

Peterson, John; Shackleton, Michael

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Wissenschaftszentrum Berlin
für Sozialforschung



John Peterson
Michael Shackleton

EU Institutions and Europe's Politics

Discussion Paper

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Position Formation in the EU Commission**

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John Peterson, Michael Shackleton

EU Institutions and Europe's Politics

Discussion Paper SP IV 2011-501

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Affiliation of the authors other than WZB:

John Peterson

Professor of International Politics

University of Edinburgh

Michael Shackleton

Head of the European Parliament's Information Office

in the United Kingdom

Abstract

The European Union (EU) straddles accepted categories of political organization. It is neither a state nor an 'ordinary' international organization. What sets the EU apart, perhaps above all, is its unique institutions: they resemble no other bodies found at the national or international level. We argue that Europe's institutions are Europe's politics. The point was illustrated by the crisis that began when the EU's Constitutional Treaty was soundly rejected in referenda held in France and the Netherlands in 2005. It continued when the Lisbon Treaty, which contained many of the Constitutional Treaty's institutional reforms, took years before it was finally ratified in late 2009. A new crisis in the Eurozone in 2010-11 led to pressures for institutional reform to create stronger economic governance. This paper introduces contending definitions of 'institution' and presents competing approaches to studying them. It contends that understanding politics always begins with understanding institutions, not least in the EU.

Zusammenfassung

Es gelingt nicht, die Europäische Union mit den gängigen Kategorien politischer Organisation zu fassen. Sie ist kein Staat und auch keine normale Internationale Organisation. Was die EU einzigartig macht – vielleicht mehr als alle anderen Charakteristika – sind ihre Institutionen: sie unterscheiden sich von den Organen, die wir von der nationalen und internationalen Ebene kennen. In diesem Papier argumentieren wir, dass Europas Institutionen Europas Politik sind. Dies lässt sich anhand der Krise illustrieren, die begann, als 2005 die in Frankreich und den Niederlanden gehaltenen Referenda zur Ablehnung des Europäischen Verfassungsvertrags führten. Auch die Ratifizierung des Lissabon-Vertrags, in dem viele der institutionellen Änderungen des Verfassungsvertrag aufgegriffen werden, erfolgte 2009 erst nach schleppenden Verhandlungen. Schließlich erhöht auch die jüngste Eurozonen Krise 2010-11 den Druck auf institutionelle Reformen mit dem Ziel, wirtschaftliche Governance zu stärken. Wir präsentieren widerstreitende Definitionen von „Institutionen“ und führen konkurrierende Ansätze ein. Generell, so der Kerngedanke des Papiers, beginnt ein Verständnis von Politik immer mit dem Verständnis von Institutionen – auch in der EU.

* An extended version of this paper appears as chapter 1 of Peterson and Shackleton (eds) The Institutions of the European Union, 3rd edition, 2012, Oxford University Press.

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Introduction

The EU remains one of the most elusive of all subjects of study in the social sciences. It is neither a state nor an 'ordinary' international organisation (see Wallace *et al* 2010), but rather a unique experiment embedding the national in the European and the European in the national (Laffan *et al.* 2000). What distinguishes the EU above all is its institutions: they have no close analogues at either the national or international levels.

We argue that the EU's institutions merit careful study for any student of politics, and not only because they are unique. They are also fascinating venues for international policy-making and thus for policy analysts: battles over EU policy are mostly fought out far from national capitals and governments. Those interested in the study of international administrations also encounter intriguing cultural mosaics within the Union's institutions: nearly all actors in EU politics have multiple identities and mixed loyalties, to their Member State, political party, or the interests of the policy sector in which they work. Institutional affiliations thus give actors a sort of anchor or orientation that may override others.

Perhaps above all, the EU's institutions are where much of the politics of European integration are played out. They cannot simply be seen as a purely functional set of bodies designed to achieve certain common purposes. If they were, they could be judged purely on the basis of efficiency. Yet, arguments about how to make the EU more efficient often ignore widespread doubts about the legitimacy of the Union as a whole (see Habermas 2009). The EU's institutional system no longer rests 'on a single principle of legitimacy, but several' (Lord and Magnette 2004: 199). The wider point is that European integration has become a highly political exercise, and the EU's institutions have evolved into highly political animals.

None of this is surprising if we consider the European Union's basic purpose. The EU exists to provide collective goods – such as an internal market, a single currency, and international power – which the Union's Member States cannot deliver (or not as well) on their own. The EU's institutional system is both the central mechanism for achieving those goals and the locus of disagreement about the future development of the Union. The point was illustrated by the political crisis

that began when the EU's Constitutional Treaty – whose primary goal was to reform the Union's institutions to cope with radical enlargement from 15 to 27 members after 2004 – was soundly rejected in referenda held in France and the Netherlands in 2005. The crisis continued when the Lisbon Treaty, which contained many of the same institutional reforms, required years (and another referendum defeat in Ireland) before it could be ratified in 2009. A new crisis in the Eurozone in 2010-11 led to pressures for institutional reform to create stronger economic governance. Perhaps even more than when Ludlow (1992) first made the argument decades ago, during the 21st century's second decade Europe's institutions have been shown to be Europe's politics: battles over the political direction of the EU inevitably morph into clashes about how its institutional system can and should work.

