

Introduction: Multiple Crises and European Governance

Introduction

On March 25, 1957, six countries (Belgium, France, Germany, Italy, Luxembourg, and the Netherlands) signed the Treaties of Rome, on the basis of which (what we now call) the European Union (EU) was established. Since then, in Europe, there has been a constant process of institutional deepening of the integration process and its enlargement to new states. History has continued to blow wind into the sails of aggregation – so much so that for a long period there was a widespread belief, among elites as well as the public, that the outcome of the integration process would be the reconstruction of the whole continent within a single political organization, the United States of Europe. This was the cherished dream of pioneers of Europeanism such as Altiero Spinelli and Ernesto Rossi who, in their isolation at Ventotene, in 1941 wrote a *Manifesto for a Free and United Europe*. Since then, the formation of a European federation has been considered the necessary response to the demons of European nationalisms. Those demons led to two world wars and the material and moral destruction of Europe. At the start of the integration process, one motivation therefore prevailed over the others: guaranteeing peace on the continent. Without peace, it would not be possible to create the conditions for growth; without growth, it would be difficult to consolidate the young post-war national democracies. The EU is, in short, the institutional form that sought to reconcile the needs of peace, growth, and (political and social) democracy. Through the EU, those needs have been able to reinforce one another, giving rise to a positive-sum game to everyone's benefit. Of course, this process has passed through crisis after crisis. However, despite those crises, the EU has become institutionalized and has ended up aggregating almost all the European states.

Nonetheless, more than sixty years after the Treaties of Rome, the scenario for the integration process has changed dramatically. Starting in 2008, Europe has been submerged by a veritable tsunami: the financial crisis that soon became the crisis of the single currency, the euro, the real symbol of the move from an economic community to a union with political ends. No financial crisis has ever lasted as long. Then the euro crisis was joined by the migration crisis. The latter crisis peaked in the summer of 2015 when a million Syrian refugees crossed the EU's borders to flee the disastrous civil and religious war being waged in their country. This crisis was in turn heightened by the enormous movements of people from other areas of civil and religious conflict (Somalia, Eritrea, Libya, Yemen, Afghanistan), as well as from areas of extreme poverty (Saharan Africa). These crises then became even more intractable as they intertwined with repeated terrorist attacks of hitherto unheard of savagery in some European cities, such as the dramatic terrorist attack in Paris in November 2015, which followed another serious attack, again in Paris, at the start of 2015 (Caporaso 2018). Those crises, as Krastev (2017: 59) noted, constitute "a turning point in the political dynamics of the European project."

Given the EU's problems in effectively addressing the challenges arising from these multiple crises, at the end of the 2010s public opinion in its member states has swung in an increasingly nationalist direction. Nationalist movements and sentiments have taken hold everywhere, even if the demand to restore national policy-making power has taken different forms. It has been promoted and led by left-wing parties, such as in Greece and Spain; by right-wing parties, such as in France, Great Britain, Denmark, Poland, and Hungary; and by populist parties unattached to the traditional left/right axis in European politics, as in Italy. In the past, we have never seen the formation of such widespread anti-European movements in almost all the (then) twenty-eight member states of the EU. The pressure to regain control over domestic policies peaked with the United Kingdom's decision to leave the EU, after the referendum of June 23, 2016, a decision thus formalized on March 29, 2017. Thus, after exactly sixty years, during which the European agenda was built around the theme of enlargement (the request for integration into the EU of a growing number of countries, first from western Europe and then from the east), with Brexit the European agenda has changed significantly. The question has become how to manage the forces for

disintegration (although not necessarily secession); it is no longer about how to regulate the requests for further integration.

Moreover, the arrival of Donald Trump to the presidency of the United States (US) in January 2017 has radically altered the transatlantic equilibrium on which the European integration process had been based since the 1957 Treaties of Rome. It was the US, emerged victorious from the world conflict, which enabled western European countries to move in the direction of a supranational integration. In the long post-Second World War period, it has been the US that (albeit with significant differences between one presidency and another and with not a few political interferences) played the crucial role of security's provider to Europe, both militarily (through its leadership of the North Atlantic Treaty Organization [NATO]) and politically (through its supervision over the continent's democratic evolution). This US leadership was thus crucial, after 1989, for healing the wounds of the Cold War between western and eastern Europe. There is no longer any guarantee of US determination to support the integration of the continent, nor its territorial integrity, particularly, to oppose Russia's expansionist goals on Europe's eastern borders, epitomized by its 2014 annexation of Crimea. With Brexit and the Trump presidency, a political cycle, which lasted well over half a century, has come to an end.

