

European Institutions at the Forge of Crises:
A Motion Picture on Prudential State Formation

By

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Abstract

This historical institutionalist (HI) approach to regional integration theorises what role relationships between Europe's market and state actors and institutions have in the timing of the European Union's (EU) establishment. This approach differs from intergovernmentalist and rational choice theories that understand this process as successive iterations of self-interested fully rational nation-state representatives playing the same unembedded games of power together *ad infinitum*. I propose rather that this understanding has become outdated because (i) there are certain spatiotemporal (or historical) contexts that limit national representatives' abilities to prevent EU agent institutions from reproducing norms and rules that run counter to national interests, and (ii) when national actors reprise intergovernmental arrangements as a premise for governance, they undermine the 'coherency' that is crucial to the reproduction of EU institutions that have gained state-like functions in promoting and securing public goods. Because self-interested actors are at least minimally rational or prudent, they do possess the necessary problem-solving capabilities to re-cohere incoherent institutional processes. However, because complex information environments tend to accentuate the contextual limitations to actors' rational capabilities, actors' problem-solving capabilities in-turn have delayed effectiveness in the process of institutional re-coherence. I later apply this HI model to recent critical junctures in the EU: the Eurozone crisis from 2010 and the Schengen crisis from 2015. I find that institutional incoherencies are based on discredited commitments to EU institutions in (firstly) economy and (latterly) home affairs. I propose that comprehensible cost-benefit measures demonstrate enhanced regulatory strategies at the EU level have the potential to yield optimal solutions to these commitment-based incoherencies. This paper thus asserts that contemporary evidence of intergovernmental arrangements in the EU represent snapshot delays and not limits to European state formation.

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Table of Abbreviations

€	European Currency Unit
AFSJ	Area of Freedom, Security, and Justice
CA	Court of Auditors
CAP	Common Agricultural Policy
CEU	Council of the European Union (or just Council)
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
DS	Dublin System
EC ₁	European Community
EC ₂	European Council
ECB	European Central Bank
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EDP	Excessive Deficit Procedure
EEB	European External Border
EEC	European Economic Community
EMS	European Monetary System
EMU	Economic and Monetary Union
ERM	Exchange-Rate Mechanism
ERN	European regulatory networks
ESM	European Stability Mechanism
EU	European Union
EURMS	Eurozone Member State
EURODAC	European Dactyloscopy
FAC	Foreign Affairs Council
FRONTEX	European Border and Coast Guard Agency (2016-)
	European Agency for the Management of Operational Cooperation at the External Borders (2005-2015)
GDP	Gross domestic product
HI	Historical institutionalism
HoR	House of Representatives
IGC	Intergovernmental Conference
IMF	International Monetary Fund
JHA	Justice and Home Affairs
MEP	Members of the European Parliament
MENA	Middle East and North Africa
MS	Member state
MTO	Medium-Term Objective
NATO	North Atlantic Treaty Organisation
OLP	Ordinary legislative procedure
QMV	Qualified majority voting

SAMS	Schengen Area member state
SBC	Schengen Borders Code
SEA	Single European Act
SGP	Stability and Growth Pact
SIS	Schengen Information System
SM	Single Market
TTE	Transport, Telecommunications and Energy
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US(A)	United States (of America)
WTO	World Trade Organisation

Forward

“When humankind fails, the best institutions save it from the brink.”

An otherwise innocuous and incidental statement would it be for a world of individuals (Cohen, 2011).

I believe the theorisation of integration developed in this paper is one that pays homage to the methods of the architect for what would become a Union in what was once the world’s most embattled continent, Jean Monnet. It was both in virtue and a virtue of Monnet’s desire to renew and revitalise humankind’s contract with ‘institutions’, during one of its own worst crises which led to what has been dubbed “Pax Europaea” (Lindberg, 2005: 90), in reference to the period of relative peace that incubated the war-torn continent following the mid-twentieth century (Hill, 2010: 8).

In the opening line to *Savage Continent: Europe in the Aftermath of World War II* the author Keith Lowe asks the reader to “Imagine a world without institutions.” The desolate world Lowe goes on to describe is one set in a ‘state of nature’ (2013: xiii-xiv). The social activity of its inhabitants is inanimatised, atomised and amoralised; in essence, individual behaviour merely conveys the trajectory, motion and inertia of solitary physical units, while the stage for conflict and interaction is unabstracted as one of material collision and exchange (Hobbes, 1676). These conditions, first theorised by Enlightenment philosophers in the seventeenth and eighteenth-centuries, promulgated the desire for an escape from them. This was to be done by a most formidable social contract, instating a ‘sovereign’ predicated on the nation-state (Hawthorn, 1987: 10). This idea proliferated in actuality from the Westphalian system that followed Europe’s peace treaties ending the Thirty Years War in 1648 (Caporaso, 1996: 34-44; Elazar, 2002: 33, 1997: 237-238; Keeley, 2009:88-

94), while the contract is to this day cemented as part of the law of the international community through its 1933 Montevideo Convention (Grant, 1998). Those acquainted with institutionalist literature may at this stage discern a kernelled truth, more often deliberated over by political philosophers and sociologists: that the nation-state is too an institution (Bourdieu, 1994; Sen, 2012). Thus, disputes over whether this contract did¹ or did not contribute to, or even abate, the acclaimed “most destructive war in history” (Lowe, 2013: xiv) side-line the point that it simply could not fulfil the promise of the enlightenment, and stop humankind returning closer to the bespoke conditions of the laws of nature.

As Churchill once cautioned the European community of nations (Stikker, 1966: 161), we in the unfolding ‘European Project’ (Klos, 2016) that takes after those with a view beyond the parapet², are constantly asked to amend and so-to-speak “upload” (Fossum and Menéndez, 2010: 24) this contract by writing the state beyond that of the nation, and in-turn above the international ‘Westaphalian order’ (Eriksen, 2005: 1). Since its inception, Monnet’s ‘Theory of L’Engrenage’ (translated as “putting grit into the works”) (Malmgren, 2015: 22) has been about progressively writing state institutions to this level so much as it has anything else. In suitable fashion, this paper argues that the legacy “institution-building” is indeed the most consequential aspect of integration (The Economist, 2017), at a time when Europe once more finds itself approaching the brink.

¹ A strong case for why it may have contributed to it was posthumously made in the *The Federalist Papers* by both Madison and Hamilton, and by the legacy of a *Pax Americana* (Lopez-Linares, 2016). They wrote in favour of a federalised Union between independent states based on how the political constitutions of Europe were themselves forged by and tied to the exigencies of warfare (Hamilton et al., 2016: 13-14, 59-62). Europe’s post-Westaphalian nation-states were thus forged by either ‘force’ (such as the French) or at best mere ‘accident’ (such as the United Kingdom) (c.f. Elazar, 1997), in a Hobbesian “state of organised warfare” (Ostrom, 2008: 40-46) with each party engulfed in violent competition with one another over the means of interpersonal constraints.

² Notions of a post-national state belonging to the ideals of the enlightenment were first envisioned by David Hume’s *Idea of a Perfect Commonwealth* (1994) and the cosmopolitan ideals discussed in Immanuel Kant’s 1795 *The Perpetual Peace: A Philosophical Sketch* (2010).

Introduction

“Europe will be forged in crises, and will be the sum of solutions adopted for those crises”

The “father of the community” Jean Monnet (quoted in Duchêne, 1994: 392-404; 1978: 488).

Both in 2010 and 2015 the institutions of the European Union’s (EU) economic and home affairs regimes were caught up in cascades of international crises. The first cascade of crises began in 2008 and 2009, as the global economic environment was shaken by the effects of a financial crisis across the North Atlantic, which was to escalate into a crisis of “full-blown” proportions on the global economy once it had reached the banking sector, in what was afterward called “The Great Recession” (Arpaia and Curci, 2010: 1-4; Kutter and Heinrich, 2013: 1-5). These financial instabilities occurred because of difficulties that arose in certain segments of United States (US) financial markets during summer 2007, with the collapse of the country’s real estate “bubble” at the advent of the “subprime mortgage crisis”. This economic crisis reached Europe through its many export-led dependencies on US financial markets, with asymmetrical effects felt between the “contradictory” economies of the eurozone: namely, Germany and its economic “satellites” (such as Austria, the Benelux and Nordic countries), and the solvent risk countries of Ireland and Southern Europe (such as Greece and the Iberian Peninsula) (Bellofiore and Halevi, 2010: 1-2, 13-18, 23-25) at the outbreak of the “sovereign debt crisis” in the euro area, beginning with Greece in autumn 2009 (Argyrou and Kontonikas, 2012: 658-659, 676).

In the second instance, beginning in late 2014, historically global highs of over 60 million refugees and internally displaced persons were being reported by the United Nations High Commissioner for Refugees (UNHCR) (2015a). This global issue emerged largely because of the spillover effects of various “state failures” or crises that occurred during the 2011 Arab Spring in the Middle East

and North Africa (MENA) (Aras and Yorulmazlar, 2016) in what has been since called the “Arab Winter” (especially in the war-torn countries of Libya³ and Syria⁴). Indicators of the coming migrant and refugee crisis began to filter in when Europe received reports of capsized boats and drownings of refugees crossing mortally dangerous Mediterranean migratory routes, at the EU’s southern maritime borders (British Broadcasting Corporation, 2015a; International Organisation for Migration, 2014; Millward, 2014; United Nations High Commissioner for Refugees, 2015b). By 2015, large swathes of migrants and refugees – termed “mixed flows” (Goldner Lang, 2014: 11) – began journeying to Europe through both its South Mediterranean and Balkan routes (Isherwood-Mote, 2016a: 13-18). Due to the asymmetrical consequences of the procedures involved in both policing and distributing these human flows arriving at Europe’s external borders, it was the mere geographical location of South and East European EU member states (MS) that meant they found themselves more strained than their West, Central and North European counterparts (Baker, 2016: 136-140).

These events have each individually brought the EU’s regimes of Economic and Monetary Union (EMU) and its Area of Freedom, Security, and Justice (AFSJ) onto their knees⁵. Of yet more specific importance is the asymmetrical effects these exogenous shocks have exacted on Europe’s critical institutions, accentuated by clear “commitment-compliance gaps” between its less and more affected MSs (Börzel, 2016). In direct contravention of MSs’ commitment to the burden-sharing ambit of the EU’s principle of solidarity (Bast, 2015), they have demonstrated a rise in

³ For an analysis on the collapse of the Libyan regime and the fall of Muammar Qadhafi in 2011 and the strategic problems this posed for the EU’s migration policy regime, see Seeberg’s *EU Strategic Interests in Post-Qadhafi Libya: Perspectives for Cooperation* (2014).

⁴ For a discussion on the persistent conflicts and humanitarian issues plaguing Syria, as well as their impact on the mixed influxes of humans being received and processed by Europe’s common migration and refugee policies, see Yazgan et al.’s *Syrian Crisis and Migration* (2015)

⁵ Meanwhile the effects of both have combinedly strained the political capacity of the Union itself in what the President of the Commission Jean Claude-Juncker has declared an “existential crisis” to the EU (European Commission, 2016a).

“hard intergovernmental bargaining and brinkmanship” (Ioannou et al., 2015: 165) with intense disputes over lending between the “creditor” and “debtor” MSs of EMU (Kutter and Heinrich, 2013), and the reintroduction of internal borders⁶ due to under-resourced European External Border (EEB) controls⁷ in the MSs of AFSJ. These crises have thus come to punctuate the integration process by acutely impacting certain institutional aspects of the EU, which had, since the signing of the Treaty of the European Union (TEU) in 1992 between EU leaders in Maastricht, resided almost undisturbedly in concealment beside the creation of the Single Market (SM). Institutions were subsequently incorporated into the European Community (EC₁) as part of EMU and (AFSJ’s predecessor) Justice and Home Affairs (JHA) regimes; both were intended as augmentations to the freedoms of the SM (Young, 2015a: 69). Yet they lacked the necessary instruments to assuage the effects of these crises when they arrived, and were thus deemed culpable by some onlookers of exacerbating their negative effects⁸.

Monetary union in the EU was prepared for by the EC₁’s 1979 intergovernmentally coordinated European Monetary System⁹ (EMS), constructed with the purpose of preventing any large currency fluctuations between MSs (Scharpf, 2011: 8-10). The establishment of monetary union via the Eurozone by 1999 was meant to improve the efficiency of microeconomic transactions

⁶ For a full list of Schengen MS notifications of the temporary reintroduction of border control at internal borders see https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control_en.pdf.

⁷ The humanitarian crisis prompted a European Council meeting announcing a tripling of intergovernmental funding for the EU’s meagrely supported European Agency for the Management of Operational Cooperation at the External Borders’s (FRONTEX) Operations Triton in Italy and Poseidon in Greece (British Broadcasting Corporation, 2015b; European Council, 2015). However the of success of either Operation have been incidental, simply standardising rates of monitorisation and intervention where EEB MSs capacities are strained (European Council, 2016).

⁸ Declining support in the institutions of both regimes are especially acute among the EU’s EMU and AFSJ regime ‘outsiders’, especially in the UK (König, 2017; Roth et al., 2016; Verdun, 2016: 304), despite having consciously opted-out of the integrative steps the EU undertook in establishing both a single currency and border-free area during the 1980s and 1990s (McBride, 2017).

⁹ EMS constituted the substantial origins of the Eurozone, which pegged nation-state economies to a European Currency Unit (€) through its Exchange-Rate Mechanism (ERM). This institutional set-up prepared the Union for the next integrative step that was monetary union (Scharpf, 2011: 8-10).

within the SM by alleviating the costs of exchange-rate uncertainty, and to reduce transaction costs and increase the pricing transparency of its market interactions (Wallace et al., 2015a). In 2010, the “no bail-out” clause of Article 125 of the Treaty on the Functioning of the European Union (TFEU) that stipulated the fiscal limits of EMU’s institutional architecture, was exposed by MSs that had not credibly committed to the ongoing stability of the Eurozone by allowing high rates of public debt to accrue (De Jong and Van Esch, 2014: 253-254).