Supporters of European integration instinctively seek to avoid such clashes by appealing to a sense of pragmatism and consensus about the EU's basic goals. To illustrate, the Constitutional Treaty – a traditional Treaty between EU member states but meant to be more permanent than its predecessors – was portrayed by its supporters as simply a pragmatic attempt to rationalise the EU system to cope with its radical enlargement. Yet, it became a lightning rod for Eurosceptics opposed to closer European integration. Much the same could be said about the Lisbon Treaty, even if it was eventually ratified more than four years after it was agreed. Calls by the German finance minister for 'big steps' towards a 'fiscal union' in the Eurozone as a response to the sovereign debt crisis in 2011 – alongside intense anxieties on the part of non-Eurozone EU states about the possible creation of a two-tier Union – further illustrate the point.¹

We explicitly flesh out the rationale for studying the EU's institutions below. But to equip our reader to understand our argument, we hark back to accepted wisdoms that underpin most academic work on European integration. The literature usually highlights the highly variable capacity of the EU to govern effectively in different phases of its development. The standard story holds that Europe integrated surprisingly rapidly in the 1950s and early 60s. Then, in the 1970s and early 80s, the Community became immobilised by economic crisis and a

¹ Wolfgang Schäuble quoted in *Financial Times*, 31 October 2011 (UK edition), p.1.

set of rules that made decision-making almost impossible. During this period of so-called Eurosclerosis, it seemed the Community could accomplish nothing very important. Then, dramatically, European integration was given fresh impetus by the so-called Single Market project, which sought to transform (then) 12 national economies into a single, seamless European one. Before the project's 1992 target date for completion, even more dramatic changes were unleashed by the collapse of the Warsaw Pact and Soviet Union in 1989-91. West European governments responded by agreeing the Maastricht Treaty, which contained bold commitments to economic and monetary union, a 'common' European foreign and security policy, and a political union. Suddenly, it seemed the EU could accomplish anything (Laffan et al 2000: 4). Twenty years later, turmoil surrounding the debts of weaker members of the Eurozone, the Union's continued weakness in foreign policy, and Europe's loss of economic competitiveness to emerging states such as China and India all raised questions about whether the EU had again become immobilised, perhaps as never before.

These perceptions of total breakdown and dramatic advance are both products of failed imagination: lack of it during the Eurosclerosis period, overactivity in the 1990s, and a failure to imagine that the EU might, as it always has in the past, eventually recover from repeated crises in the early 21st century. The EU has always been somewhere between inert and ideal. In its recent past, it successfully introduced the Euro, thus reinforcing the identity of the Union in the minds of millions of Europeans (if not always positively²). It also negotiated the entry of twelve new member states in 2004-7, thus exporting its liberal democratic habits to Europe's east and south.

But the EU also made few strides towards the goal it set itself in Lisbon in 2000 to make the Union the most dynamic economy in the world. It was entirely unable to agree a common European response to the 2003 war in Iraq. Its former Commissioner for Trade, Peter Mandelson, once opined that 'nothing divides us more than Russia', widely-viewed as the most important geopolitical challenge

² One third of Dutch no voters in the June 2005 referendum cited the Euro as a reason for rejecting the Constitutional Treaty. See Financial Times, 2 June 2005 (UK edition), p.6.

facing the EU. The 2010-11 crisis in the Eurozone threatened, according to some, the Union's very existence. What spans the EU's successes and failures, its potential and shortcomings, its state-centrism and European-ness, is its institutions.

What is an (EU) 'institution'?

There is no one single, accepted definition of institution but rather a variety of contending ones. The EU's Treaties have followed the European tradition of defining institutions as organisations that enjoy special legal status. The Lisbon Treaty designates seven: the European Parliament (EP), Council, Commission, European Court of Justice (ECJ), Court of Auditors, the European Council, and the European Central Bank (ECB; Lisbon granted the ECB and the European Council formal status as 'institutions' for the first time).

Yet, institutions are often defined in a far broader sense in the study of politics, as 'extending beyond the formal organs of government to include standard operating procedures, so-called soft law, norms and conventions of behavior' (Bulmer 1994: 355). According to this perspective, 'institutions do not think, have preferences or act, but are sets of commonly accepted formal and informal norms that constrain political actors' (Marks 1996: 22). In this sense, virtually anything that is accepted as 'normal' could be considered institutionalized.

We take a middle way. First, we conceive of institutions as arenas where power and influence are exercised, regardless of the precise legal status of the organizations that preside over them. Second, we invite our readers to think of institutions not just in terms of specific people and premises but also as rules and practices.

We begin by explaining why the study of institutions has been brought 'back in' to the study of politics in recent years. We then develop the argument that the EU's institutions provide an essential and revealing window into Europe's politics. As a precursor, we present a variety of views on the politics of European integration – from practitioners as well as academics – that focus centrally on the EU's institutions (see Exhibit 1). We consider how and why the Union's institutions have changed yet endured over time. Finally, we set out some of the major

themes with which any student of European integration could – even should – frame their analysis of the EU's institutions.

Exhibit 1 – Perceptions of the EU's institutions.³

'Each man begins the world afresh. Only institutions grow wiser. They store up collective experience...From this experience and wisdom, men subject to the same laws will gradually find...not that their natures change...but that their behaviour does'.
Jean Monnet (1950).

'What a model our institutions, which allow every country irrespective of its size to have its say and make a contribution, offer the nations of Eastern Europe'.
Jacques Delors (1989).

'Supranational institutions – above all, the European Commission, the European Court, and the European Parliament – have independent influence in policy-making that cannot be derived from their role as agents of state executives'.
Gary Marks, Liesbet Hooghe and Kermit Blank (1996).

