

Chapter 1

Beyond disintegration: political and institutional prospects of the European Union

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Introduction

The European Union is facing one of the most dramatic crises of its long history. The present EU crisis has many dimensions, some of which are clearly and directly related to the social dimension of Europe: the issue of migrants (Hassel and Wagener, this volume), the enduring weakness of our labour markets as a consequence of the still slow economic recovery (Bouget and Vanhercke, this volume), and last but not least the increasing divergence of labour and social standards between the different parts of the EU. All these tensions are putting European integration at risk. While other chapters in this volume address the many social dimensions of the crisis, the present contribution outlines the main institutional and political problems in the EU, and envisages some possible solutions.

This chapter raises the following questions: first, *Why have the Eurozone (or Economic and Monetary Union, EMU) and the European Union (EU) been weakened by the Euro crisis and the ensuing refugee and terrorist crises, opening a process of disintegration after 60 years of uninterrupted, although contrasted (Dinan 2006), integration?* In particular, disintegration has become a reality (Lefkofridi and Schmitter 2014), first with the outcome of the British referendum of 23 June 2016, when a majority of United Kingdom citizens voted to take their country out of the EU (so-called Brexit¹). Second, Greece's ongoing difficulty in fulfilling its financial obligations (i.e. respecting the conditions imposed on the country by its donors) has kept alive the

1. Brexit is an abbreviation of 'British exit'.

option of forcing Greece out of the Eurozone (the so-called Grexit², see Theodoropoulou, this volume). The second question this chapter tackles is therefore: *How could the process of disintegration be dealt with by the EMU and the EU?*

To answer the first question, this chapter recalls the structure of interstate compromises struck within the EU and EMU, which shaped the decision-making process for dealing with the economic policy side of EMU but also applied to, say, security and asylum policies. Certainly, the financial crisis has been of an unprecedented magnitude, but its impact on the EU and EMU has been amplified by the weakness of the decision-making structure set up – from the 1992 Maastricht Treaty to the 2009 Lisbon Treaty – to deal with the economic governance of the single currency. That decision-making structure has clear intergovernmental features. The intergovernmental response to the Euro crisis (and to the other crises as well) has thus contributed to a deepening of the divisions, within the EU and EMU, between groups and sections of Member States (North vs. South, West vs. East) with regard to the policies to be pursued. Because these policies were of great significance to national domestic actors, they were assigned to the coordinated control of national governments. However, in crisis conditions, intergovernmental coordination has not worked as expected, triggering centrifugal forces within the EU and EMU. Regarding the second question, the chapter considers two strategies for dealing with these centrifugal pressures: strengthening *policy differentiation* within the same legal and institutional order, or pursuing an alternative strategy of *constitutional differentiation* between distinct institutional and legal orders.

The chapter will be organized as follows: section 1 describes the model of economic governance of the Eurozone. Section 2 analyses the impact of the Euro crisis on that model. Section 3 discusses the features of the two differentiation strategies. The final section sums up and draws the main conclusions from the analysis.

2. Grexit is a portmanteau combining the English words ‘Greek’ and ‘exit’.

1. Intergovernmental economic governance

The centrifugal pressures which have developed within the EU and EMU (Fossum and Ménédez 2014) cannot be understood without considering the decision-making structure set up through and by the Lisbon Treaty for dealing with the economic side of EMU, migration and refugee policies, and home security policies³. The logic of that decision-making structure is mainly intergovernmental. Indeed, since the 1992 Maastricht Treaty, policies which were politically salient for domestic actors have entered the EU agenda, on the proviso that national governments could control them. In Maastricht, a Pillar structure was introduced to distinguish between the regulatory policies of the single market to be managed by the traditional Community method (Dehousse 2011), and the Common Foreign and Security Policies (CFSP) and Justice and Home Affairs (JHA) issues, to be controlled by national governments through their intergovernmental institutions⁴. The Europeanisation of policies traditionally close to core state powers (Genschell and Jachtenfuchs 2014), and their management through the intergovernmental institutions of the European Council and the Council of Ministers (then only Council) (Puetter 2014), have dramatically increased the impact of domestic politics on EU decision-making and *vice versa*.