It is in this context that the analyses and proposals made in this book must be placed. It is a context that is unprecedented, despite the numerous crises faced by the EU in the past. The multiple crises of the 2010s have activated centrifugal forces that the EU has been unable to address with institutions capable of dealing with them. Certainly, the costs of Brexit dissipated the ambiguity of a plausible disintegration's alternative to integration. After Brexit, anti-Europeanists claim more sovereignty within the EU, with the aim of transforming the EU in an (undefined) organization of economic cooperation, rather than independence from the EU. This (although confused) challenge to the project of building "an ever closer union" (as the 1957 Rome Treaties' Preamble declared) has been met by the supporters of the latter through the re-affirmation of politics as usual, i.e., through either the functionalist approach of muddling-through or the intergovernmental approach of letting national governments find ad hoc solutions for ad hoc problems. Because of the lack of political courage and strategic thinking of its supporters, the EU has lost its sense of the future without at the

same time acquiring awareness of the difficulties of the present. Europeanists have put their trust in the resistance of EU procedures, in the daily survival of cooperative practices between national governments, in the teleological assumption that integration is irreversible. In the meantime, anti-Europeanists continue to chip away at the integration process, using every difficulty to highlight its inadequacy to solve citizens' problems.

Neither sovereignists nor Europeanists understand, however, that the European crisis was, and still is, the consequence of the interplay between historical changes and inadequate institutions. It has taken the form of an institutional crisis but reflects indeed a crisis of vision on Europe's future. Because sovereignism and Europeanism have intrinsic weaknesses, it is necessary to think differently from the past, promoting an integration process that should meet different expectations. It is the strategy of promoting a constitutional distinction between an economic community and a federal union connected in the operation of the single market – a federal union based on a political compact and an economic community organized by an interstate treaty. Europe's future needs innovative institutional solutions. Here, I propose the argument developed in the subsequent chapters. First, I introduce my interpretation of the EU. Second, I describe the main crises that affected the EU. Third, I analyze the limits of the intergovernmental governance that managed those crises.

The Dual Constitution of the European Union

The multiple crises that the EU has had to face have occurred in policy areas outside the common market (which became the single or internal market with the Single European Act of 1986). Those crises have in fact occurred in the sectors of economic policy, law and home affairs, defense and security policy, policy sectors that were considered of common interest beginning with the Maastricht Treaty of 1992. At the Intergovernmental Conference that prepared the draft of that treaty, the decision was made to take an institutional break from the supranational system, which up to then had governed the integration of the single market. If the latter was taken forward by using the so-called community or supranational method, in Maastricht it was decided that the new policies should be Europeanized by using a new decision-making method, which was subsequently defined as intergovernmental.

In Maastricht, distinct organizations were created to manage them, organizations known as “pillars.” An intergovernmental pillar was created to decide Common Foreign and Security Policy (CFSP), another intergovernmental pillar to decide policies linked to Justice and Home Affairs (JHA), and, finally, the intergovernmental method was introduced to decide on the economic policy (with the related fiscal and budget policies) of the Economic and Monetary Union (EMU, which I will call here the Eurozone), while monetary policy was instead entrusted to the independent control of the European Central Bank. The Lisbon Treaty of 2009 (constituted by three treaties: the Treaty on European Union, or TEU; the Treaty on the Functioning of the European Union, or TFEU; and the Charter of Fundamental Rights) abolished the pillars, but left in place the intergovernmental method by which to decide those policies.

With Maastricht, therefore, a dual constitution or decision-making regime was formed within the EU. As of 1992, the EU has therefore lost its unitarian, supranational character, as it had been defined by the founding Treaties of Rome of 1957. The regulatory policies of the single market have continued to be decided in accordance with the supranational method institutionalized in the Treaties of Rome: The European Commission (which holds a monopoly over legislative initiative) puts a legislative proposal (either a regulation or a directive) to the Council of Ministers (the Council of the EU), which votes on a qualified majority basis and (increasingly) to the European Parliament (which votes on a simple majority basis). In the supranational EU of the single market, the European Parliament has emerged as the institution that has increased its powers the most, even at the expense of the Commission (Kreppel and Oztas 2016), to the extent that the Lisbon Treaty of 2009 formalized its role as co-legislator in almost all the regulatory policies of the single market. The approval of the Commission’s proposals by both the Council of Ministers and the European Parliament has become, with the Lisbon Treaty, the ordinary legislative procedure of the single market. The latter has continued to function through legislative proceedings (known as integration through law), acts taking the form of regulations (which must then be implemented as they are by the member states) and directives (which set the objectives to be achieved, leaving the decision on how to achieve them to the member states). Of course, there has been no lack of resistance to the extension of the single market to delicate areas for individual member states (such as that of services). Nonetheless, in

these policies, there has been no crisis. Quite the opposite. Just think of the infraction procedure launched in autumn 2016 by the Commission against an IT giant such as Apple, accused of having violated the rules of competition in benefiting tax discounts from the Irish government.