In the case of AFSJ, the implications of what the SM’s integrated labour market and free movement meant for internal border controls were “communitarised” when the contents of the 1995 Schengen Agreement¹⁰ were inculcated into the EU’s *acquis communautaire* (via protocol) during the EU’s 1999 Amsterdam Treaty (Kuijper, 2000). This regulated the removal of obstructions to internal movement by dismantling the internal border controls of the MSs that would comprise the EU’s Schengen Area (SA). Naturally, attention was also paid to the “security deficit” at SA’s external borders, through “compensatory [or “flanking”] measures” devised with the intention of managing the potential mix of flows arriving at the SA’s newly established EEB (Kasperek, 2016: 61). Thus, in 2006 the Schengen Borders Code (SBC) was adopted to broadly administer borders as well as the entry conditions for *extra*-EU (or ‘third-country national’) migrants at the EEB. Meanwhile the Dublin System (DS) was written into Articles 28-32 on asylum – as per the legal baseline of international law (i.e. the UNHCR’s 1951 Geneva Convention on the Status of Refugees)¹¹ – in the original Schengen Agreement of 1985, to proceduralise the management and allocation of asylum-seekers and irregular migrants at EEB. Appendaged to DS were the Dublin Regulation,

¹⁰ The Agreement itself culminated after ten years of MS negotiations and represented the eventual merger of several European Common Travel Areas, including: the shared open border between France and Germany, as well as that between the Benelux, the United Kingdom and Ireland, and among the Nordic countries (Anderson, 2000: 13).

¹¹ This codifies the concept of “refugees” (i.e. a stateless person fleeing a well-founded fear of harm or persecution) and the principle of “non-refoulment” (i.e. the return or expelling of refugees to where they are likely to be harmed or persecuted) (United Nations High Commissioner for Refugees, n.d.).

which identifies the responsible MS for any asylum-seeking application as that of “first entry”, and the European Dactyloscopy Regulation (EURODAC), which uses a pan-European fingerprint database to record all asylum-seekers and irregular border crossers in the EU (Anderson, 2000: 12-14; Geddes, 2014: 73-74). These procedures legally diverted serious SA maintenance-costs when it came to resourcing both EEB controls and asylum applications upon MSs positioned at the end of traditional maritime and landlocked migratory routes connected to EEB controls, as happened acutely in 2015. Having noticed these redistributive flaws to SA, the EU subsequently proposed legislation intent on revising them (Börzel, 2016: 12), such as implementing a crucial relocation scheme for arriving refugees¹² (European Commission, 2017). Yet today due to the lack of available central legal-political instruments the legislative movements of the EU remain stagnant at stages of implementation¹³, causing the effects of the crisis on border maintenance costs to persist without a viable solution.

Understanding the asymmetrical social consequences of these collective action problems posed by these crises requires improved understanding of what political structures are responsible for reallocating the social costs and benefits of such phenomenon in the first place.

Based on these problems, this research investigates the anointed political structures – or more precisely, the institutions – that govern the redistribution or reallocation of social goods in Europe, and how they have transnationally aggregated (aka. Communitarised or Europeanised or

¹² Proposed by the Commission, it involved schemes principally agreed by the European Council to proportionally distribute incoming refugees among MSs based on the relative weighting of MSs’ absorption capacities. The mandatory redistributive key is stated as thus: 40% population size, 40% gross domestic product, 10% average number of 2010-2014 asylum applications per 1 million inhabitants, and 10% unemployment rate. For more information see http://europa.eu/rapid/press-release_MEMO-15-5698_en.htm.

¹³ While the Council of the European Union adopted the legislation on October 16th 2016, it failed to generate MS compliance due to heavy political opposition; the most serious among these came from the Visegrad bloc. A voluntarist relocation scheme unsuccessfully replaced it, managing only to relocate approximately 660 of the originally stipulated 160,000 (of the 1.2 million total in early 2016) of unsettled refugees in Europe (Henley, 2016).

centralised) towards its supranational level. I am focused on answering concerns surrounding what precise social processes have led to the formation of political structures at the supranational level across time in Europe. In my answer, I examine what mechanisms link key institutional structures and inter-actor relationships that occupy them to ‘upward moving’ social processes.

Theoretical Approach

This account employs a historical institutionalist (HI) theoretical explanation for the historical processes that generate changes to political structures – delineated by institutions – in Europe. HI is first and foremost an answer to Orren and Skowronek’s signalling for a “need for time” in institutional analysis and to “step away from the presumptions of system coherence” (1995). This HI account of the EU therefore provides a timeline of its changes by analysing the role of (in)coherency in institutional development. The incoherencies of the EU derive from the fluctuating credibility of its MS principal commitments; this has led to multiple MSs reprising sovereignty from, as well as side-lining, the singular competences of EU Community institutions. Intentionally encouraging neither complete integration nor disintegration, these MS reprisals of their unitary veto powers promote intergovernmental arrangements that systematically generate sub-optimal solutions to (what have now become) collectively shared issues or problems. This situation has amounted to what Scharpf calls a “joint-decision trap”, i.e. decision-making intentionally stagnant at the *local optima* between the efficient pooling of competences and individual sovereignty (Scharpf, 1988: 239). I stipulate that independent of actors’ intentions, the “by-products” (Pierson, 1998: 39, 51-52) of joint-decision trapped or sub-optimal solutions disrupts EU institutional functions by negatively impacting essential processes to EU public welfare. I state that multilateral-based decision-making modes are incoherently embedded within

the institutional architecture of EU governance; and that because they are incoherent, they amount to delays in (rather than the bounds of) the sequences behind institutional change.

This paper does not deny that the exigencies of joint-decision traps could be avoided by the logics of ‘both’ integration and disintegration. However, the reasons for why integration as opposed to disintegration has the potential to generate optimised solutions in contemporary cases of the EU derives from the irreversibly “sunk costs” of integration up until now (Ruggie, 2006: 111; Schimmelfennig, 2014: 328-329). While I invite scholars to use quantifiable measures of the ‘costs of non-Europe’ in my Conclusion, I propose that both the initial incentives (addressed in Chapter Two) and the ongoing investments and returns for delegation (such as the critical measure of its links to European welfare)¹⁴ mean that the EU is simply ‘too big to fail’ for its principal nations.

In my use of conceptual measures of both principal-agent relations and the institutional forms that iterate acts of delegation between them, I implicitly demonstrate how inter-principal-agent actor relations have become inverted during this process (Pierson, 1998, 2004). This is shown to occur through delegating the state-based structures that imbue the very ‘principalship’ of European nations to decreasingly ‘agentised’ post-national or pan-European actors, as they come to embody the political interests of a European social collective (Habermas, 2001).

The causal mechanism for this change relates: (i) the instrumental functions that (intra)state institutions have in securing and promoting public or “social primary” goods (i.e. essential goods that can be extricably shared between and among actors)¹⁵ (Rawls, 2009: 78-81) to (ii) the need for these functions to be coherent. This causal relationship begins by suggesting that the

¹⁴ As German Chancellor Angela Merkel has often repeated “Europe fails if the euro fails” (Birnbaum, 2012; Eddy, 2015; Reuters, 2011).

¹⁵ For the purposes of this paper I minimally assert (and only require) that there is such a thing as social primary goods and that these are often augmented to the redistributive functions of states. For a full discussion on the contestable nature of such goods see Brighouse and Robeyns’s *Measuring Justice: Primary Goods and Capabilities* (2010).

instruments needed to secure *interstate* issues are only coherent insofar as they are attached to privatised goods. Whenever those goods become publicised they require different instruments for coherency; this is because these goods are now collectively accessible issues, which in-turn require *intrastate* tools for their effective security and promotion. The drive of the European integration process resembles this precise mechanism, which I propose is in-turn based upon the prudential form of state formation postulated by Hamilton, i.e. it takes “men as they are and not as they ought to be” in how it channels actors’ interests and resources through institutions to serve a “common good” (Chan, 2006: 55-56). I apply this logic to state formation when I ask in Chapter Four whether a currency (The Economist, 2009) or a borderless geographic area (Traynor, 2016) against the backdrop of a free market can happen to survive without a state?

I use underlying rationalist assumptions (as HI studies on the EU often have) of actors (including Egeberg, 2001: 729; Stacey and Rittberger, 2003; Thatcher, 2011: 793-794) by acknowledging that actors are at least minimally rational or efficient as self-interested decision-makers in collective action dilemmas (Ganghof, 2003: 3) to explain prudential improvements to institutional designs. This most pointedly entails the rationale of actors’ self-interested avoidance of the negative externalities that are incurred by heightened multilateral modes of decision-making, that prove to undermine collective commitments and provide gaps for ‘extreme multiplayer veto systems’ to arise (Börzel, 2012: 514; Scharpf, 1988). These negative externalities are a consequence of the problems posed by enhanced “veto points”, which are themselves qualified as “areas of institutional vulnerability” here, due to the disruptive incoherencies veto points can pose to reproductive feedback processes (processes that are only sustained by their coherency) (Thelen and Steinmo, 1992: 6-7).

I assume that the process of institutional change can be followed through the spatiotemporal order of the ‘artefacts’ of institutional change. In the specific cases of Europe’s crises (addressed in Chapter Four) this artefactual timeline was activated by the exogenous effects that exposed the potential incoherencies or ‘gaps’ of certain functions that were endogenous to European institutions.

Use of Terms and Concepts

Before proceeding to outline the contents of this case study, I wish to note some clarifications on the use of basic concepts that underlie my theoretical approach. Firstly, I forthwith consider the legal-political concerns of either ‘autonomy’ or ‘sovereignty’ to both be essentially matters of ‘competence’, and therefore refer to competences shared and not shared between the EU and MSs (Gurvitch, 1943: 31). These competences are legally-speaking conferred or transferred between various levels or locations of government that are capable of internalising these powers (Warntjen and Wonka, 2004: 9-10). This explains why European integration can and has moved into the core areas of “state sovereignty” (Schimmelfennig and Lavenex, 2014: 322), because what intergovernmentalist scholars have at times deemed fundamentally non-transferrable or non-conferrable (c.f. Moravcsik, 2001) in fact are. This attests to Bourdieu’s assertion that the state is a social artefact “imperfectly founded upon logical or even linguistic reason”, quite analogous to those things which the state effects (Bourdieu, 1994: 1-2), including proximate institutions (Aspinwall and Schneider, 2000: 23-24) and the macro-level contracts that give rise to them (Suchman, 2003: 101-105). Thus, matters of national sovereignty and autonomy are to be treated as nominal representations of the absolute pool of European competences.

Secondly, I consider the ‘population density’ of institutions to be a function of the ‘allocation or distribution of competences’. Thus, institutional populations in the political strata – from the

individual to denominable state-levels – are dense where competences are manifold and *vice versa* (Curtin, 2013: 92-93). This function assumes that these competences can have gravitational or geometric effects between areas of governance¹⁶ (Schimmelfennig and Sedelmeier, 2005: 3-4).

Thirdly, I regard institutional incoherency to be a feature of unsustainable institutional processes (and is therefore antonymic to environmental equilibrium), while institutional coherency is a feature of what is sustainable about institutions. Institutional change is thus driven by attempts to improve the coherency of institutional outputs (or broadly, environmentally equilibrate). This process of equilibration however only *approximates* ideal forms of improvement; this is because institutional designs are enacted by imperfectly rational actors that's actions are bounded by their individual contexts (Heijden, 2011: 11), and actors whose actions are imperfectly linked to institutions in the first place (Streeck and Thelen, 2005: 16). Therefore the causal mechanisms that link actors to institutional change are treated as contextually bounded (Falleti and Lynch, 2009). The historical contexts I consider pertinent to the decision-making capacities of rational actors in European integration are addressed more specifically in Principal-Agent Actors and Feedback in the Political Market.

Fourthly, when referring to unitarisation in relation to the EU, I am 'not' in-turn postulating the notion of any existing nor potential unitary European state in the traditional sense (Elazar, 1997; Keeley, 2009: 88-94). I hold, as do other scholars (Elazar, 2002), that the capacity for such an invention is foreseeably lacking in Europe. Rather I consider unitarisation to be a function of political homogeneity that is 'more or less' apparent across different (i.e. unitary, federal, and

¹⁶ This presumes that this study may also have import for scholars concerned with the "variable geometries" of European integration and enlargement (aka. "deepening and widening") (Kelemen et al., 2014), and simultaneous discussions on a "multi-speed" Europe (which denotes differentiated rates of integration between MSs) (Harmsen, 1994).

confederal) political systems. It is the component of political Union that is equivalent to what Madison regarded in *The Federalist Papers No 39* as “national”, when stating that the US would be founded on neither a “national nor a federal constitution..., but a composition of both” (2016); rather in this case however, what constitutes Union is aggregated to what is not ‘national’ but ‘supranational’. Under current circumstances, I propose that the homogenous aspect that preoccupies the EU’s centre of governance makes demands for centralisation that are equivalent to its demand for coherency. This point is key, because – contrary to the works of Tsebelis (2002: 30-33) and Swank (2001), who generalise the number of veto points positively corresponds to political stability – I posit, as Elazar implies (1997), that the ‘incoherency’ (which is here functionally equivalent to the ‘vulnerability’) of state institutions stems from the measure of veto points that can disrupt institutions’ critical reproductive functions. I therefore argue that the trajectory of Europe’s institutional development is historically wrought by the negative externalities of where there has been too much formal space for (national) political heterogeneity. This heterogeneity has disruptively manifested in the form of multi-veto points, often discussed in the literature as episodes of institutional “sclerosis” (aka. “gridlock”, “paralysis”, or “indigestion”) (Ross, 2011: 60; Sabatier, 2006; Smart et al., 2015: 248; Wallace et al., 2015b: 7). As such there is an eminent need to escape these externalities and yield institutional coherency that is afforded by more (supranational) political homogenisation or unitarisation.

Fifthly, my concerns with political ‘multilateralisation’ or ‘fragmentation’ or ‘heterogeneity’ or ‘confederalism’ are to be treated as synonymous with my theoretical concerns with intergovernmentalism. Intergovernmentalism’s view is that the EU’s output accords solely to the preferences of national governments in the EU (Verdun, 2015), where different political units are always in a place of contractual superposition, i.e. where (national) actors wield the full authority

of a ‘free buyout clause’ (or ‘opt-out immunity’ so-to-speak) from institutional processes at all times. I consider political multilateralism or fragmentation or heterogeneity or confederalism to essentially be the function(s) of intergovernmentalism with respect to the object of my thesis concern, which is the location of decision-making modes and instruments of governance. The functions of intergovernmentalism imply a range of enhanced multi-veto points that can jeopardise the coherency of institutional outputs. This is because their presence disrupts the expectations and calculations of their related social interactions between related private actors (from international markets and governmental legislators, to basic exchanges of daily goods). I argue that the limits to intergovernmentalism are a patent fact of the EU’s institutional history, and that measures which protect or enhance its modes or functions exacerbate issues of “institutional vulnerability” due to their disruptive effects on social interactions (Scharpf, 1988: 258; Streeck and Thelen, 2005: 29).

