the common position as it is (or fail to come to a decision), it can reject it by an absolute majority or it can further amend it by an absolute majority; if rejected, the text falls unless the Council unanimously overrules the EP’s decision within three months; if the EP amendments are supported by the Commission, the Council can either accept the proposal by QMV or amend it again by unanimity within three months; if the EP amendments are not supported by the Commission, the Council can only reject or accept the proposal by unanimity, also within three months.<sup>72</sup> According to the SEA, this procedure was to be used in only ten treaty articles, “but these included most areas of the single market programme, specific research programmes, certain decisions relating to the structural funds and some social and environmental policy issues. Together these constituted one third of

---

<sup>71</sup> Bomberg, Cram and Martin (2003), p. 59; Hix (2005), p. 78; Nugent (2010), p. 319.

<sup>72</sup> Earnshaw and Judge (1999), pp. 97-98.

all legislation” and so this procedure was widely used in the legislative process.<sup>73</sup>

Furthermore, the cooperation procedure did not only strengthen the EP’s position, it also increased the interactions between the different corners of the institutional triangle, thereby bolstering supranational activity and the CM. Nevertheless, this procedure also had a significant weakness: the Council could still overrule the EP and held the final veto power. Indeed, Earnshaw and Judge argue that “perhaps the true importance of the SEA and the cooperation procedure is that they transformed the Council-Commission dialogue into a triologue. In other words, the cooperation procedure ‘hyphenated’ the relationship between Parliament and the other two institutions. But Parliament still remained, constitutionally, the ‘outsider’”.<sup>74</sup>

The supranational aspect of the integration process was thus given a boost by this new procedure, adding the EP as an important player to the game. Nonetheless, the Council could in the end still overrule Parliamentary. To overcome this flaw and further increase the EP’s powers, the 1993 Maastricht Treaty introduced the co-decision procedure, allowing the EP a third reading and giving it a veto over the Council. The procedure was further elaborated in the Amsterdam and Nice Treaties, which extended its applicability to almost all areas where the former

---

<sup>73</sup> The cooperation procedure considerably strengthened the Parliament’s position and the EP evidently jumped on this opportunity, becoming a very active player indeed: by December 1993 the EP issued some 5500 amendments in total, with about 49% of those eventually having been accepted by the Council. See: Hix (2005), p. 78; Nugent (2010), pp. 308-309; Earnshaw and Judge (1999), p. 102.

<sup>74</sup> Earnshaw and Judge (1999), p. 108.

cooperation procedure was used. Indeed, extending its applicability from 15 to 37 treaty articles, the Amsterdam Treaty made co-decision almost entirely replace cooperation, only leaving out policies dealing with agriculture, justice and home affairs, trade, fiscal and EMU issues. The Nice Treaty further expanded its scope, but it was the Lisbon Treaty that would finally put an end to cooperation in favour of co-decision, which was dubbed the 'ordinary legislative procedure', reflecting its use in almost all policy areas.<sup>75</sup>

The ordinary legislative procedure works in three stages/readings. In the first stage the Commission makes a proposal, which is then studied by the appropriate EP committee(s) and Council working parties, and both institutions present their views on the proposal.<sup>76</sup> If Council and Parliament reach agreement on the proposal in this first stage, then it is adopted; if not, the Council will assume a common position, taking into account the EP's opinion and move on to the second reading. In the second stage, the ball is in the EP's court. Assisted by explanations of both the Council's and the Commission's positions, the EP now has three months to make a decision. It can do four things: do nothing

---

<sup>75</sup> According to Nugent, "the cooperation procedure would have been completely abolished by the Amsterdam Treaty had the member states not been reluctant to tamper with the application of the procedure to four aspects of EMU for fear of opening up the whole EMU issue in the Amsterdam IGC." See: Nugent (2010), pp. 308-309, 315.

<sup>76</sup> The Amsterdam Treaty enabled the EP and the Council to already make amendments during this first reading, but only if they both agree on its content and the usual requirements are met – especially unanimity in the Council should the Commission not agree with the amendments. See: Nugent (2010), pp. 315-316.

(or fail to do something), reject, approve or amend the common position. If the Parliament approves or takes no actions, then the Council again has three months to adopt the proposal without further ado. If the EP rejects the common position by absolute majority, the proposal falls. If the EP makes amendments to the common position, then the Council can either accept the new text, thereby adopting the proposal, or it can reject the amendments, which leads to the third reading. In the third stage, the proposal is in the hands of a conciliation committee, composed of an equal number of representatives from Council and Parliament. In this committee the two groups have six weeks to search for a common ground and try to agree upon a joint text. If they fail, the proposal falls. If they succeed, the joint text goes back to Council and EP, voting on the proposal respectively by QMV and normal majority.<sup>77</sup>

However, these conciliation committees are often very large and clumsy and generally unsuitable for real negotiations to take place. Therefore, the real negotiations take place in small meetings between Council, Parliament and Commission known as trialogues. Usually, agreement is found in these trialogues and a joint text is sent to the committee for approval.<sup>78</sup> In fact, these trialogues have shown such remarkable compromise-generating capabilities that they are also being used already in the first and second stages of the procedure. Indeed, one of the reasons for the creation of the co-decision procedure in the Maastricht Treaty was to increase the speed of

---

<sup>77</sup> Earnshaw and Judge (1999), pp. 109-110; Bomberg, Cram and Martin (2003), p. 59; Nugent (2010), pp. 314-319; Hix (2005), pp. 78-79

<sup>78</sup> Nugent (2010), p. 318.

the decision-making process in the EU – something it certainly succeeded in: ever since the Amsterdam Treaty reforms, about 60% of proposals are agreed upon after the first reading, 30% get through in the second reading, and only 10% need a conciliation committee.<sup>79</sup>

The remarkable ease with which co-decision produces legislation is due to the intensive interactions that exist between the different institutions. Indeed, “the procedure produces a *common act* of the Council *and* Parliament, and so, for the first time, (...) Parliament is now an equal partner in the legislative process.”<sup>80</sup> The ordinary legislative procedure forces Council, Parliament and also Commission to take into account each other’s opinions, thereby completing the institutional triangle, bolstering supranational activity and inter-institutional cooperation. It ultimately strengthens the CM by finally making it a real *community* method.

### *c. Commission Competences*

Contrary to the EP, the role of the European Commission hasn’t changed much over time. From the start it acted as the policy initiator, the promoter of the collective interest, the executive authority of the Union and guardian of the legal framework.<sup>81</sup> This role itself was never that much of an issue. Indeed, most everyone accepted the idea that an executive body was necessary. Hix calls this the demand for EU government. For several reasons, the MSs need an executive institution like the European Commission.

---

<sup>79</sup> Nugent (2010), p. 318.

<sup>80</sup> Earnshaw and Judge (2003), p. 110.

<sup>81</sup> Nugent (2010), p. 122.

For one, they need someone to formulate legislative proposals and execute them accordingly. This requires both independence from national interests, e.g. through promotion of collective interests by an independent authority, and a fair amount of legislative specialisation considering the many differences between existing regulatory regimes in the MSs.<sup>82</sup> Ironically, the distrust between states that so often halts deeper integration in this case actually created the need for a supranational authority.

The Commission is thus an actor that has a very important role not only in the policy-making process, but also in the day-to-day functioning of the EU. Especially in its executive role, the Commission has some rule-making powers, manages the EU finances and oversees the implementation of EU legislation in the MSs.<sup>83</sup> It is thus naught but logical that the Commission has been able to considerably expand its areas of competence following a spill-over logic: effective management in one area requires further competences in other areas. Amongst its core areas are agriculture and fishing, trade, competition, single market regulation and monetary affairs. Since the SEA the functions of the Commission have massively increased due to ambitious projects such as completing the Single European Market (SEM) and launching the EMU.<sup>84</sup> It also has a (limited) say in a wide range of other areas such as health and education, energy, transport, environmental issues, consumer protection, housing, regional policy, and foreign affairs.<sup>85</sup>

---

<sup>82</sup> Hix (2005), pp. 65-66.

<sup>83</sup> Nugent (2010), pp. 125-127.

<sup>84</sup> Dinan (2004), p. 216; Dinan (2004), pp. 234-235.

<sup>85</sup> Nugent (2010), p. 283.

In saying that its role hasn't been questioned and that it steadily expanded its competences, it might seem that we suggest that the Commission has not been subject to debate or controversy. On the contrary, in line with what Hix calls the *supply* of EU government, the Commission has been a very active promoter of the CM, trying to expand it to as many areas as possible – something that has often been taken ill by the MSs.<sup>86</sup> Indeed, “given its pivotal position ‘at the heart of Europe’, the Commission is a natural champion of constitutional change that deepens supranationalism.”<sup>87</sup>

The best example of such a proactive stance is the Commission under Jacques Delors. Delors, Commission president between 1985 and 1994, was the driving force behind both the SEM and the EMU. After two decades of stagnating integrative efforts, it was Delors who revitalised the ‘European idea’ and supranational activity through the Commission’s 1985 White Paper on the completion of the single market.<sup>88</sup> Once again, the CM was used as the main drive for integration, with the bold SEM and EMU projects becoming the Commission’s hobbyhorses. Indeed, “the lessons of the highly successful Delors presidency are clear: an assertive self-assured leader with a sound political past, and ideally with good political prospects in a leading member state, is best suited to advance the Commission’s interests and engineer deeper European integration. The existence of a compelling project, in which the Commission is a

---

<sup>86</sup> Hix (2005), pp. 67-69.