'All along [the] road, the European institutions – the Council, the European Parliament, the Commission, and the Court of Justice – have provided sterling service, to which we must pay tribute. At the same time...the process of European union is showing signs of flagging'.
Valery Giscard-d'Estaing (2002).

'Like other reformers, political leaders in the EU try to make institutions more rational and efficient, more humane, representative, responsive, transparent and accountable...The motivations of EU reformers are complex and shifting. They want many, different and not necessarily consistent things'.
Johan Olsen (2003).

'From my own experience, the EU's institutions are far more autonomous than institutionalist theory (much of it focused on the American institutions) would lead one to believe. Much, much more'.
José Manuel Barroso (2007)

³ Years indicated are those of delivery (of speeches) or publication. References to each quote (several taken from excerpts reproduced in 'readers') in the order they appear in the exhibit are as follows: Duchene 1994: 401; Nelson and Stubb 1998: 60-1, 197; Giscard d'Estaing 2002; Olsen 2003: 50; Peterson 2008: 69).

Why study institutions?

The social sciences came of age in the early 20th century by focusing intensely, often exclusively, on institutions. In political science, the overwhelming emphasis was on formal structures of government and systems of law making. Political analysis began – and often ended – by describing institutions in great detail. Methodology was generally not a matter for debate nor was the behaviour of political leaders, officials or citizens. As Rhodes (1995: 42) suggests, ‘the focus on institutions was a matter of common sense, an obvious starting point...and therefore there was no need to justify it’.⁴

Everything changed in the 1950s and early 1960s. First, the so-called behavioral revolution was unleashed (see Sanders 2010). Behaviouralists condemned the traditional emphasis on institutions as too narrow, unscientific, and atheoretical. Traditional institutionalist analysis not only failed to explain policy or power. It also suffered from ‘hyperfactualism’: reverence for ‘facts’ amounted to theoretical malnutrition (Easton 1971).

For behaviouralists, institutions were relatively uninteresting compared to the behaviour of political actors. Institutions had no political interests or personalities of their own. In a sense, behaviouralists assumed that an institution was just a car waiting for a driver. What was far more interesting than studying the car was studying the behaviour of the agents – political leaders, parties, voters – competing to seize power, control institutions, or drive the car. Behaviouralists sought to make political science a true science, often through the use of statistics and quantitative analysis. Institutions – leaving aside some notable exceptions (see Allison and Zelikow 1999) -- more or less disappeared from the radar screens of most political scientists.

The second big change was a shift in the study of international relations. Traditionally, scholarship had focused mostly on competition (especially military) between sovereign states in what was assumed to be a Hobbesian and anarchic international system (see Morgenthau 1948). However, the postwar creation of the

⁴ The story of the social sciences that we present here is one that fits the English-speaking world better than the European continent, where intellectual trajectories have been rather different (see Jorgensen 2000).

United Nations (UN) and the Bretton Woods institutions (the General Agreement on Tariffs and Trade, World Bank and the International Monetary Fund, or IMF) led to a blossoming of scholarship on international cooperation. In time, Europe became the primary focus of this scholarship as the continent embarked on ambitious experiments in (especially economic) integration. 'Neofunctionalists' theorized that modest steps towards cooperation would lead to more ambitious moves in a process that was, in many ways, self-sustaining (see Haas 1958; Lindberg 1963).

Yet, the dawning of the so-called Second Cold War (Halliday 1983), a period of heightened international tension in the early 1980s, made most international organizations (IOs) – including the apparently Eurosclerotic Community – seem too weak to foster much meaningful cooperation. The focus shifted towards explaining renewed conflict, especially between the United States and Soviet Union (see Waltz 1979). Europe was politically and – along with institutionalism – academically marginalised.

Then, beginning in the mid-1980s, institutions began to be rediscovered. A groundswell of academic momentum developed behind the idea that institutions were important but neglected, and it was time to bring them 'back in' to the study of politics (see Skocpol 1985; March and Olsen 1989). In some respects, the so-called 'new' institutionalism was a rebellion against behaviouralism. Neoinstitutionalists insisted that political behaviour was determined in fundamental ways by the nature of political institutions, how they are constructed and how power is distributed between them.

The basic neoinstitutionalist argument is that institutions matter. They define group loyalties in any political system and help determine how political debates are structured. They are not just cars waiting for drivers. In particular, institutions, even ones that are formally apolitical, can develop their own interests, agendas and priorities. They act with considerable autonomy despite being formally controlled by political actors, such as governments. Actual policy outcomes can reflect the agency – the determined pursuit of choices favoured by them – of institutions more than of the preferences of governments. One reason why is that the policy priorities of governments are often disputed or vaguely defined, thus allowing scope for formally apolitical institutions to set the agenda.

The new institutionalism is more a perspective on politics than a fully developed theory. Still, neoinstitutionalism has emerged as a leading, even (arguably) dominant perspective on European integration and politics (Cowles and Curtis 2004; Pollack 2009). If nothing else, it is accepted as a viable alternative to state-centric or intergovernmental approaches derived from the study of international relations (see Moravcsik 1998; Moravcsik and Schimmelfennig 2009). The latter assume, reasonably, that the EU has a strong intergovernmental backbone. Policy debates are mostly debates between national actors pursuing national interests.