Finally, I consider institutional ‘fertility’ and ‘hostility’ as part of the functions of institutional ‘contingency’ or ‘reversibility’. These terms each refer to the probabilities of institutional ‘life and death’. When the status quo or institutional establishments become more reversible or more contingent, due to the emergence of institutionally hostile negative feedback loops discussed in Feedback in the Political Market, they make fertile room for alternative institutions to take their place and engage in positive feedback loops.

In Chapter Two I discuss how these feedback processes fit into and define separate and different institutional episodes. Episodes defined by heightened contingency or high birth/death rates (termed as ‘critical junctures’) are often:

- i. suddenly realised,
- ii. and more exogenously driven.

These episodes occur when pre-existing institutions breakdown due to negative feedback and make room for new institutional innovations. Episodes defined by low contingency or low birth/death rates (termed as ‘path dependence’) are meanwhile often:

- i. slowly progressed through,
- ii. and more endogenously driven.

These episodes emerge when the feedback of pre-existing institutions is positive enough to obstruct new institutional innovations from acquiring the necessary feedback to retrench themselves in society. Yet it must be noted these periods are only relatively (and not exclusively) prone to demonstrate their defining spatiotemporal elements (such as with fast change in cases of critical juncture and continuity in cases of path dependence). Thus, the elemental connections between these spatiotemporal trends – continuity and change; slow and fast; endogeneity and exogeneity – are to be treated only as loosely (as discussed in Chapter Two), rather than as being strictly, connected¹⁷.

Outline

Chapter One: Integration Theory begins by summarising the literary background from which this analysis emerges, in an attempt to “square the circle” of European integration theory (Wessels, 2002; Young, 2015b: 123). It reflects upon a fictitious divide in the scholarly debate over regional integration, between the ‘grand’ theories of neo-functionalism and intergovernmentalism. The contextual dependence of these theories’ successes and failures demonstrate their transitive limitations when explaining regional integration. In either case, they take ‘snapshots’ of Europe’s

¹⁷ Restrictions to these linkages are meant to allow for the capturing of any complementary functions between the “punctuated equilibrium literature” and “incrementalism literature”. This is because strict definitions of institutional change may fail to capture the true nature of contestable forms of change; for example, critical junctures may actually be “tipping points” in path dependent models, while path dependencies may actually be separately (or weakly) linked to the exigencies of change in critical juncture models (Heijden, 2011: 11-12).

integrative episodes to be the whole of the process, when they are in fact the parts of a motion picture. The appearance of this fault-line serves as my theoretical point of departure. I invoke HI as a middle-range approach to compatibilise these theories into a complete spatiotemporal order to regional integration.

Chapter Two: Historical Institutionalism focuses on the history of and theoretical basis for (formal) institutions. It begins by describing the dual-temporal orders of change and continuity that iterate this history as well as the inherent characteristics of institutions. I also explore principal-agent theory as a basis for an implicit understanding of European institutionalisation, and the historical potential for inverted principal-agent relationships between Europe's corresponding national and supranational actors. This inversion occurs due to emergent 'gaps' that undermine the control of principals over agent delegates over increasing spatiotemporal intervals. I finally investigate the role that feedback loops have in the life of institutions that are part of the political market. These loops effectively bootstrap institutions to either the positive or negative forms of feedback they reproduce; these feedbacks are what effect trends of institutional birth/death rates.

Chapter Three: Institutions of European Unity precedes the case studies of the following chapter by describing the institutional *loci* of European competences. These competences are inextricably linked with the types of and actors party to institutional decision-making, divided between the levels of European nation-states and the EU. After explaining the divisions or levels of labour behind European governance, I delineate the institutions of EU Community governance (and potential government). These levels and their parameters provide the basis for any investigation into shifts between them.

Chapter Four: The Insufficiency of the Present Confederation to the Preservation of the Union employs the concepts outlined by this HI model thus far by analysing the effects that activated

shifts between these levels, with due regard for the EU's EMU and AFSJ regimes. This section identifies the incoherencies that have been exposed in either regime by recent crises. The failure to effectively pool the necessary competences and resources for governance in both EMU and AFSJ has generated negative feedback loops in Europe's political market. Due to the nature of these problems I maintain that regaining coherency requires institutional changes that gravitate towards the EU's veritable central processes and institutions.

I conclude my research by acknowledging the impact of the sociological or symbolic aspects that underlie the ambitions of the European Project, as well as a couple of worthwhile areas of further research.

Chapter One: Integration Theory

“Several blind men approached an elephant and each touched the animal in an effort to discover what the beast looked like. Each blind man, however, touched a different part of the large animal, and each concluded that the elephant had the appearance of the part he had touched...

[Likewise,] different schools of researchers have exalted different parts of the integration ‘elephant’. They have claimed either that their parts were in fact the whole beast, or that their parts were the most important ones, the others being of marginal interest.”

The story of the “blind men and the elephant” spoken of in relation to contemporary integration theory (Puchala, 1972: 267-268).

The founding fathers of the European Project solemnly promised “peace and prosperity” through the principle espoused by its motto of “unity in diversity” (European Commission, 2016b). In times of crisis, when this solemn promise has been most sorely tested, the reflex of Europe’s institutions towards “ever closer union” has wrangled with constant contestation and scepticism over whether such unity can emerge from this patent diversity (Warleigh, 2002: 101-103). This friction nods to an age-old debate – preceding, as well as enduring, the course of European integration – over the “centrifugal and centripetal forces” of governance among political societies (Weiler, 1981: 268), illustrated in the following.

A New Federal Era

Since World War II, the problems Europe has faced, in its strides towards achieving unity as a function of its promise of peace and prosperity, emerge from what James Madison and Alexander Hamilton had once recognised and wrote on extensively in *The Federalist Papers*. The source of woes that perturbed the realisation of the “advantages” or “utilities” of Union (2016: 18-22) during

the pre-Constitution era of the *Articles of the Confederation*, and after the War of Independence in the eighteenth-century, was the European tradition of “sovereignty” among politically differentiated societies (Ostrom, 2008: 7-9). During this time, the creation of a Union was disrupted by the frictions of the former colonies, between the Jacobin militants of Pennsylvania and the Tocquevillians of Virginia for example (Allen, 2005: 57-61; Sajó, 1999: 255-257), just as Franco-German relations have often rankled the establishment of the EU (c.f. Webber, 2005), not least in the development of monetary integration for example (Story, 2005).

Thus, disputes between and among the federalists and their confederalist predecessors in the States comprising the US (Green and Stabler, 2015: 395) have accompanied the traditional “families” of the European literature on political integration, now separated by the two ideal-types of supranationalism and intergovernmentalism (McGowan, 2007: 1; Sandholtz and Stone Sweet, 1998: 302). Neo-functionalism – first formalised by Ernst Haas, and is in many ways Europe’s counterpart to the US federalist¹⁸ (Fabbrini, 2005a: 10) – propounds the order of supranationalism. It does so by describing integration as a process whereby actors are persuaded to “shift their loyalties, expectations and political activities towards a new centre” that’s institutional processes and jurisdictive demands preside over existing nation-states (1958: 16; Kaunert and Léonard, 2012). In contrast, intergovernmentalism locates the primary levers of governance in the confederal organisation of states (Cini, 2016: 70), and broadly-speaking describes integration as a two-stage process of negotiation, whereby: (1) national preferences of MSs are formulated by various decisive domestic actors, before (2) successfully formulated preferences at the domestic-level reach levels of interstate bargaining through their representatives. Any supranational

¹⁸ This strand of theory on political centralisation came to the fore when explicit federalist arguments towards a “United States of Europe” had been exhausted to no avail. For more information see Rosamond’s *Theories of European Integration* (2000: 37, 50-53).

arrangements and actors are thus (according to this family) both always contained and reversible through negotiation for constituent MSs (Filippov et al., 2004: 317; Hoffmann, 1966; Moravcsik, 1993a).

The following describes the tumultuous debate between these alternative familial theories of integration, and how they were anecdotally informed by distinct and separate periodical stages to the European Project. The theoretical assets of HI in the context of this debate account for actors' decision-making and action processes during extended time frames, i.e. the often-sizeable time lags that occur between "actors' actions" and the "long-term consequences of those actions". This helps seize upon the epistemic quandaries that perturbed both the neo-functionalists and intergovernmentalists, in episodes where which countervailing forces to supranationalism gave way to intergovernmental critiques and vice versa (Pierson, 2004: 87; Pierson and Skocpol, 2002). This precise import enthuses the use of HI as account of EU integration. This outlook is especially wieldy in the current European climate; in an era that otherwise seems to be no more than repeated history (Schimmelfennig, 2015), with intergovernmentalism (or "new intergovernmentalism") back in vogue (Bickerton, 2017; Bickerton et al., 2015; Puetter, 2014, 2012) and observations of an existential crisis that today seem to simply amount to a "Eurosclerosis 2.0" (Möckli, 2012).

The Twentieth-Century

Neo-functionalism professes to be based on the Community (or federal) Method (Fabbrini, 2005a: 6), originally espoused by Jean Monnet, which defines "the role of Europe's various institutions and the modes of their interactions"¹⁹ (Dehousse, 2011: 21; Duchêne, 1994: 392). It conceptualises the roles and interactions of the EU institutions, stated in TEU Article 13, as a "procedural code"

¹⁹ The Commission officially declares that the Method is a "means to arbitrate between different interests by passing them through two successive filters: the general interest at the level of the Commission; and democratic representation, European and national, at the level of the Council and European Parliament, together the Union's legislature" (2001).

(Pollack, 2015: 15). According to neo-functionalism, inter-policy sector ‘spillover’ processes are engineered by this Method, through which the EU’s supranational institutions actively gain increased influence over the trajectory of European integration. This process begins after functional dissonances occur due to the partial integration of strategic economic sectors, i.e. at levels of ‘low’ politics; these effect national economies in such a way that Streeck may suggest challenges their “functional completeness” (Habermas, 2006: 117; 1998: 19). These dissonances pressure their respective sectors’ (now entangled) national governments into creating further functional linkages through integrated spillovers – sponsored by supranational bodies – into their cognate sectors. This spillover process eventually persuades rational private actors with vested material interests in these sectors of a shift in the *loci* of legitimate authority to the supranational domain. This “authority-legitimacy transfer” is part of a shift of social demand for integration at the ‘high’ level of politics to effectively regulate these sectors’ authoritative actors (Rosamond, 2000: 50-52, 58-60; Taylor, 2008: 90). The initial successes of the European Project corroborated much of this early neo-functionalist thesis. The 1950 Schuman Declaration could be seen as the start of this process, where it pooled France and Germany’s coal and steel sectors in the establishment of the European Coal and Steel Community (ECSC). The ECSC was a precursor for what would become the European Economic Community (EEC) or “Common Market” (founded in the 1958 Treaty of Rome) as part of the 1965 ‘Merger Treaty’ between the EEC, ECSC and Euratom, under the European Community (EC₁) (Kesselman et al., 2016: 178-179). Evidence of spillovers after the ECSC’s establishment began to occur when its cognate national transport sectors became integrated after experiencing functional dissonances in its ability to ensure its cross-national movement of goods, for example. This process was sponsored all the while by the

supranational High Authority of the ECSC²⁰ (Isherwood-Mote, 2017a: 2-3), and thereby uncannily fit much of Haas's original spillover argument (Phinnemore, 2016: 14-15; Spierenburg, 1994: 623-625).

However, critiques from the likes of Hoffmann and Milward, that emphasised the importance of intergovernmental arrangements as the controllers of the regional integration process, gained salience at the expense of neo-functionalism from the late 1960s until the early 1980s²¹ (1966; 1984). European institutions entered a phase called 'Eurosclerosis' during this time after infamous interstate blocks to the automaticity of spillovers occurred at the behest of nation-state actors. This began with the 1965 'empty chair' crisis in Community governance (Apeldoorn, 2003). Perpetrated by the government of French President Charles De Gaulle, due to his reservations over the Hallstein Commission's proposed reforms to the EC₁, French Ministers were barred from attending the Council of the EEC. The dispute was only reconciled by the Luxembourg Compromise the following year. To De Gaulle's pleasure this compromise amended qualified majority voting (QMV) methods in the Council by giving *de facto* veto power and importance to nation-state preferences, by enhancing the consideration given to any "very important" contradictory interests MS stakeholders might have in EC₁ policy formulation. The deal also retained protectionism and subsidisation of farmers in France at the expense of consumers and taxpayers by blocking proposed liberalisation in the EC₁'s Common Agricultural Policy (CAP) (Kesselman et al., 2016: 184; Phinnemore, 2016: 16). These events were followed by the 1973 'oil

²⁰ The complex problems posed by the ECSC, such as the high costs of transporting its voluminous merchandise and discriminatory interstate transport rates based on origin, led to protracted interstate negotiations that were kneaded and credibly reconciled by the involvement of the High Authority (Spierenburg, 1994: 151-175, 296-309).

²¹ Haas conceded the obsolescence or proposed the virtual "extinction" of neo-functionalism on two occasions after this: in his book *The Obsolescence of Regional Integration Theory* (1975), and again in *Does Constructivism Subsume Functionalism?* (2001).

crisis' that forestalled ambitious attempts of monetary union²², which in-turn precipitated the 1980s' global crisis in macroeconomic governance. This led to the downfall of the international Bretton Woods system²³ and the tenability of Keynesian strategies of demand management in the midst of Europe's unabated stagflation (Egan, 2016: 259; Isherwood-Mote, 2017a: 3; Kaunert and Léonard, 2012; Phinnemore, 2016: 18; Scharpf, 2011).

A neo-functionalist revival began in the following decade however under the guise of Stone Sweet and Sandholtz's 'transaction-based theory', on the transition of national governing tools to the supranational level. This transitional process observed three increasing correlated factors in the integration process: (a) transnational exchange, (b) supranational organisation, and (c) EC₁ rule-making. They theorised the integration process begins when (a) transnational exchanges create social demands for (c) EC₁ laws, which are then facilitated by (b) supranational organisations (1998). The role of institutions (in this case, supranational) are said to matter here (c.f. Przeworski, 2004) since they define the rules that in-turn define the decisive roles of actors (North, 1991), while actors alone act in rationally-materially self-interested ways. Thus institutions, such as the Commission or European Court of Justice (ECJ), can therefore enhance their autonomy and influence by ruling on the interests of transnational society and exchange. In *The Institutionalization of Europe*, Stone Sweet, Sandholtz and Fligstein developed this argument with their notion of institutional change, suggesting the reasons for it are: (i) exogenous shocks (i.e. crises), (ii) the endogeneity of rule innovations to politics, (iii) diffuse organisational behaviours, and (iv) institutional entrepreneurship. The supranational entrepreneurs of institutional change

²² This was later to be achieved through Europe's "Snake in the Tunnel" that pegged national currencies to the € as part of the ERM of the 1979 established EMS (Scharpf, 2011: 8, 30-32).