<sup>87</sup> Christiansen and Reh (2009), p. 102.

<sup>88</sup> Dinan (2003), pp. 32-33; Mazey (1999), pp. 24-25.

key player, greatly helps the Commission president's prospects."<sup>89</sup>

However, this dramatic increase in power for the Commission could not go on forever. The whole rationale of the CM is to keep in place the institutional balance between intergovernmental and supranational aspects as was foreseen in the Rome Treaty and "there is clear evidence that the Commission, and arguably also the Court of Justice, on many occasions have used the CM well beyond the limits envisaged by the drafters of the Treaty of Rome, and that the member states have reacted to this lack of self-restraint by limiting the scope of delegation to the supranational institutions."<sup>90</sup> Indeed, shortly after the Maastricht treaty "the general political climate turned from being favourable to deepening integration to cautioning against an extension of supranational competences".<sup>91</sup> The Commission's influence peaked between 1985 and 1995, but then overstretched and plummeted again with the Amsterdam and Nice Treaties.

Several factors explain this turnabout. For one, the Commission's 'pioneering days' were over as the SEM and EMU were largely on track. Also, the increased influence of other European institutions, such as the EP and the European Council, made the Commission less indispensable in playing a leadership

---

<sup>89</sup> The negotiation of the SEA is a very good demonstration of the capacities of a strong Commission: although the SEA was decided upon at an IGC and was thus formally in the hands of the MSs, the Delors Commission clearly had a decisive influence on the final outcome. The power potential of the Commission and especially its president was thus "demonstrated most effectively by Jacques Delors". See: Dinan (2010), p. 176; Christiansen and Reh (2009), p. 103; Beach (2005), p. 53.

<sup>90</sup> Majone (2006), p. 616.

<sup>91</sup> Christiansen and Reh (2009), p. 106.



role. In addition, the Commission “suffered some ‘defeats’ and failures” in the second half of the 1990s, especially regarding the scandals surrounding the Santer Commission and its consequential resignation in 1999. Last and perhaps most important, the MSs were simply fed up with the Commission’s expansionist attitude.<sup>92</sup> Moreover, the MSs did something about their discontent: they strengthened their control on the Commission and started looking for other “modes of governance” away from the traditional CM.<sup>93</sup>

The appointment of Barroso as Commission president is a good example of MS reaction against an overactive Commission and supranationalist overkill. Without wanting to criticise the work of president Barroso – his work has often been overly criticised elsewhere – it must be acknowledged that he is a competent yet rather uninspiring leader compared to some of his predecessors, especially president Delors.

---

<sup>92</sup> Christiansen and Reh, for example, refer to French president Chirac’s hostility towards Commission participation in the 2000 Nice Summit and also to Convention president Giscard d’Estaing’s aversion to the Commission’s reform and leadership ambitions. See: Christiansen and Reh (2009), p. 106; Nugent (2010), pp. 135-137.

<sup>93</sup> A good example of this desire for more control is the so-called system of comitology. Established in 1987, the Council created a system of committees composed of national representatives that would scrutinise the Commission’s activities and with which the Commission was forced to cooperate in drafting its legislation. After the 1999 reform of the system in the Amsterdam Treaty, the Council tightened its control and in several cases held the final power of veto over the Commission. This system has frequently been an issue of friction, as the Commission often feels that the Council too often makes use of those procedures where it has a veto power, thereby ensuring MS control of the legislative process. See: Hix (2005), pp. 52-53; Dinan (2010), p. 310; Nugent (2010), p. 129, 136, 295; Idema and Kelemen (2006).

Indeed, “national leaders [i.e. the MSs through the Council] got what they wanted in Barroso as Commission president: a capable manager lacking the ability or ambition to push an agenda of deeper integration. As (...) a president without a compelling project for which the Commission could provide indispensable leadership, Barroso has never had a chance of become a powerful presence on the EU stage.”<sup>94</sup>

*d. Assessing the Community Method*

Bringing together Parliament and Commission, how can we assess the evolution of the CM? Looking at the evolution of the Commission and Parliament, we can say that the CM only recently reached its full potential, with the EP finally being granted full parity with both the Council and the Commission. This method, which is characterized by intensive participation of supranational institutions in the EU decision-making process, while maintaining a careful balance vis-à-vis the MSs and the Council, has thus seen a continuous expansion over the decades, now capable of holding a steady line against intergovernmental processes and applicable to a vast array of policy areas. Indeed, over the years the CM has produced “a form of supranational governance, in which powers are transferred from the national to the EU level.”<sup>95</sup>

However, our account shows opposing developments: on the one hand the MSs have been willing to allow the EP increased involvement in the

---

<sup>94</sup> Dinan (2010), p. 177.

<sup>95</sup> Stub, Wallace and Peterson (2003), p. 140.

decision-making process, thereby installing and strengthening an extra supranational player; on the other hand, the MSs have reacted against a perceived threat from a supranationally overactive Commission, thereby reining in its power and influence. Indeed, “if the Commission’s role gradually declined, the Parliament’s has been as success story”<sup>96</sup>. How can we explain this and what exactly does this mean for the CM as one of the most important cooperation mechanisms throughout the integration process?

Following neofunctionalism and the logic of spill-over, it is hardly surprising to see an expansion of Commission power and influence (cf. supra). In that view, an increase in supranationalism and the use of the CM was to be expected. Indeed, the Commission is often considered the political guardian of the CM and is also encouraged to extend the application of this method, as it gives it the ability to take on a leadership role.<sup>97</sup> However, we see that when the Commission pushes this logic beyond its limits, the MSs get displeased and tighten the leash. This second evolution can be explained by combining neofunctionalism with a liberal intergovernmentalist logic of supply and demand for integration. During the ‘golden years’ of Jacques Delors, the Commission’s spill-over reasoning was in concord both with what the MSs wanted from it (demand side) and with what the MSs could agree amongst themselves (supply side). When the Commission put further pressure on this supply/demand/spill-over equilibrium in order to expand its own influence and

---

<sup>96</sup> Christiansen and Reh (2009), p. 113.

<sup>97</sup> Beach (2005), p. 229; Dinan (2010), p. 301.

enhance supranationalism, that unfortunate decision generated a backlash some years later (cf. supra).

The story is quite different when it comes to the EP: in the very same Amsterdam Treaty where the MSs punished the Commission, they gave the EP a level of participation never seen before. We see three explanations for this. First, although the EP's evolution is impressive, it is not nearly as influential as the Commission. Second, giving the EP more powers also had quite some advantages for the MSs when it comes to the issue of EU legitimacy. As Dinan points out, "far from clamouring for a transfer of sovereignty to Strasbourg, most Europeans do not bother to vote in direct elections."<sup>98</sup> Empowering the EP is thus less of an issue when it comes to the transfer of sovereignty, but it is rather one of increasing the legitimacy of the EU. Last, the fact that the EP now is an equal player in the process is one of the elements that have caused the Commission's role to decrease, which might be thought of as the Council playing out two supranational institutions against one another.

In conclusion, we would like to stress the importance of the institutional equilibrium for the CM. As our analysis has shown, if the Council/Commission/EP equilibrium is optimal, i.e. when *all* actors are equally involved and when what supranational institutions offer equals what national governments want, then it are heydays for the CM. We can observe this in the 1950s at the very origins of the European integration project and in the period 1985-1995 during the SEM and EMU projects – which also leads us to believe that European

---

<sup>98</sup> Dinan (2010), p. 263.

integration also needs a project, rather than only a crisis, in order to move forward. But when the equilibrium is broken, cooperation simply won't work because there is no longer a community to work with: cooperation is rather based upon bilateral contacts between actors and institutions than on a real community effort. If the institutional balance foreseen in the Founding Treaties is not upheld, we fall back to methods of intergovernmental cooperation rather than supranational integration.

#### **4. Intergovernmental Cooperation**

Intergovernmentalism is based not upon the input of supranational organisations, but upon cooperation, negotiation and bargaining between nations states.<sup>99</sup> When analysing the Intergovernmental Method (IM) it must be considered that the MSs are the most important actors and able to veto any proposal they object to, that the EP and the Commission have a marginal role compared to the Council and the European Council, and that QMV is out of the question.<sup>100</sup> These factors imply that when working through the IM the MSs hardly transfer any sovereignty to the European level and the dynamics are not of a community nature, as was the case with the CM, but rather of one of a collective of individual nations states. Indeed, the system that was put in place in the 1950s required both supranational institution and intensive inter-state cooperation to function optimally.<sup>101</sup> It is the evolution of this

---

<sup>99</sup> Rosamond (2000), p. 137.

<sup>100</sup> Nugent (2010), p. 295.

<sup>101</sup> Warleigh (2000), p. 184.

intergovernmental aspect of the integration process that we will analyse here.

*a. Cooperation through Europe's Councils*

Although intergovernmental cooperation is an ancient method of cooperation between states, it was no part of the European idea in the 1950s. Indeed, European integration was originally perceived as a political project with strong supranational features and was even influenced by federalist ideas.<sup>102</sup> However, from the very beginning the MSs showed concern about the transfer of sovereignty to the new institutions and thus the final decision-making power was placed with an intergovernmental Council. Nevertheless, intergovernmental cooperation would only get the upper hand by the middle of the 1960s, when French president Charles de Gaulle imposed the Luxembourg Compromise.