Yet, EU policy debates are now inter-institutional as much as they are intergovernmental, especially as the co-decision (now 'ordinary legislative') procedure has made the Council and European Parliament political and legally equal co-legislators in an expanded number of policy sectors. Actors in EU politics may act to defend the interests of their Member State, political party, or the policy sector in which they work, but also those of their *institution*. Neoinstitutionalist treatments argue that EU politics have to be understood in terms of institutional competition (and cooperation) between, above all, the Council, the Commission, the EP, and the European Court of Justice, and not just in terms of intergovernmental competition (and cooperation) between the Union's member states.

There are at least three main variants of institutionalism (see Hall and Taylor 1996; Peters 1996; Pollack 2009). Historical institutionalists focus on how EU governance has evolved over time (Armstrong and Bulmer 1998; Lindner and Rittberger 2003; Sanders 2006). This work highlights the importance of emergent institutional norms, such as the Council's engrained habit of seeking unanimity on any measure regardless of whether qualified-majority voting (QMV) applies (see Golub 1999; Hayes-Renshaw and Wallace 2006). Such norms can constrain political decision-making and produce 'path dependence' – a concept central to all variants of institutionalism – because 'initial policy choices may restrict subsequent [policy] evolution' (Armstrong and Bulmer 1998: 55). Path dependence is particularly powerful when consensus is required to change an existing policy or institution. Historical institutionalists, as neofunctionalists before them, insist that European integration must be studied as an historical process, in which actors often apply a high 'discount rate' to the future. Thus, today's decisions sometimes are taken with little regard for tomorrow's consequences. In these circumstances, member

governments can become locked-in to policy paths on which they have set the Union, with its institutions becoming guardians of long-established policies and 'not simply passive tools of the Member States' (Pierson 1996: 132; see also Pierson 2004).

A second, sociological variant of institutionalism shares with the historical version a preoccupation with the Union's 'uneven institutional history' (Fligstein and McNichol 1998: 88; see also Fligstein 2008). Yet, sociological institutionalists assign even greater weight to norms, conventions, and ideas. For example, Parsons (2003: 1) explains why the EU 'stands out as the major exception in the thinly institutionalized world of international politics' by examining how certain ideas about how solutions could be connected to problems became institutionalized in postwar Europe. The political effects have been powerful, since the 'institutionalization of certain ideas gradually reconstructs the interests of powerful actors' (Parsons 2003: 6).

Sociological institutionalists share important assumptions with constructivists. The latter insist that preferences in EU policy debates are 'constructed' through the social interaction of actors in Brussels and Strasbourg as much (or more) than they are determined prior to such interactions (see Christiansen *et al.* 2001; Risse 2009). More generally, sociological institutionalism holds that institutions matter because they determine what is considered appropriate behavior by actors, which itself has powerful implications for political and policy outcomes.

A third variant of institutionalism builds on rational choice theory (see Farrell and Heritier 2005; Pollack 2006). Rational choice institutionalists argue that institutions matter most when they become subject to what economists call 'increasing returns': that is, they generate sufficient benefits that member governments, who themselves rationally calculate their own interests, face disincentives to abandon or reformulate them. Thus, the European Court of Justice has been able to pursue legal integration even beyond the collective preferences of member governments because of the high costs to member states of seeking to overrule it or failing to comply with its judgments (Garrett 1995). Rational choice institutionalism sometimes draws on principal-agent theory, which seeks to explain how and why governments, or 'principals', solve collective action problems by delegating

functions to international institutions which then act as their ‘agents’, although usually with a variety of mechanisms put in place to control or monitor their behaviour (see Majone 2000; Pollack 2003).⁵

The point here is not that neoinstitutionalism, in one or more of its variants, is the only, or even best, way to study the EU’s institutions. In fact, debates between advocates of different theoretical approaches to studying the EU are lively and enlightening. The point is rather that institutions are worth studying because, as is now widely-acknowledged across all the social sciences, institutions matter.

Why study the EU’s institutions?

If institutions matter, they may matter even more in the European Union than in other political systems. Why? We can think of eight reasons why.

First, the EU is probably the most powerful non-state actor in the contemporary international world (see Josselin and Wallace 2001; Cowles 2003). Its institutions generate a wide array of policies that impact upon EU states and their citizens (as well as many beyond Europe) directly and in ways that are unmatched by any other international organisation. Every day, EU citizens in 17 states use the currency that was adopted as a result of a series of decisions taken by EU leaders meeting in the European Council. Air passengers in Europe whose flights end up being cancelled are now often entitled to compensation, mostly due to the stubborn insistence of the European Parliament (EP) that they should be. One of the largest proposed corporate mergers in history, between the American firms General Electric and Honeywell, was scuppered by a decision of the European Commission. In short, the European Union is enormously powerful, and not only because it combines the power of 27 (as of 2011) European states, including several major powers. Much of the EU’s power is vested in its institutions.

⁵ Arguably (and certainly in strict legal terms), it is incorrect to describe the EU’s institutions as ‘agents’ as they have been attributed wide discretion – not only executive power – and their powers cannot be clawed back by governments, short of closing down the EU altogether. We are grateful to Kieran Bradley for making this point to us.

Second, the EU's institutional structure has uniquely blended continuity and change. The institutions established in the 1950s (see table 1) have retained many of their essential characteristics, revealing how deeply engrained established institutional norms and cultures have become. In most policy areas, the Commission retains to this day a virtual monopoly right to present legislative proposals, a power it has held since the origins of the European Economic Community (EEC). For its part, the European Parliament has evolved from a mostly toothless body to an effective co-legislator with the Council in many areas. Meanwhile, a remarkable burgeoning of new bodies started with the European Council and European Court of Auditors in the 1970s and continued with a seemingly endless array of decentralised agencies that sprung up beginning in the late 1990s (see table 1).