²³ In preparation for a post-war rebuild of the international economy, this system was agreed by the Allied nations and tied its signatories' monetary policies to a fixed exchange rate of ± 1 percent of gold; it eventually disintegrated in 1971, following the USA's opt-out of the system (Kirshner, 1995).

were considered responsible for constructing and revising “policy frames” (i.e. sets of collectively held meanings) at transnational sites or arenas of activity. It is at this stage that the primary focus of the EU was said to shift from negative integration, with the elimination of trade barriers and distortions of competition, to positive integration, with the innovations of common European policies to shape the conditions under which the markets and human activity operate (Scharpf, 1995; Sweet et al., 2001: 3, 11). The period of this development in supranational theory coincided with the revival of the European Project, beginning in the mid-1980s (after the 1984 Fontainebleau Summit, which navigated the crisis of “political gridlock” that had previously beset Europe)²⁴, with the relaunch of the SM project under the newly appointed Commission President Jacques Delors, and was framed by the contents of the 1986 Single European Act (SEA) (and imposed a 1992 deadline to SM’s completion)^{25 26} (Egan, 2016: 259-262; Schmitter, 2003). Per Fligstein’s suggestion, this low political development produced spillovers into the domains of high politics, as actors in the Commission (such as Delors) functioned as institutional entrepreneurs in brokering a coalition around the framing of the SM’s completion; these events were said to structure the high politics of subsequent negotiations over the EU’s founding 1993 TEU (aka. The Maastricht Treaty) (2001; Isherwood-Mote, 2017a: 4-5; Laffan, 1997; Ruggie, 2006: 111-112).

²⁴ Namely reconciling the dispute between UK Prime Minister Margaret Thatcher and the German Chancellor Kohl and French President Mitterrand over the UK’s relatively large contribution to the EEC budget with partial reimbursements through “rebate” (Fligstein, 2001: 263; Martens, 2009: 92-93).

²⁵ Based on a Commission White Paper published in 1985 (entitled *Completing the Internal Market*), Delors along with Internal Market Commissioner Lord Cockfield embarked on pursuing the ambitions of the 1957 *Spaak Report* on creating a common market. This was to be achieved by removing 283 proposed physical, technical, and fiscal barriers to the internal market’s freedoms of capital, goods, services and movement, in the aptly named ‘1992 Programme’ (Egan, 2016: 256-262).

²⁶ Besides the SM project, SEA also extended the use of QMV in the Council (revising many aspects of the Compromise negotiated by De Gaulle in 1966), as well as the range of Commission competences in areas such as environment, cohesion policy, and research development (Phinnemore, 2016: 17).

Review

Neo-functionalism has succeeded in demonstrating how spillovers successfully occurred in the diverse range of high politics areas which make-up the EU as it stands today (Kaunert and Léonard, 2012; O’Keeffe, 1999; Phinnemore, 2016; Trauner and Servent, 2014). How spillovers do not occur has remained a lingering question however. Neo-functionalism still fails to answer whether spillovers are ‘fair-weather’, and abide only under the right conditions as sometimes seemed undeniable; in times of ‘permissive consensus’ (for post-functionalists) (Hooghe and Marks, 2009) or economic growth or prosperity (for some economists and comparative area studies specialists) (Filippov et al., 2004: 332-333; Holland, 1980) for example, yet falter during a ‘constraining dissensus’ or economic hardship (Isherwood-Mote, 2017a: 10-11).

Countervailing forces to the primacy of spillovers have represented the fault-line neo-functionalism shares with intergovernmentalism. On the other hand, countervailing forces to the primacy of interstate bargaining have represented the fault-line intergovernmentalism shares with neo-functionlism. Thus neither spillovers nor interstate bargains have uninterruptedly iterated the entirety of the historical timeline to European integration, but only “snapshots” of it (Pierson, 1998: 4, 19). As Puchala summarised, the study of the integration process has been analogous to that of the blind men studying an elephant: each mistakenly inferring that the part to which their attention is drawn resembles the whole (Puchala, 1972). This speaks to HI’s assertion that politics “should be seen as a movie rather than a series of individual snapshots” (Bulmer, 2009: 309-311). As the following shows, HI goes further in describing the veritable whole of this process, by accounting for the dual forces of stability and contingency that seem to alternatingly iterate the temporal dimension to the EU.

Chapter Two: Historical Institutionalism

“Nothing is possible without men: nothing is lasting without institutions”

The acclaimed “great architect of European unity” Jean Monnet (Holbrooke, 1995: 51; 1978: 304-305).

While previous takes on Europeanisation applied grand theoretical assumptions in trying to establish a general law-like theory of integration, HI approaches this process from the meso-level. In trying to explain the observed variance in a great many real-world political outcomes, the new institutionalism’s early patrons (Huntington, 1968; Moore, 1993; Skocpol, 1979) were hinted of why “institutions matter” (Przeworski, 2004) as they inductively realised that they could not provide explanations for these outcomes without specifically examining the impact of institutions in structuring them (Pollack, 2015: 18; Steinmo, 2008: 122-126).

The following approach to integration, and the impact of crises on this process, largely takes after the institutional approach of the scholar Paul Pierson in his works including *Politics in Time: History, Institutions, and Social Analysis* (2004) and *The Path to European Integration: A Historical Institutional Analysis* (1998), by unifying two themes: it is ‘historical’, in the sense that it traces and sequences the process of political development of integration as one that unfolds over time, and it is ‘institutional’ in the sense that the implications of this temporal process are embedded in institutions (1998: 4). I maintain that this approach to integration so happens to possess the capacity to examine the true nature of the European Project; this is because I consider Monnet’s erstwhile assertion of the importance of institutions in cementing the potential of individuals across time to be true in not only its candidacy, but also its legacy (Monnet, 1978: 304-305).

The History of Institutions in Government

The fulcrum of Pierson's HI approach uses time as a corrective to the ahistorical assumptions often made by rational choice institutionalists. Pierson's view of the history of institutions is one of "fluid" development in the rule-based constraints of decision-making often taken for granted by rationalist assumptions. The course of this historical development corresponds to the dual temporal orders or sequences of short "radical change (termed as punctuated change or critical junctures)" that arise from conjunctures of dissonant social phenomenon, and long "path-dependent incremental development" (Bulmer, 2009: 308) that persists through relatively consonant social phenomenon. This fits the imagery often connoted to regional integration as per the *first dynamic*, that orders its "summits" or "history-making integration", and the *second dynamic*, that orders its "valleys" or "interregnum integration" (Christiansen and Jorgensen, 2002; Stacey and Rittberger, 2003).

This timescape or temporal terrain is driven by what is endogenous to the integration process; but its changes are yet "activated" by exogenous factors, most pre-eminently during radical moments of punctuation in the environment (Quack and Djelic, 2005: 271; Rixen and Viola, 2016: 17-18). HI scholars rely on these concepts of critical junctures and path-dependence to define distinct and separate episodes in the causal chain of institutional development (Boas, 2007; Capoccia and Kelemen, 2007; Collier and Collier, 1991; Kutter and Heinrich, 2013; Mahoney and Thelen, 2010b; Pierson, 1998, 2000; Soifer, 2012; Streeck and Thelen, 2005).

As well as demarcating the dual temporal dynamics to institutional change, they episodically denote the underlining parameters of institutions. These parameters refer to the scope and depth of institutional processes in shaping what is "politically possible" as constraints, or indeed the strength of institutional character at a given time, i.e. their reversibility or contingency.

Institutional path-dependencies are supposed to be times of stability within states of environmental equilibrium. In these states, the scope and trajectory of structural constraints is entirely or mostly closed from the ‘change activating’ effects of contingency. As per Levi’s “narrow” definition of path-dependency, he suggests once a “country or region” has started down a track it becomes increasingly entrenched, where the costs of the reversal of institutional arrangements become prohibitively high (Isherwood-Mote, 2016a; 1997; Pierson, 2004: 20).

Conversely, critical junctures are times of radical change where the scope of structural constraints reduce and thereby loosen or widen the range of deterministic outcomes. This is because the sheer fact that the existence of institutions become drastically more contingent provides more room for what can be-called “agency” (or rather, what has the ability to effect change independent of constraints) to burgeon ‘path-departures’, ‘path-alterations’ or a ‘branching tree’ from the trajectory of previously pathed constraints, and onto possible new paths (Bulmer, 2009: 314-315; Pierson, 2004: 52; Soifer, 2012: 1572-1573). Historically speaking, institutional path-dependencies tend to last long intermittent episodes between their path-generating critical junctures due to the conditions of retrenchment. This retrenchment takes hold as institutions slowly persuade private actors’ expectations of their effects on social processes, by mediating the “incentives, worldviews and resources” that make-up social interactions (Thelen, 2002: 93-100).

Sequence matters in HI because it simultaneously acknowledges that (i) steps in sequences of choices can become irreversibly constrained, and that (ii) institutional rules are often the proprietors of those constraints (Pierson, 2004: 63-64). Thus HI is advantageously positioned in answering why “outcomes at any given point of time constrain possible outcomes in a later point of time” (Tilly, 1984: 14). The basic HI theorisation of European integration therefore views the path to integration as a valley of increasing constraint in the aftermath of each summit,

corresponding to the following historical sequence: at t^1 (a summit), the creation or enhancing of a supranational institution may occur due to a favourable actor constellation that has decided to push for integration by creating distinct governing structures at the regional level. This is otherwise referred to as an act or indeed a time of “Europeanisation”. The institutionalisation of these structures fit the bargained decisions of the decisive actors at t^1 . At t^2 the newly created or enhanced mode of governance invariably restricts national policy-making modes in the finite space of governance. At t^3 a new actor constellation emerges whose room for autonomous manoeuvre is now decreased by the effects of t^1 and t^2 in ‘filling-up political space’ comprised by: the resistance of vested supranational actors, new institutional obstacles to reform, and sunk costs (Pierson, 2004: 71-72, 1998: 142-145; Schäfer, 2004). Before, after and during each interval, a favourable actor constellation toward Europeanisation is endogenously formed when adaptational pressures occur due to any realised “poor fit” of institutional structures (Cowles et al., 2001: 2-3). Hence the reasons for why actors’ choices at t^3 are different from at t^1 are the same reasons for why the intergovernmentalist premise of interstate preference bargaining fails to explain integration during extended time intervals²⁷ (cf. Moravcsik, 1993).

Institutions themselves meanwhile are first and foremost “contracts” made to maximise private actors’ welfare (North, 1984: 8). They therefore sanction the expectations of interacting social actors when they engage in specific social, economic, or political activities through informal or formal rules and norms (North, 1991: 97) as the proprietors of constraints, in order to ameliorate strategic problems of collective interaction and coordination (Epstein, 2016: 247). Due to the

²⁷ Intergovernmentalist theories often rely on ahistorical rational choice insights to describe bargaining over institutional development of regional integration. They presuppose principals can and do perform long-term cost-benefit analyses when designing institutions in episodes of institutional change (where bargaining costs are associated with outcomes that impede nation-state autonomy, and benefits are associated with outcomes that reduce the costs of transactions) (Pierson, 1998: 7-11).

macro-level social effects these contracts end up having, institutions are often described as the building-blocks in the social order of any given political society. The expectations governing these rules and norms are said to be informed by actors' mutually related obligations and rights, which pattern the borders of various social activities in binary, such as by what is: correct or incorrect, appropriate or inappropriate, possible or impossible, right or wrong, and so on (North, 1990; Streeck and Thelen, 2005: 9-10). This institutional precept of constraint and order to individual behaviour is the underlying *raison d'être* of governments (Isherwood-Mote, 2017b: 4; Ostrom, 2008: 31); this follows from Hamilton's answer that "the passions of men will not conform to the dictates of reason and justice, without constraint" when asking "Why has government been instituted at all?" (2016: 81).

Naturally then, as studies by Immergut on healthcare policy (1992) and E. E. Schattschneider on tariff policy (1935) have shown, institutions act not only to constrain policy choices but also order social interactions, or "structure the menu" of them so-to-speak (Steinmo, 2008: 124, 127-129). These reasons are the same reasons for why any political output at t^1 has a different value or carries a different meaning than were it to be made at t^3 ; in the sense that it is operating under different structural conditions of constraints and orders of preferences.

Pierson poses a culinary analogy of HI to demonstrate the importance of institutions to the social sciences given these conditions. Just as the cooking process depends upon not only the ingredients to create a tasteful dish, but also accurately measure the "sequence", "pace" and "specific manner" in which those ingredients are to be combined, HI must look not only at the ingredients to social orders to understand them, but measure how their ingredients were combined to become building-blocks to social order (Pierson, 2004: 1-2).

Generally speaking, in any distinctive case or episode of persistence or change, the macro-level effects of successful and unsuccessful institutions invariably structure the expectations and daily events of members of social collectives through their meanings. It is in this sense that institutions happen to become attributes *of a time* in the first place (Ruggie, 2006: 108; Sweet et al., 2001: 11; White, 1978: 224).

Cause and Effect in Change and Continuity

Acknowledging the parameters of spatiotemporality is key in HI because it is what links discrete political elements or dimensions through prepositions, that can convey the proximity of institutions to other things. If two entities are close in time and space for example, the political outcome may vary immensely to if they were distant. The timing and sequencing of how conjunctures of said entities occur allows us to highlight the significance of their interaction effects and the relative dependence of those effects upon their synchronisation (Pierson, 2004: 55).

Continuity causally presumes institutional endogeneity because of relatively stable or uninterrupted trajectories. Critical junctures on the other hand presume exogeneity, as they are generally caused by conjunctures between institutional trajectories and new outside phenomenon. In these episodes, institutions interact or intersect with foreign influences in such a way that induces crises in institutional paths that were critically fitted to different contexts. These exogenous shakes therefore cause the environment to be more hostile to old institutions that are fitted to a different pretence of social activity, and are therefore liable to become “path inefficient” (Pierson, 1998: 18).