The intergovernmental union which emerged to manage the new policies, in our case the economic side of EMU, is the outcome of inter-state compromises. The decision to introduce a single currency (taken during the Intergovernmental Conference (IGC) held in Maastricht in 1991), was a turning point in the process of European integration. That decision was contained within a structure of compromises that made it possible, firstly, for a few Member States to opt out of the new single

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3. On the Lisbon Treaty, which entered into force on 1 December 2009, see Craig (2010) and Piris (2010).
 4. The Community method (adopted for the regulatory policies of the single market) implies that the decision-making power has to be shared between supranational institutions (the European Commission – with its monopoly on legislative initiative – and the European Parliament as a true co-decisional legislature) and the intergovernmental institutions (mainly represented by the Council of Ministers or Council, the other co-decisional legislature). The Intergovernmental method (adopted for the new policies) implies that the decision-making power is held by the European Council (constituted by the Heads of State and Government) and the Council of Ministers, with the supranational institutions of the Commission and the European Parliament playing a subordinate role.

currency regime; and, second, to establish within the EMU an intergovernmental arrangement for the control of economic policy and a supranational system for the control of monetary policy. Regarding the first compromise, the EU has thus developed as an internally differentiated political system (Leuffen *et al.* 2013; Dyson and Sepos 2010), with the aim of accommodating Member States assumed to be pursuing the same finality of the integration process but at different speeds (Piris 2012).

By means of the second Maastricht compromise, a Eurozone was created, organized according to a decision-making model combining centralization of monetary policy and decentralization of economic, financial, fiscal and social policies (Issing 2008). The monetary policy of the common currency was put under the control of an independent federal institution, the European Central Bank (ECB), but the other connected policies remained in the hands of Member State governments. These decentralized policies, however, were to be coordinated within and by the intergovernmental institutions of the European Council and the Economic and Financial Affairs (ECOFIN) Council. These policies were ‘Europeanized’, but managed by national governments working in collegiate bodies – as represented by the Council and the European Council – with limited involvement of the supranational institutions of the European Commission and European Parliament. With regard to these decentralized policies, it was also established that integration would have to proceed through political, rather than legal, acts. Since integration could not take place through law in these policies, the role of the Court of Justice of the European Union (CJEU) – whose power has continued to be crucial in the supranational constitution – would be curtailed. Since Maastricht, more integration does therefore not necessarily imply more supra-nationalization (Fabbrini and Puetter 2016).

This Maastricht compromise was further institutionalized in and through the Stability and Growth Pact (SGP) (Heipertz and Verdun 2010), made up of a Resolution of June 1997, two Council Regulations of July 1997 and finally the Protocol on the Excessive Deficit Procedure (EDP), also approved in July 1997. The first Regulation ‘on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies’ – known as the preventive arm of the SGP – entered into force on 1 July 1998; the

second Regulation ‘on speeding up and clarifying the implementation of the excessive deficit procedure’ – known as the SGP’s corrective arm – entered into force on 1 January 1999. Although this compromise allowed Member States to pursue their own policies, they had to do so within macro-economic parameters (setting out the ratio of public deficit and debt to GDP), formalized as proper statutory rules. The principle of voluntary coordination between national governments was thus established, but that voluntary coordination had to be regulated by macro-economic rules, and only the national governments could determine (as a collective in the ECOFIN Council) whether or not those rules had been respected by one of their number. No legal requirements were imposed on the behaviour of national governments by any of the supranational institutions (the European Commission in particular). The Lisbon Treaty abolished the pillar-structure that had been established in the Maastricht Treaty, but it kept the intergovernmental decision-making regime for the economic policy of the Eurozone (Dyson and Quaglia 2010) and the other new policies. In other words: when the financial crisis struck Europe, not only was there an intergovernmental regime in place to deal with it, but there was also a general consensus between national governments that they alone should find solutions for the financial turmoil.