Third, the EU's institutions matter because they are the vehicles used by the Union's member governments to enforce the terms of the bargains they make with each other. But they are more than just passive instruments, or cars waiting for drivers. The powers they have accrued over time -- arising from the acquis communautaire, or the full set of rights and obligations deriving from EU treaties, laws and regulations -- give the Union's institutions substantial autonomy. For example, the ECJ has had an intensely powerful impact on the shape and direction of European integration both through its own judgements and its integration of national courts into a single system of judicial review (Weiler 1999; Alter 2001). More generally, the EU's institutions are an important reason why European states continue to respond to their interdependence by cooperating (while competing, sometimes fiercely, over the details).

Table 1.1: An institutional timeline

<i>START OF ACTIVITIES</i>	<i>TITLE OF INSTITUTION</i>	<i>LOCATION</i>
1950		
1952	Council of Ministers	Brussels/Luxembourg
1952	ECSC High Authority	Luxembourg
1952	European Court of Justice	Luxembourg
1952	ECSC Parliamentary Assembly	Strasbourg/ Luxembourg
1958	European Commission	Brussels/Luxembourg
1958	Economic and Social Committee	Brussels
1958	European Investment Bank	Luxembourg
1958	Committee of Permanent Representatives (COREPER)	Brussels/Luxembourg
1960		
1962	European Parliamentary Assembly changes its name to European Parliament	Strasbourg/ Luxembourg/Brussels
1965	Merger Treaties create a single Commission	Brussels/Luxembourg
1970		
1974	European Council (formally established by Paris Summit)	
1975	European Centre for the Development of Vocational Training	Berlin (since 1995 Thessaloniki)
1975	European Foundation for the Improvement of Living and Working Conditions	Dublin
1977	European Court of Auditors	Luxembourg
1980		
1989	Court of First Instance	Luxembourg
1990		
1990	European Environment Agency	Copenhagen
1994	Committee of Regions	Brussels
1994	Office for Harmonisation in the Internal Market	Alicante
1994	Translation Centre for the Bodies of the European Union	Luxembourg

	1995	European Ombudsman	Strasbourg
	1995	European Training Foundation	Turin
	1995	Community Plant Variety Office	Angers
	1995	European Agency for Safety and Health at Work	Bilbao
	1995	European Medicines Agency (EMA)	London
	1995	European Monitoring Centre for Drugs and Drug Addiction	Lisbon
	1998	European Monitoring Centre on Racism and Xenophobia	Vienna
	1998	European Central Bank	Frankfurt
	1999	European Anti-Fraud Office (OLAF)	Brussels
	1999	Europol	The Hague
2000	2000	European Police College (CEPOL)	Bramshill
	2000	European Agency for Reconstruction	Thessaloniki
	2001	European Data Protection Supervisor	Brussels
	2002	Eurojust	The Hague
	2002	European Maritime Safety Agency	Lisbon (since 2004)
	2002	European Aviation Safety Agency	Cologne (since 2004)
	2002	European Food Safety Authority	Parma (since 2004)
	2002	European Institute for Security Studies	Paris
	2002	European Union Satellite Centre	Torrejón de Ardoz
	2003	European Communities Personnel Selection Office (EPSO)	Brussels
	2004	European Network and Information Security Agency	Heraklion
		European Defence Agency (EDA)	Brussels
		Community Fisheries Control Agency (CFCA)	Vigo, Spain
		European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)	Warsaw
	2005	European Centre for Disease Prevention and Control (ECDC)	Stockholm
		European Railway Agency (ERA)	Sweden
	2006	European Chemicals Agency (ECHA)	Valenciennes
	2007	European Institute for Gender Equality (EIGE)	Helsinki
		European Union Agency for Fundamental Rights (FRA)	Vilnius
		European GNSS Supervisory Authority (GSA) (renamed GNSS Agency in 2010)	Vienna
		European Institute of Innovation and Technology (EIT)	Brussels
	2008	European Banking Authority (EBA)	Budapest
		European Securities and Markets Authority (ESMA)	London
	2011	European Insurance and Occupational Pensions (EIOPA)	Paris
			Frankfurt

(Institutions in bold are designated in the Treaties as ‘EU institutions’)

Fourth, the Union's institutions not only manage but also provide direction. More than the international secretariats of any other IO, the EU's institutions possess rational-legal authority to make rules. They also create social knowledge in less formal ways: defining shared European tasks, creating new categories of actors (such as refugees or EU citizens), forming new interests for actors or reshaping old ones, and transferring new models of political and administrative organisation across Europe (see Barnett and Finnemore 1999). Of course, political direction comes mostly from member governments and is channelled via the European Council and Council of Ministers. But there is scope for agency by the Commission and Parliament, each of which has its own political agenda and priorities which cannot be reduced to the sum total of those of the EU's member governments.

Moreover, the Commission, Parliament and other EU institutions also act to integrate interests, including those of actors who either oppose or act independently of their home government. Certainly, it is easy to overestimate the EU as a Brussels-based system of politics in which national interests or institutions are marginalised or blended together. As Wallace *et al* (2010: 9) argue:

much of EU policy is prepared and carried out by national policy-makers and agents who do not spend much, if any, time in Brussels. Instead, what they do is consider how EU regimes might help or hinder their regular activities, and apply the results of EU agreements on the ground in their normal daily work. If we could calculate the proportions, we might well find that in practice something like 80 per cent of that normal daily life was framed by domestic preoccupations and constraints.