Structural in-determination following environmental disequilibrium leaves fertile ground for institutional designers to act in an environment where things are more contingent than they are constrained. They may therefore readapt old or create new institutions. The consequent path

generated by the choices of institutional designers during critical junctures is ‘path-dependent’, in the sense that: (a) alternative options to these new institutional designs are closed-off (or ‘forgotten’) for the foreseeable future, and (b) the future continuation of these new processes is sustained through their ability to be self-reinforcing, or procure “positive feedback” from the private actors that are subject to them. The path-dependence of institutions emerges from their ability to magnetically influence the location of decisions. Because institutions command high fixed costs, learning effects, coordination effects, and adaptive expectations at a rate of increasing-returns, they can induce social inertia, in the sense they can make it more difficult and more unattractive to reverse them over time. North postulated that while institutional arrangements are typically high-cost start-ups, once an “interdependent web of an institutional matrix” is established they are able to produce massive increased-returns that are observable on the macro-level (Capoccia and Kelemen, 2007: 341-345; 1990: 95; Pierson, 2004: 10, 20-27; 2000; Skocpol, 1995; Steinmo and Thelen, 1992: 5, 7; Thelen, 2002: 99-100; Tosun et al., 2014: 200). The path-dependence of these institutions constitute the new ‘branching point’ effected by any critical juncture, and are in-turn attributed as that juncture’s legacy (Collier and Collier, 1991: 29-31; Hall and Taylor, 1996: 10; Isherwood-Mote, 2016b: 4-5).

It should also be noted that not every exogenous shock and environmental shift is politically consequential for every institutional equilibrium of an environment. As Thelen writes, institutions rest upon and are sustained by a certain set of “material and ideational foundations”, which are what, if broken down, open up possibilities for change (2002: 93-100). These foundations dictate which institutions and processes are affected and which might not be (Capoccia and Kelemen, 2007: 350; Isherwood-Mote, 2016b: 5). However, they may of course be connected in unanticipated or unforeseen ways.

In the following I provide a cost-benefit analysis of transnational delegation to explain why nation-state actors collectively agree to contract agents for governing purposes at all. I also explain the reasons for why principal nation-states ultimately fail to retain preferential autonomy due to limitations to their rational choice across time. I demonstrate how this can lead to emergent ‘gaps’ that progressively invert principal-agent relationships across time.

Principal-Agent Actors

The logic of principal-agent relations in European integration can be found in a diverse ambit of theoretical work, from liberal intergovernmentalism (Moravcsik, 1993), to HI (Pierson, 1998), intergovernmental institutionalism (Garrett, 1992; Garrett and Lange, 1995), and rational choice institutionalism (Pollack, 1997). These theories are each generally built atop the ‘basic’ functional theory on delegation (Kassim and Menon, 2003), on the basis that they all emerge from the same assumption that institutions are contracts between actors, and namely between “between principals and principals and agents” (North, 1984: 8). The functional role of agents can be to (i) ‘reduce transaction costs’ and (ii) ‘ensure credible commitments’ for principals when they choose to act as a collective. By pooling authority into technocratic, nonmajoritarian and politically insulated institutions, principals can *ex ante* reduce political transaction costs involved in operating political processes as well as allowing them to credibly enforce political agreements with other principals (i.e. avoid collective action problems). More specifically, agents can reduce (i) the transaction costs of (a) *policy-making*, which require relevant information from an imperfect and complex information environment, (b) *incentives*, that can jeopardise contracting principals interests by incentivising other principals to renege on collective agreements, and (c) *interactions*, where competitive and transactional barriers between principals obstruct inter-principal interactions (Kassim and Menon, 2003). In relation to (ii), principal commitments via agents can (a) *ex ante*

make inter-principal arrangements more credible, since contracting said agents can circumvent the short-time horizons of rational self-interests, which beleaguer principals' abilities to abide to their long-term commitments. Said agents can also (b) *ex post* ensure that other principals will not later renege on agreements, by both monitoring their compliance and holding violators accountable (Isherwood-Mote, 2017a: 3; Milner, 1992: 475-476). Assuming principal actors operate under strictly complete or perfect information, they may thus design agent institutions that best promote their preferences (Tsebelis, 2002: 251).

However, it is an ontological fact that institutional outcomes are imperfectly entwined with institutional choices (Bourdieu, 1994: 1-2; Streeck and Thelen, 2005: 16). This situation elicits HI's insight that the act of delegation in fact gives agents the necessary space (or opportunities for space) to pursue their own interests. Thus the places where changes can occur in principal-agent contracts are where, if principal-agent interests diverge and principal constraints are limited or contingent enough, that agent interests can be produced (Young, 2015a: 57).

This paper minimally maintains that the wider and longer the principal-agent contracts embed institutional designs, the more liable that principals are to permit the introduction and reproduction of agent interests in those designs, and therefore experience the non-preferential by-products to delegation. First among these by-products may occur because actors have *short-time horizons* as they have increasingly limited ability to perceive across larger distances of time. Under the circumstances of national politics, electoral turnovers in democratic institutions often incentivise short-termist and self-interested behaviours in political actors. These actors usually therefore have neither the immediate desire nor capacity to either prioritise or calculate decisions based on long-

term delays in decision-making (Tsebelis, 2002: 252)²⁸. Second are actors' *unintended consequences* at $t^l + n$ in acts of delegation. This is because European politics is a highly complex information environment, and is exponentially complicated by the interaction effects of EU "multi-level" policymaking; thus, any decisions made by unspecialised actors are invariably exposed to an exponential amount of unanticipated effects. Third are *preferential changes*, since institutions invariably outlive the favourable constellations that led to their creation at t^l (Garrett and Lange, 1995: 628-631). The preferential products of fledged democratic nation-states are likely to rotate, in the sense that domestic national preferences are informed by short-term electoral turnovers or cycles, and not just long-term principles of sovereignty. Thus, national actors may employ a high "discount rate" to agents with long-term interests, by agreeing to long-term sovereign losses for short-term electoral returns (Pollack, 2015: 20). While the initial conditions from which institutions develop carry the intentions of their founders, they only do so flexibly as the by-products of them, rather than fixedly as their products. These three temporal conditions thus testify to the longer-term decay of credibility in the principals' founding commitments to any collective contract; this makes room for the fourth and final condition in cases of contractual delegation to agents. Finally is thus the transferral or conferral of crucial competences (or "political property rights") to institutional reproduction, which give scope to the *autonomy of agents* (Majone, 2001: 58-60). The autonomy of agents is assured where and when they have their own divergent interests and the necessary resources – in terms of their "expertise and delegated authority" (Moe, 1995: 121) – to act on those interests, i.e. where and when they possess the means to act and reproduce

²⁸ Writing rather prophetically in 2004 on matters relating in no small part to this paper's concern, Pierson highlights a quote attributed to the US's Reagan administration's budget director David Stockman in 1981, stating he had no interest in wasting "a lot of political capital on some other guy's problem in [the year] 2010" (Pierson, 2004: 40). The consequences of the short-time horizon to this political expediency have since been well documented in many recent books (Friedman, 2011; Shiller, 2012), academic journals (Baker, 2010; Rudd, 2009), media outlets (Gandel, 2010; Nocera, 2009; Zingales, 2009), movies (Ferguson, 2010; Hanson, 2012), and a lot else besides.

norms outside the constraints of their contract (Isherwood-Mote, 2016: 7-8; Pierson, 1998: 27-28, 41-43).

These potential by-products to delegation represent what are known as the *permissive* and *productive* conditions that incur the ‘agency loss’ of contracting principal nation-states to their supranational agents (Pollack, 1997). Restricted time-horizons, unintended consequences, and unfixed preferences for the EU’s principals’ decision-making equal an “easing of constraints of structure” on agents, and therefore detail the measure of permissiveness for agent-centred change (i.e. principals’ limitations in closing-off alternative options). Meanwhile, the autonomy of the agent enables those agents to effect institutions and processes productively at their own discretion (Fioretos et al., 2016; Soifer, 2012: 1573-1576). Thus, where and when structural constraints are most eased or contingent in episodes where institutions breakdown is where and when agents’ interests ought to be advantageously placed in designing various types of institutional changes²⁹.

These contextual limitations to acts of delegation account for why the integration process has been a dynamic and transformative one. This is rather than the intergovernmentalists’ portrayal of the

²⁹ Thelen has suggested there is a “wide but not infinite variety” of types of institutional changes. The five types of change she lists derive from a specific range of common denomination of comparative historical contexts, which each contain separate and distinct logics under which change occurs. These ‘types’ of institutional change (and their logics) are stated as: *displacement* (remove what is old and replace with what is new), *layering* (differential growth between old and new), *conversion* (redirection of old), *drift* (neglect of old), and *exhaustion* (depletion or atrophy of old) (Isherwood-Mote, 2016a: 8-9; Mahoney and Thelen, 2010a: 15-22; Streeck and Thelen, 2005: 1-2, 8, 19-31). Scholars have since added the types *bricolage* (new rearrangement of principles and practices), *translation* (new elements blended into old arrangements) (Campbell, 2010: 99), and *copying* (imitation of old somewhere new) (Verdun, 2015: 227). As I include in my conclusion, typologies of change are important for understanding questions surrounding how institutional phenomenon relate to inter-actor relationships (such as how institutions are linked to private interests, and whose interests ‘win-out’ or lose or are “historically suppressed” in moments of change) (Mahoney and Thelen, 2010a: 22; Moore, 1979: 376-380). However, I have opted to exclude analyses of this literature as many of the discussed types have overlapping interpretations (as Verdun frequently discovered in her analysis of the EMU crisis) (2015: 225). In doing so they have suffered from what Sartori identifies as “conceptual stretching” in the comparative literature, by having broadened their meanings and applications to the point where they have lost their separate and distinct qualities as epistemic instruments for social inquiry (1970: 1034). Indeed, they have in some cases been stretched to the point of immediate contradiction (see Heijden's (2011) *Institutional Layering: A Review of the Use of the Concept*).

process as a successive iteration of rational-unitary states playing the same game of power *ad infinitum*, where substantial changes only occur when MS representatives undertake negotiations – usually in Intergovernmental Conferences (IGC) attended by the heads-of-state of the European Council (EC₂) – during the EU’s most historically salient episodes of hard negotiation or “grand diplomacy”³⁰ (Moravcsik, 1993: 472; Pierson, 1998: 28; Schmitter, 2003: 2).

Feedback in the Political Market

Institutional metrics relate to the functions of social expectations in interactive venues, or ‘markets’. This is because the measurable performance of institutions depends on their ability to reproduce social expectations through norms and rules. Therefore, institutions breakdown or become vulnerable when private actors’ behavioural expectations become more or are completely independent of those institutions’ reproductive norms and rules. Changes in expectations engender exponentially decreased returns for these institutions through the negative feedback loops of institutional reproduction. Under these conditions private actors’ actions and interactions become more highly contingent since they function increasingly outside of or without structural constraints. Measurably good institutional performances meanwhile correspond to the retrenchment of their reproductive norms and rules in the range of social expectations among private actors. These changes lead to exponentially increased returns for the affected institutions through positive feedback loops of institutional reproduction. Under these conditions actors’ actions and interactions become less contingent as they function increasingly in-line with structural constraints (Pierson, 2004: 20-30, 50-53, 87-88).

³⁰ These were most eminently stated as those IGCs surrounding the Treaty of Rome, CAP, EMS, SEA, and Maastricht TEU (Moravcsik, 2013: 472).

The EU has – with the establishment of SM – increasingly concerned itself with the complicated terrain of the “political market” (Fligstein, 2001, 1996). The precise metrics of this market are worthy of extrapolation as they are difficult to interpret as compared to the pure economic market. The pure economic market contains observable, unambiguous and outwardly quantifiable indicators (such as unified metrics of price) which lead to a relatively clear map of automatic or undelayed causal chains between economic choices and economic outcomes. The success of measurability maintains because market mechanisms are effective for low cost transactions, which constitute the typical types of interaction in various economies. Yet these same mechanisms are found to breakdown or distort when transaction costs are unusually high, as they involve the transaction of goods that are more infrequently measured and co-measured. Transaction costs of public goods where political institutions are involved are said to be characteristically high in this same sense (Cornes and Sandler, 1996). The metrical map of the political environment is therefore characteristically distorted because the problems of the political market are – in virtue of their frequently atypical and high cost values – complex, ambiguous, and infrequent. Metrics in this market have therefore resorted to often crude and inefficient measurement instruments for the purposes of transaction, such as aggregated votes of preferences and interest group membership. Besides the complexity or intractability of this information alone, significant delays or lags in causal chains between political actions and political outcomes strain these measurements further. This often leads to incommensurate and opaque indicators of feedback values, meaning that political processes often fail to be self-corrective (Pierson, 2004: 37-38, 87-88).

Faced with this conundrum, cognitive psychological researchers and organisational theorists posit that actors respond to complex information heavy environments such as these by filtering information into abbreviated “mental maps”. Actors’ mental interpretation of the political market’s

information environment – through ideational constructs and norms emanated from legal frameworks and policy regimes – correspond to feedback loops between “rule-makers” and “rule-takers” (Streeck and Thelen, 2005: 13-14) (or institutional designers or occupants and related private actors). Once established, feedback loops between these actors become path-dependent once they have reached a “critical mass”, i.e. when ideational constructs and norms can be dependably reproduced during ‘enough’ social interactions. Upon reaching ‘enough’, they provide the conditions from which institutions and specialised actors can effectively sponsor the spread of that information and widen the scope of those expectations (Pierson, 2004: 39-40).

The establishment of the freedoms connoted to SM has entailed a diverse range of expectations regarding social interaction that also surpass pure economic metrics for institutional performances; the SM has so-to-speak entered this political market. Formal institutions in separate distinct issue-areas for which the EU possesses competences are duty bound by EU law to “deliver benefits, regulate activities, redistribute resources, and impose burdens” in various aspects of this market beyond economic transactions (May and Jochim, 2013: 6-7). These responsibilities map the metrics for positive and negative feedback – or more equally map the sum of interrelated expectations – among their related private actors (Martin, 2004: 21). I will henceforth employ this understanding of institutional feedback in my explanation of institutional changes.

Chapter Three: The Institutions of European Unity

“Multilateral agreements and institutions should not be ends in themselves.”

Former US Secretary of State Condoleezza Rice (quoted in Patrick and Forman, 2002: 13).

The role of institutions can seem amorphous and vague, yet they are dominant structures in the realm of social ontology (Epstein, 2016: 247). The reasons for why “institutions matter” (Przeworski, 2004) is made no less clear in the case of European integration, where institution-building distinctly at the supranational level has proven to be one of its most consequential aspects (Sbragia, 1998). The following applies the HI conception of building institutional environment to that of the EU. I describe why and how increasing institutional density – as a function of the positive distribution of governing competences – at the supranational centre has permitted the production of statehood norms by reducing the distribution of veto powers.