With the Lisbon Treaty, it was thought that a single currency area might consolidate and develop without a single public authority managing the economic, financial and fiscal policies connected to the single currency. Moreover, the ECB was strictly constrained – by its statute – to adopt only anti-inflationary measures and not measures connected to growth and employment (as is the case with the US Federal Reserve). An informal Eurogroup of economic and financial ministers of the Eurozone was given the task of coordinating distinct national economic policies. If the ECB is understood as a technocratic institution, then the EMU consisted of one single currency managed by a plurality of governments, although coordinated through the intergovernmental institutions of the European Council and the Council of the EU. It was in fact the collective of the national governments belonging to the EMU that had been given, by the Lisbon Treaty, the role of governing the single currency. With the adoption of the Lisbon Treaty it was generally thought that the above inter-state compromises would finally be consolidated (Kral 2008).

2. The crisis of the EMU economic governance model

The 2008 financial crisis upset the fundamental compromises underpinning the Lisbon Treaty (Fabbrini 2014). First, it upset the compromise between the UK (and more in general the ex-EFTA area⁵) and the EMU Member States. Two new intergovernmental Treaties entered into force in January 2013: the 2012 European Stability Mechanism (ESM) and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, also referred to as the Fiscal Compact. Both Treaties were established outside the legal order of the Lisbon Treaty to deal with the financial crisis: the former as a firewall for managing it, the latter as an instrument to prevent another crisis. The Eurozone leaders chose to resort to international treaties to neutralize the veto threatened by the UK government. In order to prevent future veto threats, these treaties set up new organizations where unanimity is no longer needed for decision taking. The Fiscal Compact even established (Title VI, Art. 14.2) that, to enter into force, it requires the approval of only 12 out of the then 17 (now 19) Eurozone signatory Member States (out of the then 25 Member States of the EU).

Moreover, the European Commission's intervention vis-à-vis any contracting party that disrespects the agreement is now quasi-automatic, an automaticity that can be prevented only by a reversed qualified majority of the finance ministers of the signatory Member States (Fiscal Compact, Art. 17). Furthermore, the Fiscal Compact requires the contracting parties to introduce the balanced-budget rule at constitutional level (or equivalent), thus also limiting from within the domestic system the possibilities for non-compliance and policy discretion. As a result of the Fiscal Compact, the vast majority of Member States are now coordinating their economic, fiscal and budgetary policies, leaving out only the UK; the Czech Republic, which refused to sign the Treaty in 2011, eventually signed it in March 2014.

5. The European Free Trade Association (EFTA) was constituted in 1960 as an alternative project to that inaugurated by the 1957 Rome Treaty (European Economic Community, later EU). Originally, its members were Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the UK. Iceland entered the organization in 1970, Finland in 1986 and Lichtenstein in 1991. Several of these countries left EFTA to then join the EU. Currently, only Iceland, Liechtenstein, Norway and Switzerland are members of EFTA.

Moreover, the UK did not sign the 2011 Euro Plus Pact, a political commitment (intergovernmental agreement) between the Eurozone Member States and several others (such as Denmark, Poland, Bulgaria, Romania, Latvia and Lithuania⁶) aimed at fostering stronger economic policy coordination between them. The new organization set up by the Fiscal Compact has revealed the differing interests between the Eurozone and the opt-out Member States. The most crucial decisions have been taken in the meetings of the governmental leaders of the Member States adopting the Euro ('Euro Summit'), with the pre-'ins' and the 'out' Member States frequently being informed later about their content (Ludlow 2011).

The compromise between a centralized monetary policy and nationalized economic policies has also suffered in the course of the Euro crisis. Constrained by the intergovernmental constitutional arrangements, the voluntary coordination of national policies has been unrelentingly challenged by its internal dilemmas. The response to these difficulties has been a further regulatory centralization of the governance of the Eurozone, through the establishment of stricter macro-economic and budgetary rules to be respected by the signatory states, in line with the *ordo-liberal* economic tradition developed in the 1930s by the Freiburg School (Young 2012). Financial aid to Member States unable to respect the requirements has been accompanied by conditionality rules that have led to the reduction of their decision-making autonomy. National discretion has been unevenly restructured, with the debtor Member States becoming less autonomous than the creditor Member States because of their inability to control the externalities of their policies.