When in the beginning of the 1960s the Commission proposed additional sharing of sovereignty in the area of the Common Agricultural Policy (CAP), thereby further promoting supranationalism and strengthening its own role, president de Gaulle decided that something had to be done to protect fading French national sovereignty. The effect of his actions is known as the 'empty chair crisis', as de Gaulle boycotted the Council and France no longer supported decisions made in that institution. As a result, the MSs agreed to roll back supranationalist developments proposed by the Hallstein Commission and allowed each MS to have its veto on every proposal. Hence, the Luxembourg

---

<sup>102</sup> Mazey (1999), pp. 27-31.

Compromise essentially was a MS reaction against an overambitious Hallstein Commission and put intergovernmental cooperation at the centre of the European decision-making process: “the powers of the Commission and the EP were contained, and decision in the Council came customarily to be made – even where the treaties allowed for majority voting – by unanimous agreement.”<sup>103</sup>

Nevertheless, although most authors agree that the Luxemburg Compromise slowed down the integration process and limited the expansion of supranationalism, decision-making was essentially still done through the (curbed) CM and the real IM as described above only truly came to be in 1970s, when the European Political Cooperation (EPC) project kicked off. EPC was an expression of the MSs’ ambition to put the EC on the world map as an important political actor, reflecting its economic power. However, the CM was considered to be unsuitable for this kind of cooperation, as foreign policy was and still is part of the hardcore sovereignty of a nation. National governments wanted to stay firmly in charge and therefore, in the 1969 The Hague Summit, they created a new way of cooperation for EPC that would not allow involvement of the Commission or the EP – and originally was not even included in the Treaties.<sup>104</sup>

Together the Luxemburg Compromise and the EPC project were thus responsible for an increase in intergovernmentalist practices and the firm instalment of the IM. Although these developments

---

<sup>103</sup> Dinan (2010), pp. 36-37; Nugent (2010), p. 428; Mazey (1999), pp. 31-32..

<sup>104</sup> Hix (2005), p. 387; Dinan (2004), p. 134; Nugent (2010), pp. 295-296.

answered the MSs' call for more control and less Community dominance, the MSs also felt that the Luxembourg Compromise, with its focus on unanimity, hampered efficient cooperation. Consequently, they looked for an approach that allowed for both effective decision-making and national control, which they found in the European Council.<sup>105</sup>

The European Council was born out of the European Summit – informal ad hoc meetings between the heads of state and government of the EC. The term 'European Council' was first used by French president Valéry Giscard d'Estaing in 1974 when he stated, "the European Summit is dead, long live the European Council."<sup>106</sup> However, it took several more years for the European Council to become formally acknowledged. The SEA merely recognised the European Council's existence and while the Maastricht Treaty codified its meetings and composition, it wasn't until the Lisbon Treaty that the European Council's status as official EU institution was really recognised.<sup>107</sup> Despite this rather late formal recognition, the European Council has since long been regarded as the apex of political power in the EU/EC.<sup>108</sup> Starting of as "an occasional series of informal fire-side chats among the member states' heads of state (...) and government"<sup>109</sup>, the European Council has evolved to become the EU's "forum, at the highest political level, for building mutual understanding and confidence between the

---

<sup>105</sup> Nugent (2010), p. 161.

<sup>106</sup> Quoted in Dinan (2010), p. 206.

<sup>107</sup> Dinan (2010), p. 206.

<sup>108</sup> Hix (2005), p. 35.

<sup>109</sup> Bomberg, Cram and Martin (2003), p. 55.



governments of the EU member states.”<sup>110</sup> The main function of the European Council is to set out long-term strategies and vision on the future of the EU, on the one hand, and to decide upon sensitive issues that cannot be dealt with on a lower level, on the other – although, as Dinan points out, the European Council increasingly acts as a “court of appeal” and becomes involved in arguably less critical issues that should already have been decided upon in, for example, the Council of Ministers.<sup>111</sup>

The European Council thus replaced and/or coalesced with the Council of Ministers as the ultimate decision-making body and main forum for intergovernmental bargaining. Indeed, by laying down the long-term rules of the game for all other institutions and MSs to follow, the European Council has become the symbol of national control over the integration project. However, two remarks on its nature have to be made. First, although the European Council is rightfully considered as an intergovernmental body, it has often been the driving motor behind the integration process. Especially in the 1970s and 1980s, with both Commission and Council blocked by prevailing national interests, it was the European Council that kept the MSs together and the integration project alive by debating at the top level that what could not be discussed below.<sup>112</sup> For this reason, Nugent argues that at times the European Council was part of the more ‘unofficial’ approach to integration, contrary to the sometimes clogged-up

---

<sup>110</sup> Nugent (2010), p. 177.

<sup>111</sup> Dinan (2010), pp. 207-208.

<sup>112</sup> Dinan (2010), pp/ 206-207.

‘official’ treaty-based approach of the institutional triangle.<sup>113</sup>

Second, the European Council’s intergovernmental nature has to be nuanced as well. Although it is indeed a forum for inter-state bargaining, just like with the Council, QMV, “one of the most distinctive features of supranationalism”<sup>114</sup>, has sneaked in over the years: although unanimity is the rule, voting by QMV is not unknown to neither the Council nor the European Council. The evolution of the voting procedure in the Councils reflect the ever-ongoing balancing act between intergovernmentalism and supranationalism within the European integration project and will therefore be discussed in the following section.

*b. Qualified Majority Voting*

The Council of Ministers – officially named Council of the European Union – has been part of the European framework from its very origins and consists of national ministers related to a certain policy field. The Council comes together to “reconcile national positions and enact EU legislation” based on a process of interstate bargaining. Some years later the European Council has taken this function to the highest political level (cf. supra). These Councils are thus the distinctive representatives of national interests. However, by an increased use of QMV these Councils have been combining intergovernmental with supranational elements.<sup>115</sup> After all, through the QMV procedure MSs can be forced to accept

---

<sup>113</sup> Nugent (2010), p. 161.

<sup>114</sup> Dinan (2010), p. 221.

<sup>115</sup> Rosamond (2000), p. 137; Dinan (2010), p. 205.

legislation that they do not fully support – something that would be impossible in a purely intergovernmental setting.

Indeed, the manner of voting in these Councils – either by unanimity or by QMV – is amongst the main causes of conflict throughout the integration process.<sup>116</sup> Especially in the Council of Ministers this issue has been rather problematic. The European Council, although very important, takes decisions that have very high political value, but almost no legal value whatsoever. Furthermore, up until the Lisbon Treaty there were no formal provisions regarding the European Council and due to the de facto accepted rule of unanimity, even the formalisation in the Lisbon Treaty didn't cause any real troubles.<sup>117</sup> Council decisions, on the contrary, are enforceable through the ECJ and thus have significant legal implications.<sup>118</sup> As a result, national governments have been reluctant to allow the institution to take decisions they do not support, thereby enforcing the use of unanimity and slowing down the decision-making process – and with it the entire integration project.<sup>119</sup> Therefore, our focus here will lie with the Council.

The Council has three available voting procedures: unanimity, majority voting or QMV. Unanimity is the most basic procedure where all parties must agree or else nothing is decided. An important note to this is that abstentions do not impede decision made by unanimity: those who don't

---

<sup>116</sup> Nugent (2010), pp. 294-295.

<sup>117</sup> Nugent (2010), p. 171.

<sup>118</sup> Bomberg, Cram and Martin (2003), p. 49.

<sup>119</sup> A good example of this is de Gaulle's actions in the 1960s and the consequential Luxembourg Compromise, as described above.

vote automatically support the majority.<sup>120</sup> Normal majority voting implies that each party has one vote and a simple majority suffices to take a decision. However, this kind of voting only applies to minor and/or procedural matters. With QMV it gets a bit more complicated, as an “oversized majority” is needed.<sup>121</sup> The rules for QMV were first laid down by the Nice Treaty, but were adapted by the Lisbon Treaty. This adapted version does not, however, enter into force until 2014, with the possibility to apply the Nice rules in special cases until 2017 within a period of transition.<sup>122</sup>

Today, the QMV rules and national voting weights are still the ones laid down by the Nice Treaty. In the EU-27 the total of votes cast can amount to 345. In order for a decision to be adopted, the total number of votes in favour has to: (i) represent at least 62% of the total EU population, and (ii) amount to 255 votes representing a majority of the MSs in case the decision is based upon a Commission proposal, or two-thirds of the MSs otherwise. The voting weights of each MS are set out below.<sup>123</sup>

---

<sup>120</sup> In the area of foreign and defence policy, the Amsterdam Treaty created a provision called ‘constructive abstention’. Through this provision, member states can abstain rather than veto a decision, thereby allowing it to be taken, but are not obliged to implement the decision, although they are not allowed to take action that goes directly against it. See: Hix (2005), p. 390.

<sup>121</sup> Hix (2005), p. 83.

<sup>122</sup> Nugent (2010), pp. 154-155.

<sup>123</sup> Nugent (2010), p. 155.