The Institutional Environment

Which institutions one focuses on is very much dictated by what is at stake. Anthropologists studying shared customs might for one focus on the informal norms and rules that permeate social interactions. In Germany for example, one may examine the peer-to-peer sanctions imposed upon deviants to the institution of handshaking during business transactions. Sanctions emitted by modern governing institutions are different however; they originate from what Streeck and Thelen term “legal-political institutions”, noted for their distinct formality (2005: 10). In the following cases I will thus focus on Europe’s formal institutions. The formal framework located at the supranational level comprises of the seven institutions stated in TEU Article 13 as the: Parliament, Commission, Council of the European Union (CEU), Court of Justice of the European Union (CJEU), Court of Auditors (CA), European Central Bank (ECB), and EC₂. The formal rules behind

legislation pertain to the EU's constitutional and legislative foundations as per its primary and secondary legislation, abiding by its operative principles of conferral, subsidiarity and proportionality stated in TEU Article 5³¹.

Supranational institutions, such as the Commission, CJEU and ECB, are the designated agents in producing credible approaches to the achievement of objectives for the pooled interests of contracting MSs, via conferred competences and instruments of implementation and oversight (Milner, 1992: 475-476). Senior actors inside each of said institutions are required under oath to act according to the interests of their pan-European jurisdiction (the Eurozone as per the ECB for example, or the EU territory as per the CJEU and Commission) and independently of any particular MS's interests (Howarth and Loedel, 2004: 205; Longo, 2006: 21; Turner, 2006: 35). Moreover, their collective autonomous rational self-interests are generally pro-integrative qua supranational (Pollack, 2011: 19-25, 28), and are therefore inclined to behave as 'purposeful opportunists' where possible (Cram, 1993).

The location and shape of centralisation in Europe is addressed in the remainder of this chapter. I suggest that institutionally dense areas on the macro-level are more likely to effect relational attributes between sub-territorial states, and therefore pressure unitarised modes of decision-making. This is found to be because such institutional density reinforces statehood norms in the international context.

³¹ The principle of conferral delineates the limits of EU competences to decide on matters pertaining to governance. The principle of subsidiarity is meant to ensure EU decision-making is taken as closely to the citizen wherever possible. Meanwhile the principle of proportionality is said to limit EU powers to what is necessary for the EU to achieve its objectives. For more information see: <http://eur-lex.europa.eu/summary/glossary/subsidiarity.html> and <http://eur-lex.europa.eu/summary/glossary/proportionality.html>.

Levels of Decision-Making

International relations theory states that nations adjudicate between voting forms and rules – from multilateralism or unilateralism – based on their *derived* preferences. This is to say, decision-making rules are not seen as ends in themselves, but as means to an end that is their *substantive* preferences (as per their economic or social incentives). Preferences for particular voting norms in an international context are therefore connoted to the relationship between an individual nation-state's (i) substantive preferences and (ii) the relative power it has to grant effect to those preferences via the voting norms under consideration (Pollack, 2004: 115-117). Since the late 1980s, social scientists often used Putnam's 'two-level game' to describe the separate and distinct logics behind state-centric decision-making, on both its domestic and international levels (1988). Theories during this epoch predominantly focused on hegemonic powers in relation to shapes of international-level negotiations and bargaining, as Moravcsik tried to do with the EU (1991). However, some authors writing on integration in the 1990s (Hooghe, 1996; Marks, 1996, 1993) inaugurated a new distinct and separate concept of 'multi-level' governance, as a decision-making structure and process. This inculcated non-governmental and sub-national actors positioned outside of previous state-centred discussions to supranational governance, and in-turn the EU (Piattoni, 2009: 165-169).

International law naturally dictates the rules of interaction in the international game. These rules derive from organisations such as the World Trade Organisation (WTO) on matters of international trade, the North Atlantic Treaty Organisation (NATO) on matters of international military co-operation, or the United Nations (UN) on matters such as international peace and security, human rights promotion and environmental co-operation (Abbott et al., 2013). Discussions on multi-level governance emerged however as authors, such as Young, posited the EU was a parallel domain of

interaction and activity to international and domestic games; this game-level was framed by the accumulation of law constituted by the EU's *acquis communautaire* (2000). The EU thus became increasingly coherent and important as a 'state-like' political body, while its institutional environment was a novel arena or 'international organisation' for political interaction among various types of private actors (Knodt and Princen, 2003: 4-5; Wallace et al., 2015a: 4).

Centripetal forces pushed the EU towards the 'federal' or domestic variety of statehood norms, as an 'atomised and positional' unit (Grieco, 1988), endowed with legal-political homogeneity on a par with many other nation-states. Centrifugal forces meanwhile pulled the EU towards an international or state-dependent 'cofederal' organisation, bereft of the instruments that wield state-like authority (Hobbes, 1996 :117; Karmis and Norman, 2016: 8). In either case, these contradictory forces each stretched the EU as a hybrid 'gaming environment' into collapse, since neither was inclined to support the *sui generis* structural ideal-type of it being "less than a Federation, [and] more than a Regime" (Sbragia, 2010: 257).

As Elazar implies when comparing unitary and federal states (Elazar, 1997) and as Scharpf openly suggests in his examination of federations (Scharpf, 1988), the consolidation of state-like goals (understood as security, power and relative gains by realists) (Waltz, 1979) requires some degree of centrally accumulated decision-making procedures.

This rationale persists in the case of the EU. This is because it has been incumbent upon EU institutions to ensure the consolidation of said goals in the establishment of the SM. By creating a common currency and borderless area to ensure the efficiency of SM the EU has spilled-over into these elements usually considered integral to the identity of a state.

European Statehood

Rationalist assumptions convey how short-term decision-making outcomes at any moment conform to certain structures (or a lack of them) within its “game-theoretical” approach. Historical assumptions meanwhile convey how the structure or rules of these games change due to increased or decreased constraints across time (Bulmer, 2009: 310). This section conveys how Europe has structured its strategies of action and interaction where and when these actions and interactions are homogenous to the supranational-level. Summarily speaking, they imbue the unitary components of the EU as a political union.

This analysis of EU statehood follows Shepsle’s account of the legislative behaviour and outcomes of US Congressional institutions, and the “structure-induced equilibrium” of the veto powers of state actors when it comes to federal-level legislative decision-making (Shepsle, 1979). Like the US, the powers of the EU are separated under the three main branches of government. Executive power is vested in the Commission, its civil service Directorate-Generals and affiliated legal bodies; legislative power is vested in the Parliament and the CEU; judicial power is vested in the CJEU, its highest court the ECJ, and MS courts. This division of power does not equal power exclusivity however; it is more accurately reflected by the Madisonian conception of the separation of powers, as one that means some measure of “co-mingling” of triadic governance. As will be seen, co-mingling in the form of the Commission’s power of initiative happens to imbue the EU’s legislative process with its agenda; meanwhile executive functions, especially during enhanced multilateral moments of treaty-negotiation, are shared with the MS executives comprising the EC₂ (Isherwood-Mote, 2017b: 6; Pollack, 2015: 29-30).

The following describes what I consider to be the essential institutions – the Commission, Parliament, CJEU – and processes of Community governance in the passage of EU legislation

(Brams, 2007: 125, 131). These institutions and processes therefore attest to the ‘federal method’ of European governance (Fabbrini, 2005a: 6).

This description considers the role of Community institutions in Community processes, i.e. in its “legislative cycle” (Bulmer, 2009: 308) as per the rotor of EU policy-making (Young, 2015a: 46-47) and law-making (Quack, 2007: 652). This accords to what Putnam refers to (with increasing obsolescence) as the national level. This description also operationalises what I count as ‘institutional density’, because the scope and depth of Community parameters – relative to their national counterpart institutions – reflects the measure of competences conferred to the Union from the European pool of governance (Curtin, 2013: 93).

Supranational Executive

The EU’s executive structure consists of the Commission, along with more than forty decentralised non-majoritarian regulatory agencies, the Commission-chaired comitology committees of MS representatives that opine the implementation of the Commission’s powers, and European regulatory networks (ERN) that benchmark procedures of “best practices” as informal coordinators of EU-level regulation (Maggetti and Gilardi, 2011; Rittberger and Wonka, 2015: 234-235). The Commission is the principle executive agent institution of the EU, as per its role as “guardian of the treaties” (Sabathil et al., 2008: 7), and the ‘agenda-setter’ fused into the EU legislature, as per its ‘power of initiative’ in the EU’s seminal unitary decision-making component via the ‘ordinary legislative procedure’ (OLP) (Egeberg, 2016: 126). While this executive-legislative innovation is peculiar to the EU, studies have stated this is only ‘superficially’ unique, as it has practically-

speaking failed to substantively alter the nature of this relationship when compared to the nation-state level (Isherwood-Mote, 2017b: 5-6)³².

The Commission is composed by the twenty-eight member College of Commissioners, each singularly nominated by (although under oath, not beholden to) each MS, approved by the consent of the elected President, and are each responsible for a policy portfolio that is actively administered by the Commission's civil servant Directorate-General(s) (Wallace and Reh, 2015: 74-76). The specialised regulatory agents appended to the EU executive are each legally personalised by secondary legislation as discrete entities, and thus operate under diverse conditions with regards to their "mandate, resources, and competencies". They are all however answerable to the Commission (Egeberg and Trondal, 2011) in its problem-solving agent functions of reducing informational costs via providing expert advice in highly technical issue areas and maintaining credible commitments in problematic issue areas that are 'time inconsistent', i.e. where there is political conflict over short-run costs and long-run benefits shared by principals (Krapohl, 2004; Young, 2015a: 58). ERNs are meanwhile apposite solutions to situations whereby the political costs of regulatory delegation have circumscribed the conferral of regulatory competences to the EU formally-speaking (and therefore the involvement of agencies), yet the MS principals still wish to coordinate solutions to perceivably shared regulatory problems (Isherwood-Mote, 2017b: 6; Rittberger and Wonka, 2015: 256).

Supranational Bicameral Legislature

The EU legislature represents the domesticated conditions of political constraint exhibited in national legislatures, and thus attest to the EU as a discrete federal state insofar as it is influential

³² For example, Kreppel's study into national legislatures of MSs found that less than 15 percent of proposed legislation are ratified without executive approval (2007).

and uncircumscribed in pan-European decision-making. Structurally-speaking, the EU distributes its bicameral legislature similarly to the US, and thus follows the logic of a “compound republic” (Fabbrini, 2005b). Namely, it compounds the sub-territorial level of the CEU (the democratic equivalent to the US Senate), with the federal-local level of the Parliament (the democratic equivalent to the US House of Representatives) (HoR), as the elected representatives of the legislature’s upper and lower houses (Isherwood-Mote, 2017b: 7-8; Tsebelis and Garrett, 2000: 24).

The Parliament’s powers regarding EU legislation have dramatically increased since its inception. It began as the ECSC’s 78 part-time Common Assembly, intergovernmentally-appointed as a check on the High Authority. After undergoing significant growth spurts in the 1980s and 1990s following its first direct elections in 1979, it became more of a significant component in the EU legislative cycle (Burns, 2016: 156-157; Pollack, 2015: 30-31). Since then, voting behaviour in the Parliament has also been reputed for its surprising consistency and cohesion on supranational issues; its Members (MEP) have been aligned to pan-European party group interests, despite being multinational in nature (Hix et al., 2007; Kreppel, 2007; Tsebelis and Garrett, 2000). Instead of bargaining between principal interests, MEPs usually contest votes on a two-dimensional issue space between the ‘supranational-national’ and the ‘left-right’ (Hooghe and Marks, 2002). As Pollack highlights, studies into Parliamentary voting norms have attested to it as a “normal parliament” (2015: 30) such that it is ‘state-like’ so-to-speak. These issue spaces are traditionally contested in federated nation-states such as the US, as per ‘state-centre’ relations (Berman, 1998; Gabriel, 1989; Gagnon and Keil, 2016; Wechsler, 1954), and in many modern nation-state party systems in plural democratic societies (Hibbs, 1977; Knutsen, 1998; Pacek and Radcliff, 1995), while the Parliament’s “minimal-winning coalition” voting patterns conform to coalition

governments in many of Europe's parliamentary systems (Isherwood-Mote, 2017b; Kreppel and Hix, 2003; Raunio, 2012; Young, 2015a). The Parliament has thus traditionally been an avowed supporter, and component, of democratic state-like norms in the EU's lower chamber.

The CEU meanwhile consists of ten different configurations organised by issue-areas – ranging from Foreign Affairs (FAC) to Transport, Telecommunications and Energy (TTE) – each represented by area-specific MS ministers and officials. The CEU's internal voting rules are principally divided into the two main categories of unanimity, and its own decision-making innovation of QMV. As of the 2009 Lisbon Treaty, QMV (or the 'double majority' rule) formally applies to CEU decision-making in OLP, and in-turn the majority of EU-related issue-areas, and requires the approval of a minimum of 55% of the MSs representing 65% of the EU population. MS votes are distributed among the twenty-eight MSs, while popular votes total 352 and are distributed proportionally across MSs³³ (Leech and Aziz, 2016: 59-60; Lewis, 2016: 139-144, 148). Historically speaking however, less than 20 percent of CEU legislative decisions are openly contested and thus made via QMV rules, but are rather made by consensus. Therefore, in the past, typical models of international negotiation proved more efficient in explaining CEU decision-making. Thus, bargaining models like that of Scharpf's "joint-decision trap" (2006) reintroduce norms of international negotiation to the EU by confederally pronouncing MS veto power, because of unanimity requirements (in a "club-like model of interstate bargaining"). Thus the Council has demonstrated limitations to the federal coherency of the EU legislature where implicit 'consensus-seeking' prevails³⁴ (Isherwood-Mote, 2017b: 8-9; Lewis, 2014: 219).

³³ The system also contains a four MS 'blocking minority' rule that safeguards small-state interests against "big-state coalitions" (Lewis, 2016: 148).

³⁴ Studies into the CEU suggest also that sitting MS Presidents asymmetrically effect their MS's ability to influence the legislation process, in being able to shape agendas (Tallberg, 2008) and strategically utilise their superior information about other MSs in its final stages (Schalk et al., 2007).

However, recent studies have shown upward trends in the proportion of open QMV contestations in the CEU, allowing similar formal models to that of the Parliament (as per the logic of ‘minimum-winning coalitions’) (Chhibber and Kollman, 1998) – to increase their purchase on CEU decision-making. In this sense the CEU is becoming more supranational in character, as its formal majoritarian methods increasingly root out both formal and informal multilateralised approaches that accord multiple decision-makers enhanced veto powers through negotiating standards of unanimity (Kaarbo and Ray, 2010: 440; Wallace and Reh, 2015: 83-84; Young, 2015a: 60). As some scholars argue (Caporaso, 1998; Choi and Caporaso, 2002), this can be understood as a mark of deeply integrated regional clubs, since outvoted minorities find themselves legally compelled to adopt counter-preferential laws and policies. This therefore testifies to QMV as part of the acclaimed “essence of community governance” (Cameron, 2004: 2). Thus, the Council along with the Parliament represent the ‘territorial political institutions’ of the European supranation-state, insofar as they accord majoritarian methods to decision-makers rather than act as venues for interstate bargaining (Egeberg, 2001: 730; Isherwood-Mote, 2017b: 8).