The net outcome of this process, however, has been an across-the-board restructuring of national welfare systems, which has taken the form of a significant down-sizing of social protection programmes in the indebted Member States (Ferrera 2014). Within the European Council and the Euro Summit, a decision-making hierarchy has emerged in the form of a German-French (and then only German) *directoire* of the Union's financial policy. Within the European Council, the financial strategy for dealing with the crisis came to be decided more and more by Berlin and

6. Latvia subsequently entered the Eurozone on 1 January 2014, and Lithuania on 1 January 2015.

its Northern allies, and was then approved by the intergovernmental institution as such (Fabbrini 2013). The growing German unilateral leadership of the European Council has coincided with an unprecedented split between Northern and Southern Member States within the Eurozone. Instead of giving the Eurozone an autonomous budget and legitimate political authority to deal with the crisis, the outcome has been a convoluted imposition of rules on the policies to be pursued within EMU.

Thus, throughout the Euro crisis, the intergovernmental regime has gradually come to prevail over the supranational arrangements: the latter one still applicable, through the Community method, to the decision-making process in the regulatory policies of the single market. Not only has the European Council become the decision-making centre for the policies adopted in response to the financial crisis, but the Euro Summit of the heads of state and government of the Eurozone (formalized by the Fiscal Compact) has also become a driving institution for framing the responses to the crisis (Fabbrini 2015a; Puetter 2014). Given the structure of economic governance set up in the Treaty, the European Commission was asked to play a largely administrative role, transforming the policy guidance of the European Council into technical proposals. Indeed, when the European Commission claimed a more political role in interpreting the rules, the heads of government of the creditor Member States reacted by threatening to exclude it from any decision-making arena. The more the crisis has deepened, the more the European Council has established its executive role. This has not meant that the European Commission has become unimportant. Indeed, the legislative measures (the 2010 European Semester, the 2011 ‘Six-pack’, the 2013 ‘Two-pack’) and intergovernmental treaties introduced during the crisis have increased the technocratic role of the European Commission in monitoring Member States’ behaviour regarding their respect and enforcement of intergovernmental decisions (Zeitlin and Vanhercke 2015).

At the same time, the European Parliament has been left in a sort of institutional limbo. More precisely, it has been marginalized in the decision-making process. It is true that a few legislative measures were adopted through either ordinary or special legislative procedures (that recognize a decision-making or consultative role for the EP), but these legislative acts do not assign an active role to the EP in economic policy.

Moreover, the deepening of the Euro crisis has led to new treaties that do not recognize the EP as a policy-making actor. Certainly, it is difficult to identify a role for the EP (which represents the citizens of the EU) in new organizations set up by not all of the Member States of the EU (Hefftlar and Wessels 2013). With the Euro crisis, the decision-making barycentre of economic policy has moved towards the relationship between the European Council (along with the Euro Summit) and the ECOFIN Council (along with the Eurogroup of the economic and financial ministers of the Eurozone Member States), rather than towards the relationship between the European Commission, the Council of Ministers and the EP (which has continued to be predominant in single market policies).

In sum, the Euro crisis has introduced significant changes to the institutional context of the Maastricht-Lisbon compromises: it has increased the policy and institutional distance between the Eurozone and the non-Eurozone Member States of the EU; it has shown the incongruence of managing a common currency through a plurality of decentralized economic policies, although coordinated through the Euro Summit and the Eurogroup; it has weakened the supranational logic of the EU through the central role acquired by intergovernmental policies in the EU agenda. Politics have been replaced by macro-economic and technical rules, decided by national governments because of their mutual distrust, and the question of whether or not these rules have been respected has been interpreted in purely technocratic terms. When the need for politics emerged, it took the form of German leadership of the EMU. Indeed, in a crisis situation, intergovernmentalism has led to the formation of hierarchical decision-making patterns within the EMU.

3. What sort of differentiation to deal with centrifugal pressures?

The Euro crisis has not been business as usual, nor can the refugee crisis and the terrorist threat be considered to be business as usual. In particular, the Euro crisis has altered the basic inter-state compromises underpinning the EMU and the EU. The Euro crisis has shown that the coexistence of different monetary regimes within the EU has become increasingly untenable. The purely economic perspective of the opt-out