At the same time, the EU has given rise to a multi-level polity in which the boundary between politics in national capitals and Brussels is blurred. The Union's institutions have aided and abetted this blurring by providing opportunities for interests, including ones that lack influence at the national level, to join their counterparts across Europe in pursuing common objectives. Many truly pan-European interests have been nurtured, sometimes manufactured, by the Union's institutions. Some lobbies have been energised by their perceived need to respond to agency on the part of the EU's institutions. Witness, for example, the resolute lobbying effort of the European chemicals industry in response to the

Commission's proposed REACH (Registration, Authorization, and Restriction of Chemicals) directive, which threatened the industry with significant new costs.

Fifth, the EU's institutions are worth studying because they are powerful yet often unloved or misunderstood by European citizens. Arguably, popular disillusion with the EU's institutions is no more severe – some evidence suggests less – than is disillusion with national institutions and politics.⁶ Still, the EU's institutions are clearly not as accepted or well-known as national institutions are by European citizens. Average voter turn-out in EP elections has fallen with each successive poll. After the French and Dutch voted against the Constitutional Treaty by surprisingly large margins in the 2005 referendums, one seasoned observer detected a 'collapse of self confidence and general morale in the EU institutions' (Palmer 2005; see also Tsakatika 2005). However, its President, José Manuel Barroso, fought back by urging member governments to break their habit of blaming all of Europe's ills on the EU: 'If you attack Brussels six days of the week, can you really expect citizens to support it on Sunday?'⁷

Sixth, the EU's institutions not only link Brussels to national EU capitals. They also link Europe to the wider world of international politics and, particularly, an extensive network of international organisations. As the world's largest trading power, the EU is a crucial player in the World Trade Organisation (WTO), and the 20th member of the G20 (all other members are states). The creation of a European Security and Defence Policy (ESDP) has required extensive interaction with the North Atlantic Treaty Organization (NATO). As the Iraq war illustrated, the EU continues to disappoint those who wish to see it become, in Tony Blair's memorable phrase, 'a superpower, not a super-state'. Yet, the Lisbon Treaty has equipped the Union with a potentially powerful, new foreign policy machinery. The post

⁶ To illustrate the point, the annual Eurobarometer poll of European public opinion in spring 2008 indicated that levels of trust in the EU's institutions were measurably higher than for national governments or parliaments (with an even wider gap, in favour of the EU, between levels of 'mistrust'). See standard Eurobarometer 69, part 4: the European Union and its Citizens, available from: http://ec.europa.eu/public_opinion/archives/eb/eb69/eb69_part2_en.pdf

⁷ Quoted in *Financial Times*, 9 June 2005 (UK edition), p.7.

held by Javier Solana, of 'High Representative' for the Common Foreign and Security Policy (CFSP) from 1999-2009, was transformed into something like an EU Minister for Foreign Affairs, and even given that title in the Constitutional Treaty before Lisbon reverted to the more familiar designation of High Representative. The first holder of the post, Catherine Ashton, became both Vice-President for External Affairs of the Commission and chair of Council of Foreign Ministers. Her post thus combined the intergovernmental with the supranational as no EU post had ever done. Ashton also became head of the new European External Action Service (EEAS), something like a nascent EU foreign ministry, which experienced considerable – even severe – early teething problems, but ones that were predictable given that it drew officials from multiple EU institutions as well as national ministries. Nevertheless, the EEAS gave the Union the chance to transform its marginalised delegations in foreign national capitals – almost exclusively staffed by the Commission – into 'real' embassies with expertise, resources, and clout to match or even surpass those of its member states. EU governments clearly were cautious about unleashing the full potential of the EEAS or the High Representative: Ashton was a surprise choice with no previous foreign policy experience. But agreement to create these new institutions by 27 member governments illustrated a remarkable depth of will in Europe to try, at least, to make the EU a more effective global actor.

More generally, the Union's institutions are increasingly more powerful actors in the so-called 'international community', a world once almost exclusively dominated by sovereign states. One effect is to allow Europe (sometimes, at least) to wield its formidable, collective power. Perhaps ironically, in an era when the EU appears to be losing ground in foreign affairs to emerging powers such as China, India, Russia and Brazil, there are tentative signs that European national capitals are responding to incentives to maximise their power by wielding it collectively more often through the EU.

Seventh and somewhat paradoxically, EU politics are largely a product of competition between its institutions, but the Union's institutions are inescapably interdependent. The EU's decision rules are designed to foster collective responsibility for the Union's policies. Little of importance may be agreed without the joint consent of the Commission, EP and Council – with appeal to the ECJ always

likely when such consensus is not achieved. The Lisbon Treaty spells out far more explicitly than ever before aims that all of the EU's institutions share collectively: to advance the EU's objectives, promote its values, serve the interests of the Union, its citizens and member states, and ensure the consistency, effectiveness and continuity of its policies. It explicitly states that all EU institutions should work in 'full mutual cooperation'.

Thus, our understanding of the Union runs up against hard limits when we study them as separate and autonomous entities. In practice, they form a series of networks, differing in structure and membership in different policy sectors, with each bound together by both formal and informal rules (see Keohane and Hoffmann 1991). Even an institution that is formally designated as independent, such as the European Central Bank (ECB), cannot be understood without reference to the decisions taken by the European Council and the Council of (Economic and Finance) Ministers at its inception. In line with institutionalist assumptions, these decisions have heavily structured the kind of decisions the ECB could take as it battled – together with Eurozone Finance Ministers – to cope with the fall-out from the global financial crisis post 2008 or (relatedly) calamities in the Eurozone in 2010-11.