Supranational Judiciary

The EU judiciary’s seniority is composed of the twenty-eight judges of the ECJ. There are also within CJEU the nine advocates-general that deliver CJEU preliminary case opinions, the twenty-eight junior judges of the General Court (referred to as the Court of First Instance pre-Lisbon), and the EU Civil Service Tribunal, that helps the CJEU handle the workload of litigations, while cases are also brought within CJEU’s jurisdiction at the level of national courts as well. The “integration

through law” (Cappelletti et al., 1986) or “judicial activism” (Witte et al., 2013) of the CJEU has historically been exacted in cases relating to its jurisdictional robustness, including:

- the primacy of EU law over that of MSs (*Flaminio Costa v ENEL: Case 6/64*, 1964);
- EU fundamental rights requirements (*Internationale Handelsgesellschaft v Einfuhrund Vorratsstelle Getreide: Case 11/70*, 1970);
- non-discrimination of EU citizens on national bases (*Giovanni Maria Sotgiu v Deutsche Bundespost: Case 152/73*, 1974);
- and the principles of proportionality (*Federation Charbonniere de Belgique v High Authority: Case 8/55*, 1954),
- mutual recognition (*Cassis de Dijon: Case 120/78*, 1979),
- direct effect (*Van Gend en Loos v Nederlandse Administratie der Belastingen: Case 26/62*, 1963),
- and direct applicability (*Amministrazione delle Finanze dello Stato v Simmenthal SpA: Case 106/77*, 1978) of Community law with respect to national laws.

Integrative gains through case law have been secured through the high costs of MSs overruling or failing to comply with CJEU decisions (Pollack, 2015: 34), and have in-turn contributed to the EU’s constitution-building. This form of judicial securitisation has helped further embed the supranationality of MSs via the promulgation of the EU’s secondary laws, as per: *regulations*, which are directly required of MSs; *directives*, which require transposition by MSs; and *decisions*, which are limited to applying to specific circumstances or addressees. Case law has provided a precedence for the authority of the EU’s competences when it enacts secondary laws, that in-turn expand the parameters of the EU in implementing and overseeing political affairs (Auer, 2013: 28; Isherwood-Mote, 2017b: 9-11; Wallace and Reh, 2015: 90-91).

The Parameters of the Community

Figure 1 is a diagram that is meant to provide the reader with a heuristic understanding of the ways in which Community institutions can plausibly act and interact ‘within’ or ‘outside’ the parameters of European supranational-state structures (although not all actions and interactions are necessarily formalised in EU structures). Each institution possesses its unitary functions of constraint (which are in-turn their own institutional parameters), and these functions are emitted as state functions via their actions and interactions with other unitary institutions.

In the diagram, sections (^s) 1-4 represent the actions of, and intersections (^{is}) 5-13 the interactions of, Community institutions that constitute the EU’s veritable centre(s) of decision-making (shown in grey). Examples of these parameters include:

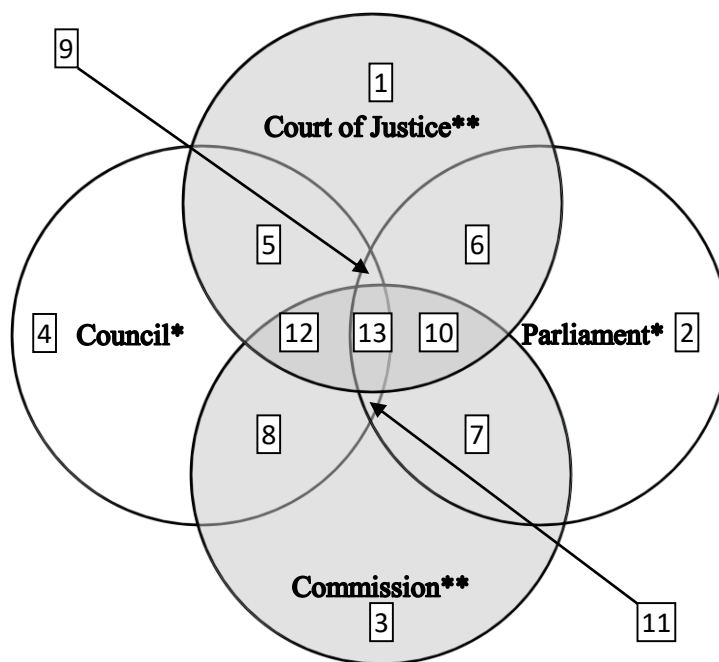
- the OLP (^{is}11), under Article 289 which proceduralises legislative interactions between the Commission and the CEU and Parliament (both operating under conditions of supranational majoritarianism);
- or special legislative procedures, such as (ii) the consultation procedure (^{is}9), under TFEU Article 289 where the CEU legislates under the provision – enforced by the ECJ – that it gains the absolute majority of consent from the Parliament.

These types of institutional processes by the EU may also be referred to as what Kelsen describes as processes of “positive legislation” (or legal or policy creation or production), in actions that project or enhance the external parameters of EU constraint (2005: 232, 244).

Meanwhile, juridical handlings of litigations brought before the EU enable CJEU institutions to enforce preliminary rulings. The effect of these rulings is based on the primacy and direct effect of *acquis communautaire* stipulated under TFEU Article 267 for ‘natural or legal persons’, MSs

(^s1), and other EU institutions (^{is}5-6, ^{is}9-10, ^{is}12-13). Such instances whereby CJEU is interacting with correlative EU institutions, it may review the conduct or legislative output of the EU's formerly mentioned 'positive legislators'. Should it determine the legality of said conduct or legislation does not correspond with *acquis communautaire*, the CJEU is empowered under TFEU Article 264 to annul legislation or conduct infringement procedures. The role of this institutional process is to enforce the internal constraints on the EU's institutional output or activity or interactivity. These types of processes can be understood as 'negative legislation' (Stone Sweet, 2002: 81) in the sense that it provides a check and balance to the creation of legislation by wielding the ability to destroy it.

Figure 1. A Diagram of The Parameters of Community Action and Interaction



*These institutions only enter the denominable state-bound parameters (as per intersections 5-13) when voting patterns conform to supranational majoritarian procedures, rather than unanimity.

** Formally ensured as supranational institutions on the basis that they are beholden to their oaths of independence.

The following Chapter looks at what has provoked the functions of Community institutions (^s1, ^s3; ^{is}5-13) in the context of recent social and economic crises. I find that highly contingent institutional

environments and heterogenous preference situations outside the Community functions (stipulated here) are compelled to (eventually) yield ‘federal shifts’ in the regimes of EMU and AFSJ.

Chapter Four: The Insufficiency of the Present Confederation to the Preservation of the Union

“In framing a government to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed: and in the next place oblige it to control itself.”

James Maddison, *The Federalist Papers No 51* (Hamilton et al., 2016: 75).

The political scientist Przeworski states that it is the goal of state reform to “empower the state apparatus to do what it should while impeding it from doing what it should not”; he next stipulates that “markets [by themselves] are not efficient” as a structure for allocating public goods, in the pursuit of ensuring material security for everyone³⁵ (1999: 15). With this stipulation in mind, the measure of minimally well-designed institutions in the political market should therefore depend upon whether they allow governing actors to intervene in this market in a way that is superior compared to noninterventionist governing actors. As HI notes, the benefits of these interventions must persist across discrete and different temporal intervals if they are to sustainably reproduce the norms and rules they emit. Thus in the case of the relationship between EU institutions governance and the SM, the Community’s collective pursuit of these benefits has not been “static” (Church and Phinnemore, 2016: 48; Weiler, 1981: 269) (and nor has it been a “rigid hardware of social life”) (Streeck and Thelen, 2005: 16), but it has rather been challenged by “permanent

³⁵ Scholars across the political divide tend to agree the downfall of Keynesianism was due to the decreasing internal cohesion of state interventions in the 1980s. This was a consequence of exploitative “rent-seeking”, which allowed private or special interests to accrue in public institutions (which had themselves incentivised rent-seeking by accruing much power) (Buchanan et al., 1980; Przeworski, 1999: 17-18; Streeck and Thelen, 2005: 3).

transformation” (Fabbrini, 2005a: 5) in trying to cohere with superior interventions when compared to the effects of the SM’s own allocation of public goods.

Therefore, answering whether a European economy or borderless area can survive without a state (or state-like functions) (The Economist, 2009) depends on whether (and if so, where and when) the SM is inefficient in allocating European public goods by its own.

In the following I affirm how the inefficiencies of the SM are (and have been) the basis for extending Community institutions into AFSJ and EMU. I then look at how the critical junctures of 2010 and 2015 (discussed in the Introduction) asymmetrically impacted the efficient distribution of public goods within the EU and answer why their exigencies have begun to yield institutional centralisation in the case of EMU, and not yet in the case of AFSJ.

The Basis for Institution-Building in the European Union

The key developments in both the EMU and AFSJ regimes were driven by the integrative establishment of the EU’s SM. Likewise both regimes’ seminal institutions emerged in response to obligations incurred by removing obstructions to the four factors of production by liberalising market movements of services, capital, goods, and labour (Young, 2015b: 123-124). The SM was introduced based on a map of the transaction cost reduction or “the costs of non-Europe” and the quantifiable net benefits of its creation, firstly stipulated in the *Albert-Ball Report* (1984) and 1988 *Cecchini Report* (Baimbridge and Burkitt, 1996), and recently remapped by the Parliament’s 2014 series of reports in *Mapping the Cost of Non-Europe 2014-19* (McDonald, 2005: 61).

The original 1980s reports were both built in relation to the Commission’s 1985 White Paper on *Completing the Internal Market* (Communities, 1985), by providing microeconomic and macroeconomic assessments of the consequences of removing barriers to market transactions;

these assessments included the removal of border delays, inconsistent technical regulations, restrictions on competition and services, and administrative burdens across Europe (Egan, 2016: 261; Emerson, 1988: 5, 17). In recent times, the EU has released reports on the continuing impact of the SM establishment on other issue-areas; these reports include *The Cost of Non-Schengen: the Impact of Border Controls within Schengen on the Single Market* (Lilico et al., 2016) which emphasises both the one-off and ongoing costs of internal border reintroductions in the issue-area AFSJ, and *The Cost of Non-Europe in the Sharing Economy* (Goudin, 2016), which encourages further economic integration so that more efficient use of SM freedoms for businesses is met with an equal and necessary rise in regulatory protection against any SM negative externalities or inefficiencies. The EU has thus utilised its position in the complex information environment of the political market to help distribute and encourage a convincing rationale for the efficiency of integration and delegation.

Therefore, in order to optimise the transaction costs of the productive factors that premised the establishment of SM, MSs have been collectively compelled to reliably commit to central EU processes if their institutional output was to be coherent. As Stone Sweet explains, it is the function of commitment problems such as these that encourages delegation to nonmajoritarian agents (such as those wielded by the Commission) in the first place (Sweet, 2002: 82). I however propose in the following that the negative feedbacks generated by crises in both EMU in 2010 and AFSJ in 2015 were a direct consequence of underlying ‘solidarity’ or commitment problems by principal MSs party to the Eurozone architecture in the first instance, and the SA in the second.

Faltering Contingency in Economic and Monetary Union

The reported rises in contingencies surrounding the established EMU order after 2010 (Beckwith, 2010; Conway, 2011; Doyle, 2011; Lamont, 2011) were a direct consequence of negative

feedbacks among EMU's related private actors in response to multilateral trends in EMU. These negative feedback loops in the political market of Europe's economy occurred due to persistent speculations that certain constituent EURMSs were at risk of sovereign default, and that as a consequence the Eurozone was at risk of breakup (Battistini et al., 2014: 205-206). As Salines et al. highlight, whenever EURMSs turned their focus to purely domestic political interests and policy actions – in flagrant disregard for the interdependent fiscal and budgetary conditions that sustained monetary union – they communicated to financial markets that the EMU architecture did not warrant the continuation of market stakeholders' confidence (or positive feedback). This generated negative feedback loops where the markets contracted due to the information that was being communicated by EURMSs, and led to situations whereby EMU outsider-MSs in even worse fiscal shape than EURMSs boasted lower interest-rates attached to their sovereign bonds than their EMU counterparts (such as the outsider United Kingdom (UK) compared to EURMS Spain). This testified to the inability of EURMSs to fully internalise or commit to the full macroeconomic and fiscal constraints of monetary union (2012: 665-667).

The constraints of this union were delineated (but not effectively enforced) by EMU's Stability and Growth Pact (SGP), in the form of its fiscal disciplinary rules. The SGP denoted a set of fiscal rules as part of the Maastricht-Criteria for accession, convergence to, and continued participation in the Eurozone. These rules firstly stipulated preventative measures, that were:

- i. EURMS government debt must not exceed 60 percent;
- ii. public deficit must remain lower than 3 percent of a country's gross domestic product (GDP);

- iii. EURMSs must ensure budgetary transparency through their submitting respective Medium-Term Objective's (MTO) reports for review by the Commission (Börzel, 2016: 12).

The inability of the EU to credibly ensure EURMSs commitments to EMU requirements based on SGP rules demonstrated critical gaps for multilateralism to occur in the EMU's architecture. Communicative "signals" of these commitment issues occurred beforehand when, by 2003, all of Germany, Italy and France had exceeded their fiscal requirements and successfully avoided reprimand by the central EU institutional procedures for budgetary correction (or namely its "Excessive Deficit Procedure") (EDP), i.e. the SGP's corrective procedures (Hallerberg, 2011: 135-137; Isherwood-Mote, 2016a: 9-13; Sbragia and Stolfi, 2015: 108).

These events therefore disrupted the expectations of EURMSs and related private actors in relation to their commitments to the constraints of monetary union, i.e. "commitment-compliance gaps" (Börzel, 2016). Subsequent negative feedbacks therefore made room for change in EMU.