Member States has ended up contrasting with the Eurozone's need for 'a more genuine economic and monetary union' in order to manage current and prevent future financial crises (see the Four Presidents' Report, van Rompuy *et al.* 2012, and the Five Presidents' Report, Juncker *et al.* 2015). The Eurozone and non-Eurozone Member States are already separate, both institutionally and legally. Brexit magnified this separation. The EMU has created an institutional setting structured around the Euro Summit and the Eurogroup, and a discussion has started within the EP on how to distinguish, in deliberations concerning EMU policies, between members of the European Parliament or MEPs elected in Eurozone and non-Eurozone Member States. At the same time, the Fiscal Compact and the other intergovernmental treaties have created a new legal order for the Eurozone, although this is divided internally and overlaps with the legal order of the Lisbon Treaty. In this new context, Brexit has led the EU to a crossroads: a choice between deepening *policy differentiation* between clusters of Member States in the hope of keeping them within the same legal order, or building a *constitutional differentiation* between the Eurozone and the non-Eurozone Member States, thus connecting them within the single market framework.⁷

3.1 Policy differentiation

Policy differentiation is a political strategy aimed at reconstructing the unitary order of the Lisbon Treaty, albeit internally differentiated on the basis of the measures introduced to manage the Euro crisis. As stated by Leuffen (2013: 5), 'differentiated integration (is) a political program'. As discussed above, from Maastricht to Lisbon the EU already developed as an *internally* differentiated organization. The action of the EP during the drafting of the Fiscal Compact, aimed at establishing a clear formal deadline for bringing it back into the Lisbon

7. The literature on European integration is now proposing different strategies to respond to what we call here the Euro crisis. While this chapter looks at differentiation within the EU, with a core group of countries involved in more intense integration, some analysts have proposed a process of differentiation based on weaker cooperation (see Zielonka 2014; Majone 2014), while others have focused on the need to change the economic and monetary policy of the EU (see De Grauwe 2016; McDonnell 2012) or on the need to change the logic of the EU political debate in a more 'cosmopolitan' sense (Borzel 2016). None of these strands presuppose any Treaty revisions.

Treaty (European Parliament 2012; Kreilinger 2012), is an expression of that programme. The nomination on 30 August 2014 of Donald Tusk, a former Prime Minister of a non-Eurozone Member State (Poland), as president of both the European Council and the Euro Summit, is another example of the attempt to reduce the divisive effects of the Euro crisis.

Brexit has been used by several Member States – the ‘Visegrad Group’, made up of the Czech Republic, Hungary, Poland and Slovakia – to call for a sort of nullification of those EU decisions that might affect the electoral fortunes of national governments, such as the reallocation of refugee quotas from such countries as Italy or Greece to the other Member States. Indeed, Brexit has also been used to demand the repatriation of competences in policy areas (such as international trade) assigned – by all the treaties, from the 1957 Rome Treaties to the 2009 Lisbon Treaty – to the exclusive competence of the EU institutions. The European Council’s declarations that the much maligned ‘ever closer union’ clause does not apply to this or that Member State, will loom large on the horizon. Especially if that Member State has resorted to a popular referendum to legitimize its claim, as happened in Hungary with regard to refugee policy. At the same time, to prevent the possibility of another Grexit and the complete wearing down of peripheral Eurozone Member States by austerity policies, more flexibility will be allowed in the interpretation of the rules on the functioning of Eurozone governance and the ECB. Under this strategy, one can imagine an EU made up of different clusters of Member States, participating permanently in different policy regimes with varying degrees of integration, and with many grey areas between these regimes (a theoretical discussion on the EU as ‘a club of clubs’ can be found in Majone 2014). Policy differentiation thus acknowledges the differences between Member States (and their domestic politics), although it continues to assume that these differences are compatible with a unitary process of integration and legal framework (Blockmans 2014; Schmidt 2010).

This political programme of policy differentiation has, however, its weaknesses. The conflict of interests between the non-Eurozone and the Eurozone Member States could not be easily kept within a unitary legal order. The need for deeper integration in EMU policies would put a tremendous strain on the common legal and institutional order; any