**BOX 3.1. National Voting Weights in the Council**

Germany, France, Italy, UK	29
Spain, Poland	27
Romania	14
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12
Austria, Bulgaria, Sweden	10
Denmark, Ireland, Lithuania, Slovakia, Finland	7
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	4
Malta	3
TOTAL	345

These rules and voting weights have, however, not been decided upon easily and QMV had to fight for its side next to unanimity. Indeed, “governments have fought over the appropriateness of using QMV even when provided in the Treaties”<sup>124</sup>, as they are very much “aware that changes to their voting strengths or the QMV threshold will affect their relative power.”<sup>125</sup> Majority voting was already foreseen in the Founding Treaties, but was effectively blocked by the Luxembourg Compromise – unanimity became the rule for every decision. However, since the SEA successive treaty reforms have shifted the balance in favour of QMV for the sake of more efficient European decision- and policy-making in the light of further enlargements. Also, the voting weights in the Council were renegotiated almost every enlargement round.<sup>126</sup> The SEA itself expanded the use of QMV to all areas where the cooperation procedure with the EP stands. The Maastricht Treaty further expanded the

---

<sup>124</sup> Dinan (2010), p. 220.

<sup>125</sup> Hix (2005), p. 84.

<sup>126</sup> For reasons of time and resources we cannot go deeper into each enlargement round. For a full account, please see: Nugent (2010) and Dinan (2010).

use of QMV together with the creation of the co-decision procedure as an answer to MS demands for more efficiency and legitimacy. The Amsterdam Treaty failed to resolve the conflict over QMV and voting weights, leaving it to the Nice Treaty to settle these ‘Amsterdam leftovers’.<sup>127</sup>

The Nice Treaty was supposed to prepare the Union for its ‘great Eastern enlargement’ and focussed on reforming voting procedures in the Council in order to further increase its efficiency. However, with the future accession of many smaller states, the large MSs were determined to protect their own position and voting weight. As a result, QMV *was* extended, but only to “relatively uncontentious and not very politically significant matters.”<sup>128</sup> Moreover, Nice made QMV far more complex, as it increased the qualified-majority threshold while decreasing the blocking-minority threshold, and it introduced the ‘triple majority’ principle, by which decision can only be made if supported by a majority of weighted votes, a majority of MSs and 62% of the EU population.<sup>129</sup> Hence, the grand results of the Nice negotiations were that “the larger and smaller member states are better off, the medium-sized ones are worse off, and legislation is significantly less likely to be passed”.<sup>130</sup> So much for increased efficiency.

Although Hagemann and De Clerck-Sachsse argue that the Nice Treaty has been criticised too harshly and actually worked pretty efficiently, there was a general pressure from both the public and

---

<sup>127</sup> Nugent (2010), p. 57, 62.

<sup>128</sup> Nugent (2010), p. 63.

<sup>129</sup> Bomberg, Cram and Martin (2003), p. 51.

<sup>130</sup> Hix (2005), p. 86.

political sphere to simplify the voting system.<sup>131</sup> This reform came with the Lisbon Treaty, which not only further extended the use of QMV, but also replaced the ‘triple majority’ rule with a ‘double majority’ rule. A qualified majority now has to represent 15 MSs, 55% of the total votes and 65% of the total EU population in case it acts upon a proposal by the Commission, otherwise 72% of the total votes are needed. It was also stipulated that a blocking minority has to involve at least four MSs. However, to still some concerns over loss of power, these provisions would only fully come into effect after a transposition period from 2014 to 2017.<sup>132</sup>

Over the years, QMV has thus witnessed a steady increase in usage. After decades of unanimity dominance through the Luxembourg Compromise, from the SEA onwards the successive Treaties have increased the importance and range of QMV, reflecting a general demise of Luxembourg Compromise and the IM. As a result, today unanimity is still required only in policy areas regarding foreign policy, EU enlargement, constitutional decisions and most decisions that have financial implications – in those areas the IM thus stands firmly.<sup>133</sup> In all other policy areas QMV is now in place. QMV is often seen as “an instrument of supranationalism” that involves highly sensitive issues of power and representation.<sup>134</sup> As said above, through QMV MSs can be forced to accept legislation they do not support, something that

---

<sup>131</sup> Dinan (2010), p. 221; for a full account of the impact of the Nice reforms, please see: Hagemann and De Clerck-Sachsse (2007).

<sup>132</sup> Nugent (2010), p. 79, 82.

<sup>133</sup> Nugent (2010), p. 154.

<sup>134</sup> Dinan (2010), p. 220.

is typical of the CM/supranationalism and not of the IM/intergovernmentalism. Its expansion was thus not an obvious evolution as it clearly impeded the IM and direct MS influence in favour of community dynamics.<sup>135</sup>

However, Bomberg, Cram and Martin argue that “although QMV *can* now be used in a wide variety of areas, it does not mean it *is* used. In fact, consensus is still widely sought in the Council and votes are seldom forced.”<sup>136</sup> This had made Edwards and many others suggest that the Luxembourg Compromise actually survived long after the SEA and even today it still casts its shadow over Council disagreements.<sup>137</sup> QMV might thus have seen an expansion on paper, in practice consensus remains the preferred way of working. The most satisfying explanation for this comes from the bargaining perspective on cooperation: MSs do not like forcing others to accept legislation because (i) this sets a precedent by which they themselves can also be forced to accept objectionable proposals and (ii) those parties that are now your enemies might in a next round very well become followers whose support you need.<sup>138</sup>

But what does this mean for intergovernmentalism and the IM? As explained above, the IM implies veto power to each MS, absence of QMV and a marginal role for Commission

---

<sup>135</sup> For this reason the evolution of QMV could thus be considered to belong more to the CM than to the IM. However, because of its importance for the evolution of the IM we have chosen to discuss it here.

<sup>136</sup> Bomberg, Cram and Martin (2003), p. 51.

<sup>137</sup> Edwards (1999), p. 130.

<sup>138</sup> Moravcsik (2006), pp. 282-291.



and Parliament. The fact that unanimity is still used despite the possibility of QMV implies that intergovernmentalism is still a hot topic on the European agenda and the favourite method of cooperation for many a MS. Furthermore, as we have explained in the previous part, there has been a general reaction against too much Commission influence. This would point to a recent development in favour of intergovernmentalism and the IM. However, in line with Wallace, Nugent suggests to use the term 'intensive transgovernmentalism' rather than 'intergovernmental cooperation', referring to the fact that even in areas where the Treaties foresee the IM, e.g. foreign policy, contacts between states have become so intensive that one could hardly ignore the community aspect to them.<sup>139</sup> We would agree with this view, as our account has clearly shown that, although unanimity/consensus remains the preferred way of working, with the acknowledgment and expansion of QMV even the most intergovernmental of institutions has gotten a supranational side to it. It would seem that although the CM has been criticised lately, the MSs aren't jolly about returning to the age of the Luxembourg Compromise either. Indeed, with Justice and Home Affairs (JHA) almost fully communitarised by the Lisbon Treaty and European foreign policy showing signs of intensive transgovernmentalism, the 'pure' IM has only one last bastion left: the IGCs.

---

<sup>139</sup> Nugent (2010), p. 295-296.

*c. States and Conferences*

IGCs, as the name might suggest, are conferences that bring together states to negotiate ‘history-making’ decision on the basis of intergovernmental bargaining. These decisions usually include Treaty amendments or issues of EU accession.<sup>140</sup> IGCs are considered the zenith of intergovernmental power in the EU, as here there are no other actors involved than the MSs and full unanimity is always required. The Commission and the EP have to struggle for influence, as neither of them is a full negotiating party, let alone entitled to vote or veto. The Commission is allowed the role of participant at all levels and can submit position papers on all issues. Its overall influence nevertheless remains marginal indeed. The EP is possibly even worse off, not being granted participatory status at all levels and only allowed to observe and *be* consulted if the MSs wish to do so. Parliamentary involvement in IGCs is thus virtually non-existent. Furthermore, neither the Commission nor the EP has a say in convening an IGC, as this is done purely on a European Council mandate. Although the reasons for convening vary considerably, they usually regard issues of enlargement, effectiveness, efficiency or legitimacy.<sup>141</sup>

IGCs are thus dominated by the MSs and are rightfully called the most intergovernmental of European integration dynamics. Nevertheless, the MSs can’t do whatever they please at an IGC: such conferences work according to remits given to them by the European Council – although, apart from the

---

<sup>140</sup> Bomberg and Stubb (2003), p. 233.

<sup>141</sup> Nugent (2010), p. 89.

Lisbon IGC, these remits are generally quite broad.<sup>142</sup> Furthermore, the MSs also have to deal with *each other*. According to Hix, because IGCs require unanimity the resulting bargain often constitutes the ‘lowest common denominator’ amongst MSs. This situation of bargaining and unanimity has led to the formation of ‘package deals’, as MSs “have been prepared to ‘lose’ on some issues in return for ‘winning’ on issues that are more important to their national interests.”<sup>143</sup> Also, the Council Presidency is considered as “the engine driving the Conference”, as it chairs all meetings, tables proposals and mediates to reach a consensus amongst the MSs.<sup>144</sup> Participating MSs thus have to take into account each other’s positions, the Presidency’s position and the mandate given by the European Council.

How does this affect the IM? For one, the IGCs are the last bastion of pure intergovernmentalism – although, considering the various positions MSs have to take into account, community dynamics are never far away. Nonetheless, IGCs set the rules of the game and MSs can and have used this power to enforce/downgrade the power-positions of institutions. Indeed, as Hix argues, “the history of treaty reform in the EU suggests that the member state governments learned from past mistakes”: when they realised that they gave the Commission too much power in the SEA, they used the successive Maastricht, Amsterdam and Nice Treaties to “restrict the agenda-setting powers of the Commission in those areas where policy initiative

---

<sup>142</sup> Nugent (2010), pp. 87-88.