Institutional interdependence is clearly uneven across policy sectors. For example, the EP has little power – other than budgetary – to determine the substantive output of the CFSP. The Commission acts with considerable independence in competition policy. There exists no single mode of EU policy-making (see Wallace 2010). The traditional Community method – which gives distinct and exclusive powers to the Commission, EP and Council – has often been found inappropriate for new policy tasks, such as freeing labour markets or creating the Common Security and Defence Policy (CSDP). These and other objectives have been pursued via the so-called Open Method of Coordination (OMC), which usually involves peer review of national policies as a way to disseminate best practices, with policy change occurring voluntarily (as opposed to being imposed by new EU rules) when it occurs at all.

The record of the OMC has been, at best, mixed (see Trubek 2005; Hartlapp 2009). More generally, it is easy to conclude that the EU is suffering from 'a crisis

of governance' (Eberlein and Kerwer 2004: 135), given its radical enlargement, attempts to tackle problems that are not readily soluble by traditional methods, and the turmoil surrounding the Euro. Whether or not new policy modes such as the OMC are just stages on the way towards the embrace of the tried and true Communitarian model (see Wessels 2001), the trend is towards finding new, non-traditional ways to encourage collective action on the part of multiple EU institutions. Good examples include the High Representative who, in addition to having two institutional homes in the Council and Commission, is also chair of the Board of Directors (which itself consists of EU Defence Ministers) of the European Defence Agency and chair of the 'P5+1': a sort of contact group of Great Powers (including the EU) focused on nuclear diplomacy with Iran. Another example is the European data protection supervisor, who both oversees how the institutions apply the EU's own privacy rules and coordinates a network of data protection officers appointed by each EU institution.

Last but not least, the Union's institutions are worth studying because they are a testing ground: they will go far towards determining history's verdict on the EU's success in managing enlargement. In the seven years since 2004, 12 new states have joined the EU, bringing with them eleven new official languages and increasing the number of language combinations from 110 to 506. No other IO has ever had to face this kind of challenge on this scale. To illustrate the point, trade officials stressed the gravity of China's accession to the World Trade Organization in 2001. Yet, even admitting a state with a market of 1.3 billion consumers whose language was not an official WTO working language did not come close to posing the challenges posed by the EU's 2004-7 expansions: mathematically, the WTO would have to have admitted around 105 new states alongside China to stand comparison to what the EU did over the course of just a few years. The institutional effects of EU enlargement must be a central theme of any analysis of how the Union works in the 21st century.

‘Frustration without disintegration’ – the persistence of the EU system

We have argued that the EU’s institutions are both important and essential to understanding the European Union. It also must be acknowledged that the EU is home to considerable institutional weakness and dysfunction. By no means is the Union alone amongst international organizations in having institutions that sometimes appear obsessed with their own internal rules or neglectful of their missions (Barnett and Finnemore 1999). Yet, European citizens who express stronger support for a united Europe in the abstract than for the EU in practice⁸ exhibit a sort of collective, common sense. It is perfectly plausible to be pro-European but to believe that the EU’s institutional system does not work very well. To illustrate, the European Union flag was widely displayed at many non rallies during the 2005 French referendum campaign on the Constitutional Treaty (Palmer 2005).

Part of the problem may be historical. Many of the EU’s institutions were created for a Community of 6 states, not a Union of 27 plus. Even in the original EEC, very different ideas about what kind of polity the EU should be created scope for weak compromises and institutions that were dysfunctional almost from the moment of their creation (see Lindner and Rittberger 2003). In these circumstances, it could be argued that the EU’s institutions have adapted remarkably well to successive enlargements. Yet, the 2004-7 enlargements clearly marked a step-level change. The Constitutional Treaty was intended to be a quasi-permanent solution to the problem of modernising the EU’s institutional system so that it could cope with enlargement. Its rejection by French and Dutch voters – as well as the extended battle to ratify the Lisbon Treaty – revealed that Europe remains far from a consensus about what kind of polity the EU should become. In France, in particular, the Union’s radical enlargement has generated considerable angst about a “disembodied” Europe’ and ‘nurtured feelings that the French state was losing its homogeneity and coherence, while protective frontiers were also pro-

⁸ Consistent majorities of European citizens express precisely this view in biannual Eurobarometer surveys (available from: <http://europa.eu.int>) of public opinion.

gressively disappearing' (Lacroix 2010: 114). More generally, the EU has, arguably, relied for far too long on an institutional system that is long past its sell-by date.

Another part of the problem is political. Without a government (or opposition), the Union often seems unable to steer the European project. For one thing, the project has always depended for its sustenance on appearing to be apolitical, consensual, or uncontroversial. For another thing, the capacity of the EU's institutions – with the arguable exception of the European Council – to give political impulses to the Union are strictly limited. For all of the capacity of the EU's institutions for agency, political leadership of Europe must inevitably come mostly from national capitals.