step towards more integration within the legal framework of the Lisbon Treaty would certainly trigger an exasperated reaction against the EU in the non-Eurozone Member States. It seems unlikely that disintegration could be prevented through diplomatic agreements regarding the interpretation of the Lisbon Treaty, once the centrifugal forces of repatriation of policy competences have left the Pandora's box. At the same time, differentiated integration would not alter the intergovernmental logic of the EMU (for refugee or security policies), the decisions of which have lacked the necessary democratic legitimacy to be accepted by the citizens affected in the Southern Eurozone Member States. The dissatisfaction with the management of financial policy in the latter Member States cannot be silenced by confirmation of its intergovernmental origins. Bringing national parliaments into the differentiated regime of EMU economic governance (Glencross 2014) would not solve the structural legitimacy deficit of the intergovernmental method, but would certainly increase its structural inefficiency. More in general, the involvement of national parliaments in EU policies might indeed be a way to obstruct decisions taken by the EU institutions. One has only to think of the choice made in July 2016 by the Council and the European Commission, to let (38) national legislative chambers vote on the trade agreement between the EU and Canada (the Comprehensive Economic and Trade Agreement, CETA) concluded on December 2015. A choice that will certainly hold up approval of a policy that, however, pertains exclusively to EU competences⁸.

Legitimacy for decisions taken at the supranational level should come from supranational institutions, in our case the EP. However, not only has the EP been excluded from the main EMU decisions, but its inclusion is constitutionally questionable. Because the EP 'shall be composed of representatives of the Union's citizens' (TEU, Art. 14.2), not of representatives of Member State citizens, it would be controversial to distinguish – in its internal deliberative process – between representatives coming from Eurozone and non-Eurozone Member States, allowing only the latter to have a say on the decisions taken by Eurozone institutions (Euro Summit and Eurogroup).

8. Indeed, the contrary vote to the CETA by the parliament of Wallonia on mid-October 2016 has constrained the Belgian vote in favor of the Agreement, jeopardizing the conclusion of the agreement between the EU and Canada.

Efficiency, in its turn, requires a supranational authority with the power and the resources to take decisions. Finally, a differentiated EU would leave the technocratic (ordo-liberal) order of EMU intact, with its institutionalized bias in favour of the economic interests and cultural values of the Northern and creditor Eurozone Member States.

3.2 Constitutional differentiation

Constitutional differentiation is a strategy aimed at building a pluralistic institutional order in Europe primarily based on the constitutional differentiation between the Eurozone and the other EU Member States. This strategy would require a political decision by the Eurozone political leaders in order to prevent centrifugal pressures both in the EMU and EU. This requires a double and contextual constitutional act to set up a Euro-political union and to revise the single market union of the Lisbon Treaty. For the Eurozone, a model of economic governance would need to be found which was capable of dealing with the structural transformation caused by the Euro crisis. The Euro-political union would necessarily be based on a constitutional pact with the features of a basic 'Political Compact' (Lamond 2013), specifying (a) the political (not cultural) values and aims of the Euro-political union, (b) the policy competences and fiscal resources allocated to the supranational and national levels of the Euro-political union, (c) the separation of powers to manage the supranational policies of the Euro-political union, and (d) the power of the judiciary in protecting citizens' rights and Member States' prerogatives within the Euro-political union. The Lisbon Treaty might continue to provide the legal basis for the single market, although shorn of those parts concerned with the policies unrelated to the functioning of the market: EMU and the two Maastricht intergovernmental pillars, i.e. monetary, financial, economic, fiscal, budgetary, foreign, security, defense, home and justice affairs, *inter alia*. In doing so, it might be possible to revise also certain unnecessary regulatory constraints on specific issues, without however calling into question the role of the supranational institutions – such as the CJEU and the European Commission – that make a single market possible.

The economic governance model of the Euro-political union should include the creation of a specific fiscal capacity to be used by a legitimate executive power operating under the scrutiny of an independent legislative power.

That fiscal capacity should derive from sources independent of the Euro-political union, such as a tax on financial transactions. Inter-state transfers of financial resources should be minimized, or used only in exceptional circumstances, since they foster resentment in both those giving and those receiving these resources. The existence of an independent budget for the Euro-political union could make up for the no-bail out clause, already set out in Art. 125 of the Lisbon Treaty. The lack of an EMU budget made it impossible to respect the no-bail out clause in the Greek case. Indeed, Greece originally had to be saved, partly because the creditors of Greek debt were German and French banks and international financial institutions. At the same time, Greece has used the EMU's fear of its financial collapse to pursue a reverse blackmail strategy, demanding solidarity with no strict conditional strings attached. In constitutional federal unions, debt is a national responsibility, whereas growth and employment is a matter for the union.