<sup>143</sup> Hix (2005), p. 32.

<sup>144</sup> Galloway (2001), p. 33; Nugent (2010), p. 89.

had already been delegated to the Commission.”<sup>145</sup> IGCs are thus intergovernmentalism’s final and ultimate weapon to curb the apparent expansion of supranationalism.

### **5. Flexible Integration**

Our definition of flexible methods of cooperation includes the entire set of ‘new modes of governance’ that have been proposed in the last decennium, e.g. the Enhanced Cooperation Procedure (ECP) or the Open Method of Cooperation (OMC).<sup>146</sup> This method represents “flexible, informal, non-binding measures” that oppose themselves to the rigid cooperative procedures of the CM and IM that forced the MSs into an ‘either/or’ situation – either everybody joins, or nothing happens.<sup>147</sup> As has been explained above, these rigid methods have reached their limits in the 1990s: MSs were upset with the expansion of the CM, but saw that the IM alone does not facilitate efficient cooperation. Consequently, they started experimenting with new cooperation methods in order to present alternatives to outmoded rigid procedures.<sup>148</sup> However, already in the 1970s similar experiments were conducted, as some cooperative efforts started outside the EU/EC framework and were incorporated at a later stage. These can thus also be seen as being a form of flexible integration, in the sense that that what was not possible to achieve with the whole group was trialled by a smaller one.

---

<sup>145</sup> Hix (2005), p. 35.

<sup>146</sup> Idema and Kelemen (2006), pp. 108-109.

<sup>147</sup> Harstad (2006), p. 683; Idema and Kelemen (2006), p. 109.

<sup>148</sup> The term ‘experimental’ is taken from Szyszczak (2006).

The flexible methods often take very specific forms with each new project, which makes it difficult to generalise theory about them. For this reason we will present a wide range of these efforts and procedures without going too deep into the specificities of each project. Four major projects that originated outside the Treaties will be discussed here in order to present an overall picture: Schengen, EPC, EMU and the Trevi Process. All of these later came to form an imperative part of the formal integration process. Regarding flexibility, our focus is on analysing open coordination, such as the OMC and harmonisation endeavours, and closer cooperation, such as the ECP and the constructive abstention and permanent structured cooperation (PSC) procedures in defence policy.

*a. Outside Input*

Throughout the integration process, there were multiple issues that were put into formalised treaties only at a later stage, despite their relevance for the integration project. Mostly the reasons for this were concerns over sovereignty transfer. Sovereignty transfer, i.e. the loss of power and direct influence, is seen by MSs as a sacrifice to pay for stability and prosperity, but for some unfortunate projects these sacrifices were deemed too high: only there where MSs saw advantages in empowering the European level could agreement be found on expanding its policy competences. Indeed, Nugent rightfully says that the integration process is “as much about what is possible as what is desirable”<sup>149</sup> Nevertheless, others

---

<sup>149</sup> Nugent (2010), p. 287.

deemed these issues too important *not* to engage in integrative action and set up frameworks for cooperation outside the formal EC/EU process. Many of these were perceived as a success and incorporated into the Treaties at a later stage, when the other MSs were convinced of their usefulness and hence willing to make the sacrifice.

A first major project of this kind was the Trevi Process. When in 1972 terrorists attacked the Olympic Games in Munich, many European leaders felt that something had to be done to combat terrorism and organised crime.<sup>150</sup> However, internal security and police activity was still too delicate to be put in the hands of the EU/EC. As a result, in 1975 interior and justice ministers gathered in Rome (near the famous Trevi Fountain) to discuss how they could exchange information in order to jointly fight terrorism and organised crime. The result was the creation of intergovernmental ad hoc mechanisms outside the treaty framework to deal with cross-border crime – i.e. the Trevi Process. Following the entry into force of the SEA and the abolition of internal borders, the mandate of the Trevi mechanisms was expanded to include drug- and arms-traffic and bank robbery (and football hooligans). These ad hoc arrangements were soon considered insufficient and the Trevi Process was incorporated in the Maastricht Treaty through the EU's third pillar on JHA. The Trevi structures now go by the name of the European Police Office or EUROPOL and its mechanisms were simply copied into EU framework, with its

---

<sup>150</sup> Vannerot (2009).

intergovernmental committees becoming working groups in COREPER.<sup>151</sup>

Dealing with similar issues, the Schengen process developed in generally the same way and also lies at the basis of the JHA pillar and EUROPOL. The 1985 Schengen Agreement was signed by five MSs (Belgium, France, Germany, Luxembourg and the Netherlands) and provided for the removal of internal barriers.<sup>152</sup> The actual removal of border posts only came into effect some years later, as administrative complications only made this possible after the achievement of the single market programme. In 1992 Italy, Portugal, Spain and Greece joined Schengen and in 1997 the agreement was formalised through the Amsterdam Treaty, thereby making it part of the *acquis communautaire* of the Union. Today, most EU MSs plus Norway, Switzerland and Iceland are part of the Schengen area. Only the United Kingdom (UK) and Ireland required opt-outs for the Schengen Protocol for reasons of internal security.<sup>153</sup>

The Schengen Agreements foresaw in the free movement of persons between its signatory states and should have been made redundant by the completion of the SEM, were it not for the opt-outs of the UK and Ireland. Several delicate issues were part of Schengen – such as visas, immigration, asylum, trans-border police action and judicial coordination – which made

---

<sup>151</sup> Hix (2005), pp. 356-357; Nugent (2010), p. 335; Dinan (2004), p. 256; Vannerot (2009).

<sup>152</sup> Which resulted in the free movement of persons within the Schengen Area, with some control of people from outside that area.

<sup>153</sup> Also Denmark has obtained a partial opt-out for the Schengen Protocol, but unlike the UK and Ireland, who got a full opt-out, it did sign up to the agreement. See: Dinan (2003), pp. 22, 33-34; Dinan (2004), p. 220; Nugent (2010), p. 61, 336.

it touch upon some hardcore sovereignty issues. For this reason, the JHA pillar was made mainly intergovernmental. However, with the introduction of European citizenship, the completion of the SEM and increased concerns over illegal immigration and terrorism, deeper cooperation in JHA became necessary. As a result, by the time of the Lisbon Treaty, the entire JHA pillar was functioning under the CM and the Treaty explicitly refers to the construction of an area of 'freedom, security and justice' throughout Europe.<sup>154</sup> Together the Schengen and Trevi processes, both having originated outside the treaty framework, thus pushed the establishment of JHA – a fundamental part of today's Union and almost fully communitarised.<sup>155</sup>

However, not only internal security was subject to intense debate; also the external actions of MSs have seen themselves institutionalised. The first attempt to make political and defence cooperation part of the European integration process already occurred in the 1950s, when the formation of the 1954 Defence and Political Communities utterly failed and replaced by cooperation through the West-European Union. A second attempt was made at the European Summit at The Hague in 1969 under the auspices of Belgian diplomat Etienne Davignon. Davignon knew that, with the Luxembourg Compromise alive and well, ambitious projects on political integration would not survive the first day. He therefore aimed at simply

---

<sup>154</sup> Hix (2005), pp. 348-349; Dinan (2010), pp. 530-542.

<sup>155</sup> The recent Franco-Italian proposal to limit the provision of the Schengen Protocol because of concerns over an overflow of illegal immigrants caused quite some heated discussions, proving once again the importance of internal borders and cooperation on the issue.



establishing a forum that would not put much pressure on suspicious MSs: twice a year defence and foreign affairs ministers would meet to discuss hot topics on their agendas, a framework that was called EPC.<sup>156</sup>

EPC worked on a purely intergovernmental basis, as many MSs could not bring themselves to Europeanising foreign policy. Nonetheless, the project laid the foundations of present day activity on EU external relations and foreign policy. Originally, EPC worked through the publication of common positions negotiated by national representatives – typically, these were non-binding and the MSs made no official commitments whatsoever. These mechanisms were strengthened by the 1981 London Report and recognised by the SEA, also introducing the ‘constructive abstention’ procedure (cf. *infra*).<sup>157</sup> However, it wasn’t until the Maastricht Treaty that EPC was formally included in the Treaties as a reaction to the end of the Cold War, the collapse of Soviet Russia and the wars in Yugoslavia. These crises showed the inadequacy of European political, defence and foreign policy cooperation, especially in relation to its rapidly increasing economic power. As a result, the MSs in the Maastricht IGC agreed to establish a Common Foreign and Security Policy (CFSP) – albeit within a second pillar that was purely intergovernmental.

EPC, which was kept outside the treaty framework for more than two decades, thus formed the basis from which the MSs developed joint foreign and defence policy. Today, CFSP and its ‘Security and Defence’ counterpart (CSDP) are still essentially

---

<sup>156</sup> Boxhoorn and Jansen (2002), pp. 174-175; Hix (2005), p. 387.