A third and related problem is managerial. The 1980s saw the Commission under the Presidency of Jacques Delors show genuine political leadership. However, Delors and his college of Commissioners took little interest in efficient management. Amidst charges of mismanagement and nepotism, the collective resignation of the Commission under Delors' successor, Jacques Santer, in March 1999 was a low point in the institutional history of the EU. It illustrated that the EU's lack of hierarchy and reliance on informal networks had serious costs. For students of public management, it was axiomatic that 'pluralistic policy networks are undermanaged because the constituent organisations do not invest in the capacities needed to manage their mutual interdependence' (Metcalf 2000: 13). For students of the EU, it was hard to resist Metcalfe's (2000: 13) conclusion that 'the sub-standard performance of the system is everyone's problem and no-one's responsibility'.

Yet, there was little question that the Commission was far better-managed (if not necessarily better-led) by the end of Romano Prodi's Presidency in 2004. Prodi's Vice-President and Commissioner for Administrative Reform, Neil Kinnock, piloted an ambitious programme of reforms (see Spence 2000; Kassim 2004; Kassim *et al* 2012). Meanwhile, the Council was taking its own steps to better manage its agenda and make itself more transparent. The Court was revamping itself to cut down on its backlog of cases.

One view of these developments is that they reflect the steady maturation of the EU's institutions into modern, high performance bodies as the Union itself

slowly but steadily comes of age politically. This view focuses more on long-term process than short-term crises. It assumes that no Constitutional Treaty was ever going to be greeted with universal enthusiasm. It also reminds us that, after all, the version rejected by the French and Dutch in 2005 had been agreed within a broadly inclusive constitutional convention that produced the most transparent and readable European treaty in modern history (see Norman 2005). Implicitly, this view assumes that political consensus on institutional reform was solid enough to make it possible for nearly all of the Constitutional Treaty's provisions to appear unchanged, and then to be approved, in the Lisbon Treaty. For example, the rotating Council Presidency system (a source of discontinuity in the work of the Council) was reformed. The Commission kept its monopoly right of legislative initiative. For the first time, the European Council has a sitting President.

These two portraits that we have painted – of institutional weakness and fresh dynamism – are less incompatible than they appear. First, consider how one of the primary functions of the EU's institutions, integrating political interests, has often not been abetted and sometimes has been actively resisted by member governments. Naturally, perhaps, EU governments wish to retain their own, favoured, primary relationships with voters and interest groups. The result is that the EP and Commission lack often lack powerful, independent sources of authority and support. They also lack resources. The EP has nothing approaching the resources of say, the US Congress (with its large Congressional Research Service, General Accounting Office, and so on). The Commission has one official per 10,000 EU citizens, while national civil services average 300 per 10,000 (Leonard 2005: 15). There are clear limits to the willingness of the Union's member governments to delegate control of the European project.

Second, the EU almost never makes a hard decision today that can be put off until tomorrow. Barroso was explicit in stating that making a success of the so-called Lisbon process of economic reform would be one of the priorities of his Commission. Yet, its fate clearly would be overwhelmingly determined by difficult decisions that had to be taken at the national level, many of which continued to be avoided (see EU 2004).

Third and finally, it is impossible to banish path dependency from EU governance. Even after attempts to constitutionalise the EU seemed to go so badly wrong in the mid-2000s (Skach 2005), ‘frustration without disintegration’ remained an apt description for how the EU’s institutional system remained sub-optimal but never stopped working (Scharpf 1999). The desire amongst European governments to make the Union work better, but to avoid a genuine process of state-building, were both time-honoured impulses by this point, however contradictory they sometimes seemed to be.

The EU’s institutions have always, from their earliest origins, operated in a highly contested environment. There is no universal agreement about what the European Union is or ought to be, and never has been. Is it a particularly elaborate IO that enables states to achieve certain goals more efficiently than they could otherwise do? Or does it now transcend the state, in some areas emerging as more than the sum of its parts? Since academics as well as practitioners (see Exhibit 1) give different answers to these questions, they inevitably disagree as to what the Union’s institutions – individually and collectively – exist to do.

One thing should be clear from our analysis thus far: the EU’s institutions cannot simply be seen as a purely functional set of bodies designed to achieve certain common purposes, which thus can be judged purely on the basis of their efficiency. Yet, it is not enough just to make the EU more efficient in the view of many scholars and average Europeans: the European Union also needs, somehow, to be made more legitimate.

Thus, we encourage our readers to look beyond debates about what each institution should do. Can the EU withstand new demands to be more open and transparent even as it digests radical enlargement? Is the EU a model for the world or a one-off? Are its best days behind it? Answering each of these questions begins, inevitably, by understanding its institutions.

Conclusion

Most works on the EU's institutions offer a straight review of what the Treaty designates as institutions, with one chapter each on the Council, Commission, EP, and so on. Less weighty institutions, such as the Court of Auditors and Committee of the Regions, are covered in a composite, 'lest we forget' chapter. In our own contribution (see Peterson and Shackleton 2012), we take an alternative approach to the simple, standard, one-institution-per-chapter dash across the EU's institutional landscape. Instead, we offer examine how different institutions perform three distinct tasks: provide political direction, manage the Union, and integrate interests. We also examine the crucial questions of how each institution – and the EU's institutional system more generally – is likely to be changed by enlargement or the Lisbon Treaty.

Of course, some EU institutions – particularly the Commission, Council and EP – perform more than one function. But framing our analysis of the EU's institutions through the lens of these three tasks helps us to come to grips with the intensity of both inter-institutional cooperation and competition in the performance of the Union's three core functions. Students of the EU's institutions thus may come to grips with how debates about Europe's politics almost inevitably distil down to debates about Europe's institutions.

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