The crisis, on the other hand, has been seen in the policies governed by the intergovernmental method. The intergovernmental method was chosen by national governments to decide policies linked to the core state powers (Genschel and Jachtenfuchs 2014), i.e., policies that were traditionally at the heart of national sovereignty and jealously controlled by national governments. Because these are policies of strategic importance (to the extent that they are often called strategic policies, a term that I will use, too), national governments wanted to control them. In the intergovernmental EU, the decision-making axis is structured around the relationship between the European Council and the Council of Ministers. In particular, the European Council of heads of state and government (from here onward, only heads of government) has become the predominant institution, moreover formally recognized for the first time as an EU institution by the Lisbon Treaty. In these intergovernmental policies, integration consists of the voluntary coordination of member state governments, with the consequence of downsizing the legislative role of the European Parliament and the supervisory role of the European Court of Justice, limiting the Commission to a technical (as opposed to political) role.

As a default condition, while the supranational method involves deciding on a majority basis, the intergovernmental method instead involves deciding on a unanimity basis. Unanimity means that each governmental leader or minister taking part in the deliberative process has an acknowledged power of veto. That power of veto cannot be permanently threatened without calling into question the consensual logic that must prevail within the Council of Ministers and above all the European Council. Intergovernmental deliberation presupposes reciprocal trust among the national governments and requires their political commitment to find policy solutions that can meet the legitimate needs of each of them (Puetter 2014; Wessels 2015). However, in times of crisis, intergovernmental deliberation struggles to work. Crises tend to impact national interests, because their solutions have inevitable implications in terms of the distribution of resources or costs (Genschel and Jachtenfuchs 2017). Because the multiple crises of the 2010s have occurred in the field of intergovernmental policies, their

persistence must be connected to the intergovernmental method for managing them. That method has exacerbated the crises instead of calming them down. Intergovernmental governance, which had in fact worked under the ordinary pre-2008 conditions, could not withstand the extraordinary post-2008 conditions (Joerges 2016). The choice made in Maastricht thus came to a head with the crises that followed in the second decade of the twenty-first century.

The Development of Multiple Crises

The prolonged crisis of the euro and the inability of intergovernmental governance to manage the crisis have led to a change in the political equilibria of the member states of the Eurozone, also due to the hardening of the unrest among their electorates. Several serving governments had to resign because of their inability to comply with the restrictions of intergovernmental governance, or they were replaced in elections held in a political climate that had become increasingly anti-European. The divisions between the states of northern and southern Europe have increased without the possibility of a democratic reconciliation (Hacker and Koch 2017). Just recall the referendum of July 5, 2015, held in Greece, superficially called by that country's government on the austerity measures it would have to adopt to obtain the third package of financial aid needed to prevent its defaulting. Despite the clear result of that referendum (around two-thirds of the electorate voted against those austerity measures), the Greek government was then forced to reverse its anti-austerity position at the extraordinary meeting of the European Council of July 12 or risk making the country insolvent. The reaction of the Eurozone to the Greek referendum dramatically showed the strength of external constraints (on a country) in a highly interdependent economic and monetary system (such as the Eurozone). In intergovernmental governance, there should be no room for national unilateral claims, only reciprocal control among the national governments – even though the power of control may quite easily be unfairly distributed.

The same happened with the policies to manage the enormous migration flows heading toward Europe. For a long time, the countries that were most exposed to these flows, such as Italy and Greece, were left alone to handle them on the basis of the Dublin Regulation of 2003, under which the country of first arrival has the duty to recognize

migrants and, if necessary, send them back to their country of origin. As early as 2013, Italy, without significant EU financial support, took on the responsibility (with its Mare Nostrum operation) of facing up to the dramatic humanitarian emergency of migrants who were crossing the Mediterranean without any regard for their own safety. This situation worsened enormously in subsequent years, albeit (thanks to the Mare Nostrum operation then replaced by the Triton operation backed by the EU) part of the migration flows were blocked, flows which then shifted to a land-based route (connecting Syria with Turkey and then the Balkan states to reach the eastern borders of the EU). Very soon these migration flows created defensive reactions in the countries of first arrival. Starting with Hungary and then involving Slovenia and Croatia, the governments of those countries immediately started to build barriers and walls on their borders. In their turn, France and Germany and other countries suspended, or threatened to suspend, the free circulation of people in the so-called Schengen area (from the name of the town where an international agreement was signed in 1985 between five European countries to abolish checks on people at their borders, an agreement which then became a primary law of the EU with the Amsterdam Treaty of 1999). However, fences rarely manage to keep the water out. Migrants found other ways to reach the developed countries of Europe (and, above all, to reach the richest of them).