<sup>157</sup> Hix (2005), p. 388.

intergovernmental and the momentum that even made the MSs call for “consistency between the Community and the CFSP pillars of the new EU” in 1993 is largely gone.<sup>158</sup> Nevertheless, an increasing amount of joint actions can be observed and since the Lisbon Treaty CFSP is guided by a High Representative of the Union for Foreign Affairs and Security Policy, which bridges intergovernmental dynamics in the Council and community dynamics in the Commission.<sup>159</sup>

The last of these projects is the EMU process. European ambitions on financial and monetary convergence date back to the Treaty of Rome, but weren’t realised until the 1990s. First progress was made in the 1970s, with the Werner Report and the European Monetary System (EMS). At the 1969 The Hague Summit the MSs entrusted Luxemburg prime minister Pierre Werner with the design of monetary union. In 1971 he published his report, which called for parallel national policies and institutional reform. Empowered by economic recession throughout the 1970s, neo-Gaullist French President Pompidou was outraged by this supranationalist approach and Werner’s proposal to establish EMU by the 1980s died a hasty death.<sup>160</sup>

More progress was made with the creation of the EMS in 1979, which provided the EC with basic institutional structures for monetary policy.<sup>161</sup> The

---

<sup>158</sup> Dinan (2010), pp. 545, 547-548.

<sup>159</sup> Keukeleire and MacNaughtan (2008), pp. 80-81; Nugent (2010), pp. 82-83.

<sup>160</sup> Dinan (2004), pp. 132-133; Hix (2005), p. 313.

<sup>161</sup> Amongst its main features were: “a common reserve fund to provide for market intervention; the European Currency Unit (ECU) to act as a reserve asset and means of settlement; and, in the Exchange Rate Mechanism (ERM) of the EMS, fixed –

project was pushed forward by Commission president Jenkins and greatly supported by newly elected French president Giscard d'Estaing and German chancellor Schmidt. However, despite this support the EMS was kept outside of the treaty framework "because of concerns in some quarters about the rigidities that a treaty-based approach might entail, and also because not all member states (notably the UK) wished to be full participants."<sup>162</sup> Indeed, "the EMS was substantially different from what Jenkins had originally envisioned. What emerged was 'a hybrid – not entirely Community, nor entirely outside it': community dynamics were kept out, but EC institutions such as the Council of Economic and Finance Ministers (ECOFIN) was imperative to the EMS' functioning."<sup>163</sup>

Mechanisms for Community monetary policy thus were still relatively weak and the project only got a new dynamic with the Delors Report on EMU that laid the foundations for the creation of the EMU in the Maastricht Treaty some years later. In Maastricht it was agreed that the EMU would be supranational, as "there could only be one monetary authority for all MSs [*translated*]" – which made Britain withdraw – and as Germany demanded that a strong EU economy be supported by strict monetary and financial policies.<sup>164</sup> The Treaty laid down a rigid schedule for building EMU based on a single currency, exchange and interest rates, and also foresaw in the creation of a European Central Bank. The establishment of EMU,

---

though adjustable when necessary – bands of exchange for participating currencies." See: Nugent (2010), p. 330.

<sup>162</sup> Nugent (2010), p. 280.

<sup>163</sup> Dinan (2010), pp. 60-61.

<sup>164</sup> Boxhoorn and Jansen (2002), pp. 289-290.

which originated from rudimentary structures outside the treaty framework, thus became a very supranational affair – which also shows by the enormous efforts national governments put in complying with the rules of accession<sup>165</sup> – and, according to some, although the UK and Denmark didn't join, “marked a major step in a federalist direction”.<sup>166</sup>

These four projects formed the base for major contemporary EU policies, relating to JHA, CFSP and EMU. They originated outside the treaty framework because usually one or more MSs could not accept breaches of their sovereignty on those issues or because no agreement was found on the exact organisation of the effort. Progressive MSs consequently went looking for other, less rigid ways of cooperation and waited for the appropriate moment to incorporate the issue in the EU institutional structure. Depending on the issue, policies then fell into an either intergovernmental or supranational cooperation method. Nevertheless, we believe that this way of handling such delicate issues represents a process of assimilation of supranationalism and intergovernmentalism, as a reaction against disappointment of the rigid use of either one. Indeed, MSs have acknowledged the usefulness of this ‘outsider’ approach and elaborated on it throughout the 1990s in successive Treaty amendments. These

---

<sup>165</sup> The rules of accession include the four so-called ‘Maastricht criteria’ or ‘convergence criteria’. These include price stability, interest rate stability, currency stability and a ‘healthy’ government budgetary position. For a fuller account, please see: Hix (2005), p. 315; Afxentiou (2000).

<sup>166</sup> Nugent (2010), p. 57; Boxhoorn and Jansen (2002), p. 191.

new 'flexible' methods of integration are the subject of the next section.

*b. Flexibility and Differentiation*

As mentioned above, the traditional methods of cooperation were deemed unsatisfactory from the 1990s onwards and the MSs experimented with new methods and procedures. This "experimental governance" can be seen as "a response to the various regulatory shortcomings of the EU", which include "the limited decision-making capacity of the EU, buttressed by political concerns of the member states to retain a residual sovereign capacity to direct, and implement, economic and social policies".<sup>167</sup> The result was the institutionalisation of flexibility and introduction of flexible methods of cooperation. We see two sides to this flexibility: open coordination and closer cooperation.

*Closer cooperation* refers to a form of differentiated integration: "policy development and activity in which not all member states are involved".<sup>168</sup> The procedure was introduced in the Maastricht Treaty and generalised in the Amsterdam Treaty by including 'Provision on Closer

---

<sup>167</sup> Szyszczak (2006), p. 487.

<sup>168</sup> Nugent (2010), p. 450. Nugent (2010) also makes a valid point is saying that the more traditional opt-out possibility is essentially also a form of closer cooperation. From the SEA to the Lisbon Treaty, many member states that could not accept certain evolutions were granted opt-outs from specific treaty provisions. The only difference with closer cooperation is that in this case there are no progressive member states that choose to move ahead, but conservative member states that choose to 'stay behind'. This is indeed as much a way of being flexible as the closer cooperation procedure.

Cooperation'. It was supposed to prepare the EU for its Eastern enlargement, the prospect of which was a major incentive for flexibilising the Union.<sup>169</sup> Considering the massive amount of new MSs, "the assumption was that on an increasing number of issues not all member states would favour further integration, and the question was whether a formula could be agreed to allow issue-specific closer cooperation among more limited groups of member states."<sup>170</sup> The debate on closer cooperation started with a letter of the German government, proposing a two-tier EU in which a core group would pursue deeper integration and the rest would follow when ready<sup>171</sup> – a proposal that was firmly rejected by everyone but France.<sup>172</sup> As a result, closer cooperation was considered only as a 'last resort'<sup>173</sup> and was put under strict regulations: it would only be possible for a majority of MSs, in the first and third

---

<sup>169</sup> For the same reason the foresaid debate on a reform of voting weights in the Council was conducted at the Amsterdam and Nice IGCs.

<sup>170</sup> Sedelmeier, (2005), p. 418.

<sup>171</sup> In this context we would also like to refer to 'variable geometry'. The term refers to the acknowledgment that there is a difference between a group of MSs wanting closer integration and others that don't want to or are not able to take integration forward. However, Stubb points out that there are many terms that cloud the concept of differentiated integration and he defines variable geometry as a method of differentiated integration "by space" that "can create a hard core, which drives for deeper integration in a specific policy area. See: Stubb (1996), pp. 287-288.

<sup>172</sup> Dinan (2010), p. 123.

<sup>173</sup> Sedelmeier (2005), p. 419.

pillars of the EU and when approved by the Council.<sup>174</sup>

These restrictions didn't really make the EU more flexible and it was left to the Nice Treaty to settle the issue. Despite multiple discussions, Nice "made closer cooperation – which it re-named 'enhanced cooperation' – easier to operationalise by reducing the stipulation that a majority of member states must be involved in an initiative to a stipulation that only eight need be so. (...) The Lisbon Treaty increased the number of participating states from eight to nine, but this still left the minimum proportion at just one third".<sup>175</sup> However, any MS could still veto enhanced cooperation and decisions made by 'cooperating states' would not be considered part of the *acquis*.<sup>176</sup>

Closer cooperation also found its way into CFSP and CSDP. In these policy areas all decisions are to be taken by unanimity. However, to encourage countries to abstain rather than veto, the Amsterdam Treaty introduced the constructive abstention provision, through which member states can allow a decision to be taken without their support, but are not obliged to implement the decision – although they are asked not to take action that goes directly against it.<sup>177</sup> The Lisbon Treaty further promoted flexibility by introducing the PSC procedure in CSDP. The idea of PSC is that a number of countries, willing and capable

---

<sup>174</sup> In theory this approval can be done by QMV, but the UK reasoned it could always invoke the Luxembourg Compromise, thereby enforcing consensus. See: Boxhoorn and Jansen (2002), pp. 323-324.

<sup>175</sup> Nugent (2010), p. 450.

<sup>176</sup> Boxhoorn and Jansen (2002), p. 328.

<sup>177</sup> Hix (2005), p. 390.

to organise military operations, could form vanguard group, to which others could join up later and in which the High Representative is fully engaged to provide coordination.<sup>178</sup> Hence, closer cooperation methods, representing flexibility through differentiation, can now be found throughout the EU.