While the Euro-political union should have its own constitutional bases (in order to contain centrifugal processes between its members) and its own policy responsibilities, at the same time the institutional structure of the Euro-political union should be adequate to deal with its systemic properties, i.e. the demographic asymmetry of its Member States and the different national identities. The Euro-political union should be structured around a formal separation between legislative and executive institutions and functions. Indeed, the Euro crisis has shown that the executive power of the Euro Summit is largely unaccountable to the EP (Crum 2013). Separation of powers implies a multilateral institutional system for balancing asymmetrical inter-state and differentiated inter-citizens relations (Fabbrini 2015b). In a system with separation of powers, none of the institutions participating in the decision-making process requires the confidence of others before acting, but none can impose its decisions without the consent of the others. A new institutional architecture would therefore be required for the Euro-political union, whereby a public authority can take decisions on economic policy on the basis of democratic legitimacy. The Euro-political union should function according to a model of compound democracy (Fabbrini 2010), with a political logic based on checks and balances between horizontally and vertically separate institutions.

The distinct institutional and legal orders should thus find robust bridges to connect with each other in internal market policies. The

modalities for the functioning of a single market including the Member States of the Euro-political union together with other European states would need to be specified. The single market, not the Euro-political union, might be open to European states currently outside of the EU (such as Norway, some Balkan states, or at some point the UK) or semi-European states (such as Turkey or other countries at the fringe of Europe), provided that they met precise macro-economic and micro-institutional conditions and that a geopolitical equilibrium was respected. In sum, it would be necessary, firstly, to *separate* Member States interested only in economic cooperation (the non-Eurozone Member States) from the Member States pressurised or willing to move in the direction of a political union (the Eurozone Member States). Secondly, they would need to be *connected* through a flexible agreement aimed at preserving and regulating the policies of the internal market in which they all participate.

Conclusion

This chapter has argued that the centrifugal pressures which have developed within the EU (epitomized by the prospect of Brexit) and within the EMU (epitomized by the possibility of Grexit) are the outcome of a combination of dramatic external shocks (the multiple crises) and inadequate institutional structures for dealing with these. These institutional structures were the outcome of a long and contrasted process of compromises between the Member States of the EU and EMU. The crises have radically altered the functioning of these structures, magnifying the divisions between Member States and preventing effective and legitimate responses to the external shocks. The Euro crisis in particular has been a litmus test for the resilience of the Lisbon Treaty's attempt to keep the divisions between Member States within a unitary legal process. The Lisbon Treaty has failed this test, showing the unbridgeable divisions between the EU Member States. A debate has thus been opened on how to neutralize the disintegrative pressures and to create a new political order in Europe.

The chapter has identified two alternative strategies for dealing with disintegration: policy differentiation and constitutional differentiation. Because of the radical differences between Member State perspectives on and interests in the EU, policy differentiation within a unitary legal

and institutional order would not seem to be an effective antidote to disintegration. A *Europe à la carte* would increase, not decrease, disintegration. This chapter has thus put forward the idea of an integrated Europe with a pluralism of institutional and legal arrangements, organisationally distinct and at the same time connected (see also Natali, this volume). The constitutional differentiation approach implies a process of managed integration and disintegration. A Euro-political union would emerge from a decision in favor of deeper integration, whereas the single market would require the relaxation of unnecessary regulations (disintegration). The ‘ever closer union’ clause would apply to the Euro-political union, not the organization of the single market. At the same time, the Euro-political union would be less centralized than the current Eurozone. Constitutional firewalls should be introduced between the Member State level and the union level, defining the policy competences to be dealt with at either level. A clear separation of competences and institutions between the national and the union levels (the constitutional firewall) would be necessary to prevent a cough in a national capital becoming bronchitis in Brussels. Vertical mergers between levels of government, as well as horizontal confusion between governmental institutions at union level, should be prevented. National democracy would be preserved with regard to domestic policies, the powers of the union (although limited) would be strengthened with regard to collective policies. The Europe emerging from the multiple crises will continue to be integrated if its political elites and citizens recognize the need to begin an original and creative process to redefine the institutional and political bases of their relationship.

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