If the financial crisis led to a cleavage between the south and the north of the Eurozone, a new cleavage has occurred between the states of western and eastern Europe over the policy for handling refugees and so promoting their redistribution within the EU member states. When in September 2015 the Commission put to the Council a proposal to distribute 120,000 refugees among the various member states, a proposal then approved on a qualified majority basis by the Council of Ministers at its September 22 meeting, the entire block of eastern countries declared that decision illegitimate (albeit qualified majority voting was envisaged in the field of asylum policies). Because that decision had an uncertain legal character, as do all intergovernmental decisions, no mechanism could oblige national governments to implement it. The intergovernmental method can therefore lead to the nullification of its own deliberations. After all, asylum policy, as with fiscal and budgetary policy, has a strong domestic impact. Indeed, the migration flows in Europe have activated parties and movements to oppose them, which have gathered increasing electoral consensus. The refusal

to accept political refugees for domestic electoral reasons (which, according to international law, and not just that of Europe, is unjustifiable), as well as opposing economic migration, has brought votes to parties that are openly anti-EU. Because Schengen had abolished internal borders without protecting external borders, it was easy to argue that the growth in migration was due to the integration process. Not only in almost all the countries of the east but also in countries of the north, the EU has become the scapegoat for every unwelcome phenomenon. Migration flows have added fuel to the fire of the various forms of nationalism.

The dramatic terrorist attacks on European soil, particularly that in Paris on November 13, 2015, which followed the previous attack in the same city on January 7, 2015, also showed the difficulty the EU has in acting cohesively and coherently in terms of security. Immediately after the attack, the French government used Art. 42.7 of the TEU, which requires member states to provide help and assistance to another member state that has suffered armed attack on its own soil. This article refers to member states and not to the EU as such. The EU has not even recognized the task of coordinating the action of the member states. France could have used Art. 222 of the TFEU, which envisages, in the case of terrorist attacks against a member state, an obligation for the EU (as an organization) to intervene. However, the then French president François Hollande decided to use Art. 42.7 of the TEU, which preserves national prerogatives in the field of security and defense, whereas if Art. 222 of the TFEU had been used, France would have had to coordinate its own action with the other member states and with the supranational institutions. In the latter case, it would have been possible to create the conditions to start a Permanent Structured Cooperation (PESCO) in the field of security and defense, a possibility envisaged by the Lisbon Treaty, regularly promised since the joint Franco-British Saint-Malo declaration of 1998 (and the consequent creation of the European Common Security and Defence Policy, or CSDP) but unrealized for twenty years. The result was that France found itself alone, in the EU, in organizing the military response to terrorism. The French bombing of the positions of the Islamic State in Syria was supported mainly by non-European countries (such as the US and Russia), rather than by EU countries (with the partial and limited exception of the United Kingdom). Only with the arrival to the French presidency of Emmanuel Macron in May 2017 and the departure of the

United Kingdom from the EU was it possible to inaugurate the first PESCO in defense and security in December 2017. However, because twenty-five of the twenty-seven EU member states agreed to participate in PESCO, it seems reasonable to assume that the interstate divisions, which had paralyzed the EU in the past, will probably also reemerge within the new program of permanent structured cooperation.

The Intergovernmental Implosion

The multiple crises that occurred in the second decade of the twenty-first century have led to an increasing administrative centralization of decision-making as a response to the decisional paralysis caused by intergovernmental deliberations, a paralysis due to the reciprocal lack of trust between the various national governments heightened by those crises. Although the European Council played the role of crisis manager, that management highlighted structural incongruences of the intergovernmental governance. In the intergovernmental governance, there is confusion over the distinction in responsibilities and prerogatives between the European and national levels. This has been particularly evident in economic policy. Because the decision-making process must be based on reciprocal consensus and trust among the member states, if these no longer exist then a highly intrusive mechanism of administrative centralization and judicial supervision over national prerogatives would be necessarily introduced. Instead of separating between the levels of government and their respective decision-making responsibilities, in the Eurozone the opposite strategy was pursued, which entrusts to a center with no electoral legitimacy the duty of controlling, if not determining, the fiscal choices of the member states. The intergovernmental governance implies a direct connection between national and supranational politics, with a double consequence. Single national parliaments cannot call into question a decision made by an organ (the European Council) to which the governmental leader expressing the parliamentary majority in each of them also belongs. At the same time, national idiosyncrasies can be transferred directly into the supranational level. One has only to think about what would have happened if Marine Le Pen, and not Emmanuel Macron, had become the president of France (and thus a member of the European Council). The confusion between the various levels of government has led to a decision-making system without checks and