*Open coordination* is yet another form of flexibility and involves “a relatively loose form of policy activity, based essentially on the identification of policy targets that member states are pressurised – but are not compelled – to meet by benchmarking and peer review.”<sup>179</sup> This method found its origin in the practice of harmonisation of legislation. The Commission had been doing this ever since the creation of the EEC, using its directives to set “the essential framework of policy at the European level and leaving the ‘scope and method’ of its implementation to the member states.”<sup>180</sup> Hix calls this the EU reregulatory regime, as the standards set by these framework directives adapt and harmonise national legislation “into a single, integrated European regulatory framework.”<sup>181</sup> However, harmonisation efforts were hampered by MSs’ attachment to domestic approaches to regulation – a problem which was exacerbated by the Commission’s lack of attention to this issue and over-emphasising of technical details.<sup>182</sup> From the SEA onwards, increased economic and political pressure on the Commission made it adopt a ‘new approach’ to harmonisation, now limiting “legislative harmonisation to minimum

---

<sup>178</sup> Dinan (2010), p. 562.

<sup>179</sup> Nugent (2010), p. 450.

<sup>180</sup> Young (2005), p. 96.

<sup>181</sup> Hix (2005), p. 260.

<sup>182</sup> Young (2005), p. 96.



essential requirements and explicitly [leaving] scope for variations in national legislation”.<sup>183</sup>

However, in some cases harmonisation can be unworkable because no agreement is found in the Council. In those cases the OMC comes in as a possible ‘third way’: “from the Lisbon Summit of March 2000 onwards, the OMC has been introduced, or recommended, in a number of arenas where the modern demands of European integration require policy coordination, but where Community competence in the field is weak, non-existent, or quite blatantly outlawed.”<sup>184</sup> Indeed, the MSs have expressed their preferences for soft law, rather than hard regulation, in pursuing the goals of the Lisbon Strategy, thereby diminishing the Commission’s traditional legislative role; something they are reluctant to modify despite limited progress in implementing the – eventually failed – Lisbon Strategy, and maintaining it in the Europe 2020 Strategy.<sup>185</sup> The OMC essentially revolves around voluntary action on behalf of the MSs. The role of the Commission is reduced to proposing ideas, while the Council decides by unanimity on broad policy goals (not necessarily based upon Commission ideas), which are then to be achieved not by legal coercion but by voluntary action. The Commission returns as a monitoring institution, publishing reports on the MSs’ progress towards reaching the goals in an attempt to promote compliance through peer pressure and to warn MSs should they deviate too much.<sup>186</sup>

---

<sup>183</sup> Young (2005), p. 98.

<sup>184</sup> Szyszczak (2006), p. 488.

<sup>185</sup> Dinan (2010), pp. 192, 421-422.

<sup>186</sup> Nugent (2010), p. 297; Hix (2005), pp. 37-38.

Nevertheless, the Commission is unmistakably losing ground here.

But what is the value of the OMC? It is clear that “the main disadvantage of the OMC approach is that it is ultimately voluntary in nature. So, governments are not legally bound by agreements and may not feel very committed to implementing them”, as laggards cannot be punished.<sup>187</sup> The main advantage of the OMC is that it respects national diversity, which is high on the agenda of many MSs, yet simultaneously it can “contribute to a common discourse, a common language and a common identification of a particular problem and the diffusion of shared beliefs (...) as to what is ‘good policy’ and what is ‘bad policy’.”<sup>188</sup> This way, governments might accept a general swing in a certain direction that they would have rejected if more compulsory instruments were employed. The OMC, and flexibility in general, thus indeed represents a ‘third way’ amid the CM, which is thought to infringe too much on national sovereignty, and the IM, which is regarded not strong enough for certain policy areas.<sup>189</sup>

---

<sup>187</sup> Nugent (2010), p. 298.

<sup>188</sup> Szyszczak (2006), p. 489.

<sup>189</sup> Nugent (2010), pp. 297-298.

## CONCLUSION: EXPERIENTIA DOCET?

The aims of this conclusion are to list our main findings, to assess the integration process and to give a hint to the future of the EU, but the main question is: what has Europe learned from its experiences?

The goal of this thesis was to analyse the methods of cooperation in an attempt to assess the integration process and consider future developments. Our main message is that from the Second World War onwards, the states of Europe have changed their attitude towards crisis solving from a policy of confrontation to a policy of cooperation – the result of which today is known as the EU. Throughout that process of integration and cooperation, the participating countries have had varying ideas of how to deal with that process and how to engage in it. Indeed, throughout European integration there has been a process of “changing norms and expectations” on the aim of the project.<sup>190</sup> Two approaches dominated most of the integration process: intergovernmentalism and supranationalism. According to the IM, the main actors should be states and all decisions at the European level have to be taken by unanimity or consensus. The role of the European institutions is diminished to a minimum. The CM, on the contrary, believes that the best way of dealing with integration is to give a big role to those institutions and curbing the veto power of each individual member state. The main aspect of the CM is its focus on community dynamics and the balance of the institutional triangle. Long has the Union, and

---

<sup>190</sup> Nugent (2010), p. 429.

the academic debate on integration, been stuck is the dichotomy between these two perspectives.

In the 1950s the integration project was directed by a neofunctionalist logic of ever further integration. It demonstrated strong community dynamics in favour of a supranational project and was supported by an active federalist movement. The Founding Treaties established the CM and an institutional triangle that forced interaction between supranational and national interests. From the middle of the 1960s onwards, there was a sharp decline of these integrationist beliefs with the rise of de Gaulle and the instalment of the Luxembourg Compromise, putting the nation-state and intergovernmental cooperation back in the centre of the action. In the middle of the 1980s, however, the ideas on European integration again shifted in the direction of supranationalism, especially due to the active leadership of Delors and the ambitious SEM and EMU projects.

For four decades the only two options to integration were either IMs or CMs, locking the integration process in this dichotomy and “insisting that the EU must conform to one overall conceptual model”.<sup>191</sup> But that is not the nature of the EU: “European integration is not static; it ebbs and flows according to national preferences and initiatives, institutional leadership and entrepreneurship, and prevailing regional and global circumstances.”<sup>192</sup> Indeed, Wallace points out correctly that “there is no single pattern of policy-making: the different demands of distinctive issue areas, the different actors and

---

<sup>191</sup> Wallace (2005), p. 491.

<sup>192</sup> Dinan (2010), p. 4.

institutions drawn in, make for diversity. EU policy-making is a process of mutual learning and accommodation, resting on mutual trust, in which ideas as well as interests shape the search for consensus.”<sup>193</sup>

However, from the middle of the 1990s onwards, MSs were tired of both the IM and the CM, as the first was considered too little and the latter too much. Yet, we see a contradictory evolution. On the one hand, MSs reinforce supranationalism through the expansion of the co-decision procedure for the EP and the extension of QMV in the Council. On the other hand, Commission influence was curbed and MS control over the institutions strengthened through Europe’s Councils and comitology. To get out of the dichotomy, the concept of flexible integration was introduced as a response to the rigidity of traditional perspectives on integration. Flexible integration, which essentially relies on voluntary action by the MSs, peer review and benchmarking, has long been the ‘informal’ approach to integration and has been pushed forward throughout the 1990s. As an alternative to the IM and CM, flexibility and differentiation were considered the ‘third way’ when European coordination was deemed necessary.

However, although flexible integration incorporates both community and inter-state dynamics, many authors have interpreted recent developments as a resurgence of MS control and a general shift towards intergovernmentalism. Kupchan would even go so far as to say the “the European Union is dying [because] (...) the project of European integration has been thrown into reverse as the

---

<sup>193</sup> Wallace (2005), p. 483.

member states take back from the Union the traditional powers of national sovereignty.”<sup>194</sup> Some authors also think of flexible integration as a “fashionable red herring” that has yet to prove its usefulness.<sup>195</sup>

We do not support such a conclusion. It is true that in the past decade European integration has lost much of the ‘glory’ of the days when it ambitiously strived to complete the single market, not to mention the changed vision of European integration from an emotional ideal of peace and stability to a well-calculated cost-benefit analysis.<sup>196</sup> We would not, however, see some of these recent developments as a ‘renationalisation’ of the EU, but rather as yet another phase in the ever-evolving framework that is European integration. Many of the open coordination provision have only existed for a couple of years and the OMC itself has been criticised too harshly: the Lisbon Strategy might have failed, but it was a very ambitious programme that had to deal with one of the most severe financial and economic crises in decades – which, by the way, resulted in a strengthening of the EU’s position due to increased financial competences.

When considering the integration process, it is important to remember that “as governing ideas change, so new ways of formulating policy open up.”<sup>197</sup> European integration is a good example of this, as it constantly reinvents itself in reaction to new situations and crises. Each time the EU/EC was confronted with a deadlock, a way out was found – sometimes intergovernmental, sometimes

---

<sup>194</sup> Referred to by Van Kemseke (2011).

<sup>195</sup> Szyszczak (2006).

<sup>196</sup> Van Kemseke (2011).

<sup>197</sup> Wallace (2005), p. 492.

supranational, but always flexible. This system exists “for the simple reason that national governments believe that it is in their interest for it to exist” as they know they simply cannot confront the world without it.<sup>198</sup> We believe that recent developments towards flexible integration prove the typical European suppleness to deal with crises: member states were tired of both the IM and the CM and therefore focussed upon something new that is workable for all. That is what European integration is all about: finding a way through which to overcome crises and address common problems. If there is one thing we learned, it is that integration is not about creating institutions as big, grand and powerful as possible, but about jointly dealing with common crises. Therefore, the EU “is best understood as an evolving, multi-level confederation whose policy output is the result of bargaining, contestation and coalition building between a wide range of policy actors.”<sup>199</sup>

It is clear that integration is no fixed process of calculating interests, but a process in constant flux that can sometimes produce surprising results. We would argue that the recent focus on flexibility is a sign that Europe is finally on track in learning that efficient cooperation in order to achieve stability and prosperity is worth so much more than precious sovereignty and that integrative efforts are not there to supplant, but to add value to domestic policies. In this process of learning the states of Europe have generated a variety of methods of cooperation, establishing a ‘post-sovereign’ entity where states

---

<sup>198</sup> Dinan (2010), p. 4.