For example the abrupt effects of the economic crisis on financial markets accelerated the "displacement" (Streeck and Thelen, 2005: 20) of national economic instruments in managing crises, by enhancing the role of the ECB within EMU. To guarantee its objective of price stability, the ECB adopted a so-called "Securities Market Programme" in May 2010 by purchasing government bonds to prevent deteriorations of confidence in the international market towards EMU. This intervention abated the constraining impact of further deteriorations in the value of EURMSs government bonds on the Eurozone, which would have pushed many EURMSs closer to insolvency (Schwarzer, 2012: 34-35). The continuation of negative speculations also pushed

EURMSs (acting via the EC₂) to “redirect” their short-term macroeconomic support instruments³⁶ into the European Stability Mechanism (ESM) in 2011, that was to be coordinated by the so-called Troika, i.e. between the Commission, ECB, and the International Monetary Fund (IMF) (Verdun, 2015: 225-228).

Meanwhile a series of legislative instruments – included in the “six-pack” of 2011 and “two-pack” of 2013 – were adopted via OLP to reinforce SGP as the baseline logic for EMU budgetary coordination (Salines et al., 2012: 671-672). Included in these packs were a Commission-led budgetary surveillance cycle (via the “European Semester”) to streamline any signalling of EURMS’s macroeconomic imbalances. Also included was the introduction of “reverse [QMV]” in SGP’s corrective arm. This made corrections more centrally-streamlined as it required QMV of the CEU to reject (rather than confirm) Commission recommendations for sanctions on EURMSs that enter the EDP. Also an intergovernmental Fiscal Compact was adopted in 2013 to recredit EURMSs’ fiscal commitments to SGP by ensuring that its corrective measures be implemented “automatically” (Verdun, 2015: 228-230). Just like ESM, this intergovernmental agreement was created outside of the EU, but with the vision of incorporating it into EU *acquis communautaire* to reinforce the logic of a fiscal union within EMU at a later date (Pidd, 2011; The Economist, 2009; Traynor, 2015).

This process bears the hallmarks of the EU’s earlier steps towards a more effective EMU and an AFSJ; namely to the intergovernmental 1979 EMS as a predecessor to the Eurozone, and the intergovernmental Schengen Agreement in 1995 and its eventual incorporation via Treaty in 1999. It therefore demonstrates that despite MSs’ resiliency and reprisals to the Union, that MSs are

³⁶ These instruments were built in 2010 and wielded €750 billion from the European Financial Stability Facility (€440 billion EURMS money) the European Financial Stabilisation Mechanism (€60 billion EU money), and €250 billion International Monetary Fund money (Gocaj and Meunier, 2013).

rationally prepared to favour the benefits of centralisation and help yield distinct governing structures at the regional level. As a side note, it also shows why neo-functionalism was incorrect to suggest that integration is primarily generated by EU actors. However, this process is often long-term due to the delaying impacts of MSs' resiliency and reprisals, which occur due to the contextual limits on their rationality, as the following case demonstrates.

Ongoing Contingency in the Area of Freedom, Security and Justice

The rise in contingencies surrounding the established AFSJ order have likewise been a direct consequence of negative feedbacks among its related private actors in response to multilateral trends in AFSJ. The negative feedback loops in the political market of Europe's home affairs regime were based on speculations that EEB controls were faltering, and that therefore the SA was at risk of breakup. These speculations saw to increased rates of Commission Recommendations to the Council for the reintroduction of temporary internal border controls across the EU, under Article 29 of the SBC³⁷ since October 2015, based on 'unexpected migratory flows', 'big influxes of persons seeking international protection' and 'emergency states' (the latter of which is based on terrorist threats or attacks)³⁸. The SBC states that this measure is a 'last resort' where and when serious operative and security deficiencies can be identified at EEBs. This has been in no small part due to lack of solidarity between MSs in resourcing effective standards of operations and security at EEBs. The annual budget of the EU is approximately one percent of EU GDP (Blankart and Koester, 2009: 539) while its administration of civil servants is comparable to a small to medium size European country; the EU therefore strongly depends on MSs for purposes of

³⁷ SBC codifies the relevant Schengen rules for (i) external controls, (ii) the removal of internal controls, and (iii) police controls behind the internal zone of SA.

³⁸ For the list of countries that have received a Commission Recommendation from the Council for the reintroduction of internal border controls visit https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control_en.pdf.

implementation (Egeberg, 2016: 128, 131-134). While there have been increases in funds³⁹, operational support⁴⁰, and cooperation with third countries⁴¹ on the matter, the EU still lacks the competences to implement a sufficiently coherent system of integrated EEB control. The current system has failed to handle the logistical demands of unexpected migrations and large flows of people – themselves in need of the securities afforded by Europe’s Common European Asylum Policy⁴² (CEAS) –, while these flows risk also containing insurgents intent on causing havoc and destruction on European peoples’ welfare.

This crisis has thus disrupted the expectations of MSs in SA by having exposed equivalent commitment-compliance gaps within SA’s system of border controls. These gaps have allowed joint-decision traps to emerge by allowing less effected MSs to defer maintenance and implementation costs to the EU and MSs situated at the EEB. Resultant negative feedback loops have effected contingency sequences that have not yet yielded recoherence, despite the EU’s attempts at:

³⁹ In April 2016 for example, the Commission announced an increase of €83 million in humanitarian funding in close coordination with Greek authorities (European Commission, 2016c), while the EU has purposefully allocated resources to a specific Asylum, Migration and Integration Fund in its Multiannual Financial Framework.

⁴⁰ This has included an enhanced mandate, and staff for FRONTEX, in its operations as a European Border and Coast Guard Agency since being amended under *Regulation No 2016/1624* in September 2016.

⁴¹ The EU has engaged in enhanced co-operations with partner third-country of Turkey since 2015 (EurActiv, 2016), having set-up a Joint Action Plan in March 2016 principally focused on externalising the responsibility for the monitoring of movement and processing and detainment of asylum-seeking applicants to Turkey. This deal was conducted in exchange for Turkish incentives, such as potential visa-liberalisation and the reenergisation of its accession to the EU (although Turkey’s recent political instability has put this on hold) (Anyfantis, 2017; Squires, 14:59). For more information visit [http://europa.eu/rapid/press-release MEMO-16-3204 en.htm](http://europa.eu/rapid/press-release_MEMO-16-3204_en.htm).

⁴² The CEAS consists of five pieces of Community legislation: the *Reception Conditions Directive 2013/33/EU*, which lays the minimum conditions and standards obliged of MSs when receiving asylum-seekers; the *Asylum Qualifications Directive 2011/95/EU*, which outlined a more inclusive criteria than the Geneva Convention for the qualification of subsidiary protection; the *Temporary Protection Directive 2013/33/EU*, which provides for temporary standards of protection in the event of a “mass influx” (a rate determined by Council QMV Decision) of displaced persons seeking protection (Kaunert and Léonard, 2012: 10); *Asylum Procedures Directive*, which sets minimum standards for procedural access to rights of entitlement, as well as defining the concepts of ‘safe country of origin’ and ‘safe third country’ (Goldner Lang, 2014: 5-6; Hatton, 2015: 613-614; Tsourdi and De Bruycker, 2015: 3-4); and the *Dublin Regulation III No. 604/2013* (Trauner, 2016: 316)

- internally resolving these issues through introducing more redistributive mechanisms in AFSJ,
- and externally outsourcing solutions through “fencing” migration (i.e. externalising controls to third-countries), via resourcing “gatekeeping” (i.e. incentivising practical and legal access to internal institutions to third-countries) (Baker, 2016: 129) in the European Neighbourhood, through mechanisms such as the Regional Trust Fund⁴³.

The following addresses the reasons for why the problem-solving capabilities of AFSJ have been more delayed than their EMU counterparts.

Contingency Sequences That Delay Recoherency

As Pierson notes, the causal processes that connect input x to output y are often delayed because of contingency sequences a , b , c and so on that x initiates and intermediate its yield of y . Especially within the social realities of the political market, these intermediating sequences can become extremely delayed due to the complex nature of the information environment (Pierson, 2004: 87-88). In the case of Europe’s crises, multilateral sequences have disrupted the coherent allocation of competences that are linked to yielding the necessary problem-solving functions of state institutions.

Examples of these disruptions or delays to competence allocation have included the use of national referenda to aggregate feedback and reprise crucial competences from EU institutions⁴⁴. As

⁴³ For more information on the resources and networking capabilities of this fund see https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/syria/madad_en.

⁴⁴ Hungary’s Fidesz government hosted a referendum in 2016 in response to the EU’s legislative adoption of its refugee quota (Traynor, 2015) in the EU’s handling of the issues of AFSJ. Secession from the Eurozone has meanwhile been proposed by political groups across Europe, including France’s political part the Front National (Chrisafis, 2017), Italy’s Five Star Movement (Jones, 2017), and the Netherlands’ Party for Freedom (Holehouse, 2016) in light of EMU’s issues. Meanwhile the conjunctural effects of each crisis have helped lead the UK to hosting its own “Brexit” referendum on its secession from the EU (Asthana et al., 2016), despite its not being a part of either regime (as per its opt-outs of both AFSJ and EMU).

suggested in Chapter Two, aggregated votes of preference are both crude and imprecise measures of the values that rationally obtain in the political market (such as the extent of EMU and AFSJ-related cost reductions) and fail to address the information asymmetries of principal-agent relations in the context of European governance that initially incentivised delegation. These referenda have thus increased EU institutional vulnerability, by enhancing the capacity of national veto actors to undermine the mechanics of EU institutions (through imperfectly aggregated national preferences)⁴⁵.

Naturally these delays have been more acute in the case of AFSJ as it is more deeply embedded into the complexities of the political market compared to EMU, which is – despite its fiscal and budgetary implications (Featherstone, 2011) – more naturally linked to pure economic market metrics. This HI theory can therefore justifiably say it goes beyond the comparable time differences of each crisis, which limit neo-functionalist (Cooper, 2011; Niemann and Ioannou, 2015) and intergovernmentalist (Dogachan, 2017; Jachtenfuchs and Genschel, 2016) approaches. This is because it explains why contingencies are either persistent (in the case of AFSJ) or not as much (in the case of EMU), while simultaneously not suffering from the empirical limitations of having simultaneously observed both situations in its theory of an order or *telos* to integration (Pollack, 2015: 42).

The implications of this study's findings are still that while recent shocks to Europe's economy and society have drastically heightened the contingency of EU institutions, there will ultimately be decreasing room for multilateralism in both the regimes of EMU and AFSJ. This is because –

⁴⁵ For a discussion on the limitations of referendums in obtaining responsible political outcomes due to the inexperience of citizens in navigating the political market, and how government-initiated referendums tend to disrupt crucial mechanisms that hold political representatives accountable, see Setälä's *On the problems of responsibility and accountability in referendums* (2006).

as Madison had claimed of the US confederation – the present EU does not yet wield the necessary instruments to fulfil its obligation to control itself; but it must wield these instruments if it is to persist. The costs of failing to will be for MSs each individually – and among them collectively – too much to bear for the welfare of Europeans.

Conclusion

“The union of Europe cannot be based on goodwill alone. Rules are needed. The tragic events we have lived through... may have made us wiser. But men pass away; others will take our place. We cannot bequeath them our personal experience. That will die with us. But we can leave them institutions. The life of institutions is longer than that of men: if they are well built, they can accumulate and hand on the wisdom of succeeding generations.”

Jean Monnet before the ECSC Assembly of in Strasbourg, 1952 (2015: 384).

The proximate impact of events that are exogenous to the EU integration process have acted in conjuncture with the integration process to expose the commitment-compliance deficit of public EU institutions in safeguarding the material security of Europeans. These institutions wield the necessary position but lack the necessary instruments to cohere the supranational scale of the SM's exigencies or inefficiencies. If MSs persist in multilateralising these instruments the prospects of its currency and borderless area (that both underpin the seminal efficiencies of market transactions across Europe) surviving further impacts appear slim, based on this paper's findings. Not least because “the functioning of institutions cannot depend upon the goodwill of the people who populate them” (Przeworski, 1999: 16), but must rather abide by their historically vested rules and norms. Moreover the costs that have long since sunk into the European Project would be lost to alternative projects, while the start-up costs of these alternatives will only expend further resources that are crucial to the continuing welfare of an already austere continent (Pavolini et al., 2015; Truger, 2013; Vanhercke, 2012; Wigger, 2014).

Yet this paper acknowledges there is more to be found at the heart of the European Project than measuring its costs and benefits; that HI's new institutionalist counterpart, sociological

institutionalism, may also capture the symbolism of what it means to purchase European unification in the first place (Kauppi, 2003; Schimmelfennig, 2001: 49). Institutionally speaking, it goes without doubt the founding fathers of the EU conceived of the possibility for this system to suffer crises, such as those of recent times (Monnet, 1978: 488). Yet as Monnet had implied before the ECSC in 1952, distinctly European institutions could at least bear and effectively distribute our inheritance: namely, the wisdom acquired through the experiences of hardship of Europe's divided foremothers and fathers (Monnet, 2015). What was thus envisioned by the Union's founding fathers was a collective endeavour to overcome the hardships of sharing interests, while failing to compromise on the principles of liberal democracy that underpinned Europe's vision of a shared welfare or common good. Thus, in flagrant disregard for questions of the optimality or sub-optimality of separate and exclusive geographic areas that comprise its Union (von Hagen, 1993), these fathers stated in solidarity with the European ideal of prosperity that both the continent's shared hardships and fortunes would forthwith accord to a Union of Europeans.

Further Research

Beyond this study, the following denotes a couple of items or areas that are worthy of further research on the integrative potential(s) of the European Project:

- (1) an in-depth assessment of the extent of reduction costs that EU institutions promote and secure by quantifying precise cost-benefit measures to the EU's various issue-area regimes (such as EMU and AFSJ), i.e. the 'costs of non-Europe'. Worked into an HI model of integration, this research promises to clearly measure what I regard as the 'irreversibility' or 'gravitational pull' of EU institutional densities that limit the autonomy or sovereignty of national actors;

(2) an examination of these crisis based on works concerning institutional typologies or modes of change (Béland, 2007; Heijden, 2011; Mahoney and Thelen, 2010a; Redmond, 2005; Streeck and Thelen, 2005; Verdun, 2015). I believe such an examination has the potential to yield answers to two questions that are pertinent to this study of integration: (i) how do crisis effects precisely advantage or disadvantage the actors engaged in principal-agent relations at the European level of institution-building? (As Thelen and Mahoney ask, “who are the agents behind such change?”) (2010a: 22); (ii) to what extent are institutions capable of undergoing different types of change during crisis? (Are institutional layering and copying more likely to appear than other types in moments of sudden change because they might be logistically less demanding, as per their resource or innovative requirements?) This last question is important because it may help identify the tangible limits of agents of change in moments where those changes are sudden, or where those changes are occurring under (relative or absolute) conditions of resource scarcity.

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