<sup>199</sup> Warleigh (2000), p. 173.

remain central to the policy-making process, “but are no longer the *only* significant actors”.<sup>200</sup>

In conclusion, we would support Dinan’s idea of ‘ever closer union’, a concept that does not signify ever increasing supranationalisation – or even federalisation – of the EU, but simply stands for “institutionalised European integration, a means of overcoming historical animosities, addressing common problems on a small and crowded continent, and strengthening regional stability.”<sup>201</sup> European integration is an unfinished story, but what is sure is that, in the light of the many challenges it has already overcome and has yet to face, the Union demonstrated the capacity to adapt to what historical circumstances demand of it and will continue to evolve for many more decades.

---

<sup>200</sup> Wallace (2005), p. 493.

<sup>201</sup> Dinan (2010), p. 5.



## BIBLIOGRAPHY

- AFXENTIOU, P. (2000), 'Convergence, the Maastricht Criteria and Their Benefits', in: *Brown Journal of World Affairs*, vol. 7, no. 1, pp. 245-254.
- BEACH, D. (2005), *The Dynamics of European Integration: Why and When EU Institutions Matter*, Basingstoke: Palgrave Macmillan.
- BOMBERG, E., CRAM, L., and MARTIN, D. (2003), 'The EU's Institutions', in: E. Bomberg and A. Stubb (eds.), *The European Union: How Does it Work?*, Oxford: Oxford University Press.
- BOMBERG, E., and STUBB, A. (2003), *The European Union: How Does it Work?*, Oxford: Oxford University Press.
- BOXHOORN, B., and JANSEN, M. (2002), *De Integratie van Europa*, Bussum: Coutinho.
- BRECKINRIDGE, R.E. (1997), 'Reassessing Regimes: the International Regime Aspects of the European Union', in: *Journal of Common Market Studies*, vol. 35, no. 2, pp. 173-187.
- CHRISTIANSEN, T., and REH, C. (2009), *Constitutionalising the European Union*, Basingstoke: Palgrave Macmillan.
- DINAN, D. (2003), 'How Did We Get There?', in: E. Bomberg and A. Stubb (eds.), *The European Union: How Does it Work?*, Oxford: Oxford University Press.

- DINAN, D. (2004), *Europe Recast: A History of European Union*, Basingstoke: Palgrave Macmillan.
- DINAN, D. (2005), *Ever Closer Union: an Introduction to European Integration*, Boulder: Lynne Rienner.
- DINAN, D. (2010), *Ever Closer Union: an Introduction to European Integration*, Basingstoke: Palgrave Macmillan.
- DOWNIE, D. L. (2005), 'Global Environmental Policy: Governance through Regimes', in: N. J. Vig and R. S. Axelrof (eds.), *The Global Environment. Institutions, Law, and Policy*, Washington: CQ Press.
- EARNSHAW, D., and JUDGE, D. (1999), 'From Co-Operation to Co-Decision: the European Parliament's Path to Legislative Power', in: J. Richardson (ed.), *European Union: Power and Policy-Making*, London: Routledge.
- EDWARDS, G. (1999), 'National Sovereignty vs Integration? The Council of Ministers', in: J. Richardson (ed.), *European Union: Power and Policy-Making*, London: Routledge.
- EILSTRUP-SANGIOVANNI, M., and VERDIER, D. (2005), 'European Integration as a Solution to War', in: *European Journal of International Relations*, vol. 11, no. 1, pp. 99-135.
- GALLOWAY, D. (2001), *The Treaty of Nice and Beyond: realities and Illusions of Power in the EU*, Sheffield: Sheffield Academic Press.

- HAGEMANN, S., and DE CLERCK-SACHSSE, J. (2007), "Decision-Making in the Enlarged Council of Ministers: Evaluating the Facts", *Policy Brief no. 119*, Brussels: CEPS.
- HARSTAD, B. (2006), 'Flexible Integration? Mandatory and Minimum Participation Rules', in: *Scandinavian Journal of Economics*, vol. 108, no. 4, pp. 683-702.
- HIX, S. (2005), *The Political System of the European Union*, Basingstoke: Palgrave Macmillan.
- HOFFMAN, S. (1966), 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe', in: *Daedalus*, vol. 95, no. 4, pp. 862-915.
- HOOGHE, L., and MARKS, G. (1997), 'The Making of a Polity: the Struggle over European Integration', in: *European Integration Online Papers*, vol. 1, no. 4.
- JACHTENFUCHS, M. (2002), 'Deepening and Widening Integration Theory', in: *Journal of European Public Policy*, vol. 9, no. 4, pp. 650-657.
- KEUKELEIRE, S., and MACNAUGHTAN, J. (2008), *The Foreign Policy of the European Union*, Basingstoke: Palgrave Macmillan.
- KRASNER, S.D. (1983), 'Structural Causes and Regime Consequences: Regimes as Intervening Variables', in: S.D. Krasner (ed.), *International Regimes*, New York: Cornell University Press.
- KÜHNHARDT, L. (2002), *Implications of Globalisation on the Raison d'Être of European Integration*, Oslo: Arena.

- KÜHNHARDT, L. (2006), 'European Integration: Challenge and Response. Crises as Engines of Progress in European Integration History', in: *Centre for European Integration Studies Discussion Papers*.
- MAJONE, G. (2006), 'The Common Sense of European Integration', in: *Journal of European Public Policy*, vol. 13, no. 5, pp. 607-626.
- MANNERS, I. (2010), 'Global Europa: the Mythology of the European Union in World Politics', in: *Journal of Common Market Studies*, vol. 48, no. 1, pp. 67-87.
- MAZEY, S. (1999), 'The Development of the European Idea: from Sectorial Integration to Political Union', in: J. Richardson (ed.), *European Union: Power and Policy-Making*, London: Routledge.
- MILWARD, A.S. (2000), *The European Rescue of the Nation State*, London: Routledge.
- MONNET, J. (1978), *Memoires*, London: Collins.
- NUGENT, N. (2010), *The Government and Politics of the European Union*, Basingstoke: Palgrave Macmillan.
- PETERSON, J. (1995), 'Decision-making in the EU: Towards a Framework for Analysis', in: *Journal of European Public Policy*, vol. 2, no. 1, pp. 69-93.
- ROSAMOND, B. (2000), *Theories of European Integration*, Basingstoke: Palgrave Macmillan.
- SEDELMEIER, U. (2005), 'Eastern Enlargement: Towards a European EU?', in: H. Wallace, W. Wallace and M. Pollack (eds.), *Policy-Making in*

- the European Union*, Oxford: Oxford University Press.
- STRANGE, S. (1994), *States and Markets*, London: Continuum.
- STUBB, A. (1996), 'A Categorisation of Differentiated Integration', in: *Journal of Common Market Studies*, vol. 34, no. 2, pp. 283-295.
- STUBB, A., WALLACE, H., and PETERSON, J. (2003), 'The Policy Making Process', in: E. Bomberg and A. Stubb (eds.), *The European Union: How Does it Work?*, Oxford: Oxford University Press.
- SUTTER, M. (2000), 'Flexible Integration, EMU and Relative Voting Power in the EU', in: *Public Choice*, vol. 104, no. 1, pp. 41-62.
- SZYSZCZAK, E. (2006), 'Experimental Governance: the Open Method of Cooperation', in: *European Law Journal*, vol. 12, no. 4, pp. 486-502.
- TSEBELIS, G. and KREPPEL, A. (1997), 'The History of Conditional Agenda-Setting in European Institutions', in: *UC Irvine, Centre for the Study of Democracy*.
- VAN KEMSEKE, P. (2011), 'Who Laughs Last in Lisbon's Europe: Monnet or de Gaulle?', *MAES Alumni Lecture*.
- VANNEROT, S. (2009), 'The Story of the 'New' European Policy Office', on: <http://www.gouverner.net/go/articles/story-of-the-new-europol.shtml> .

- WALLACE, H., WALLACE, W., and POLLACK, M. (2005), *Policy-Making in the European Union*, Oxford: Oxford University Press.
- WALLACE, W. (1999), 'The Sharing of Sovereignty: the European Paradox', in: *Political Studies*, vol. 47, no. 3, pp. 503-521.
- WALLACE, W. (2005), 'Post-Sovereign Governance: the EU as a Partial Policy', in: H. Wallace, W. Wallace and M. Pollack (eds.), *Policy-Making in the European Union*, Oxford: Oxford University Press.
- WARLEIGH, A. (2000), 'History Repeating? Framework Theory and Europe's Multi-level Confederation', in: *Journal of European Integration*, vol. 22, no. 2, pp. 173-200.
- YOUNG, A. (2005), 'The Single Market: a New Approach to Policy', in: H. Wallace, W. Wallace and M. Pollack (eds.), *Policy-Making in the European Union*, Oxford: Oxford University Press.