

University of Washington
European Union Centre for Excellence
October 6, 2010

COMPOUND DEMOCRACIES: Why the United States and Europe Are Becoming Similar

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Summary



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1. The past: the institutionalization of the EU



- 1.1. The EEC–EC–EU is the answer to the question of European wars. After two world wars, balance of power between European nation states was no longer a viable strategy for achieving peace in the European continent. Europe needed to find a post–Westphalian solution to the rivalry between its Westphalian nation states. The EU as “peace pact” (tutored by NATO)
- 1.2. Today, the EU has become an aggregation of 27 states and roughly 500 millions inhabitants. It is based on several treaties. It has registered several waves of enlargement (thus moving from 6 to 27 member states).

1.3. Treaties of the EU:

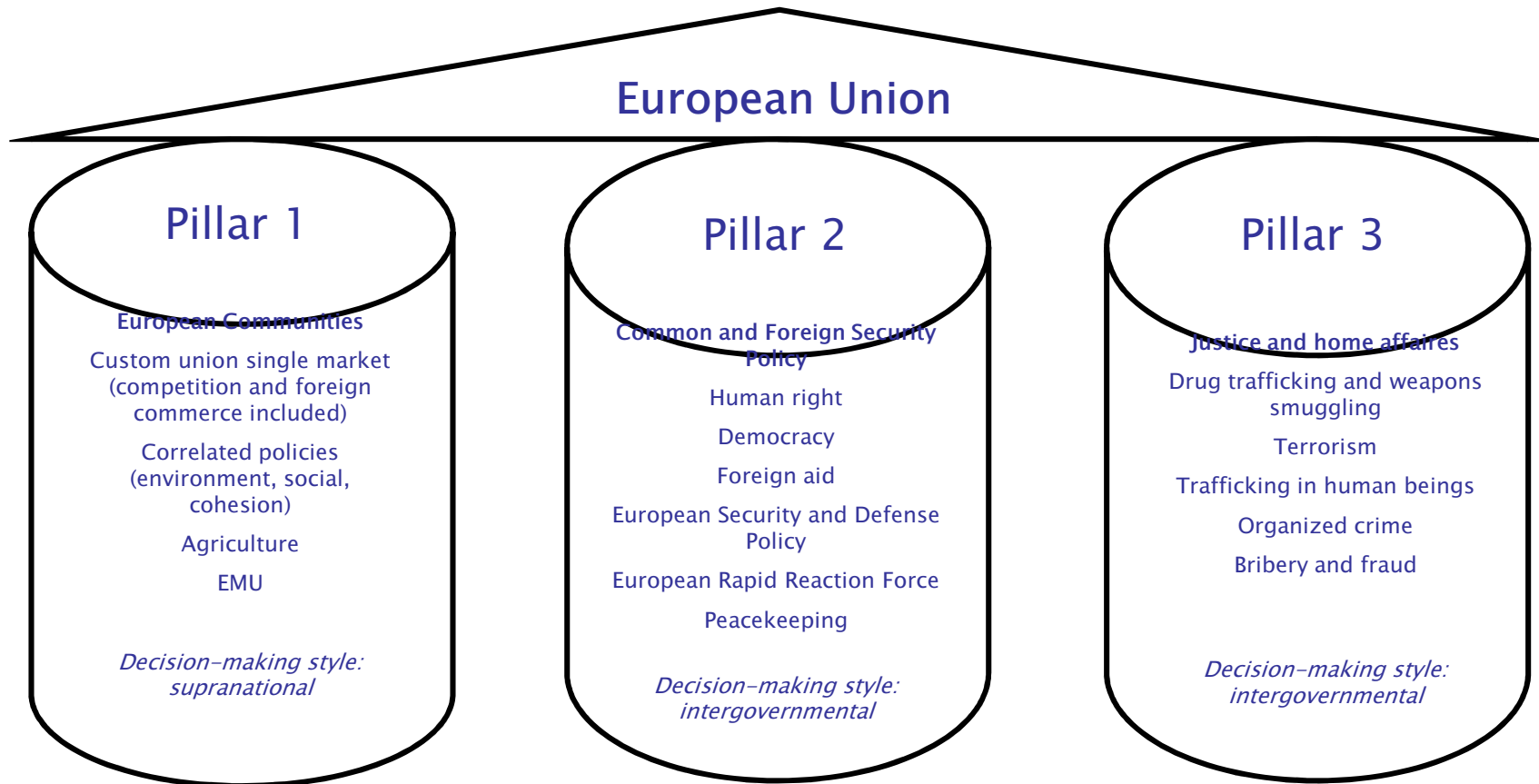
- - 1952: Treaty of Paris
- - 1957: Treaty of Rome
- - 1986: Single European Act
- - 1992: Maastricht Treaty
- - 1997: Amsterdam Treaty
- - 2000: Nice Treaty
- - 2009: Lisbon Treaty

1.4. Through these treaties the European nation states have become EU member states

1.5. The Treaty of Lisbon is the closest approximation to a/the Constitutional Treaty



1.6. The EU is the name of this aggregation of states since 1992 (Maastricht Treaty) which created a three pillars structure with different decision-making regimes: the first pillar (common market) supranational; the second pillar (foreign and security policy) and the third pillar (home and justice affairs) both intergovernmental.





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- 1.7. The Lisbon Treaty has abolished the pillar structure, but it has recognized different decision-making regimes in market policies and foreign/security policies
 - 1.8. The process of integration has given rise to a institutional system which is extremely complex but also stable – based on the European Commission, the Council of Ministers and European Council, the European Parliament and the European Court of Justice.
 - 1.9 What is the EU? How is the EU interpreted by politicians and scholars? A permanent debate on European integration has accompanied the experiment.

1.10. From the 1960s to the 1980s the debate focused on the process of integration. The questions were: how and why did that process start in the first place?

1.11. From the 1990s and 2000s the debate focused on the outcome of the integration process. The question was: what kind of political system is the EU? It was generally recognized that the EU allocates values in an authoritative way. From nation-states to member states.

1.12. In the 2000s the debate has focused on the EU as a supranational political system and the possibility of its formal constitutionalization. The question has been: what the EU should be?

2. The economic view



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- 2.1. For some scholars and politicians the EU is a regional economic organization with some forms of intergovernmental coordination in foreign/security policies. It is the most advanced experiment of economic regionalism. It is a regulatory state whose legitimacy consists in promoting economic growth at the continental level.
 - 2.2 The EU sets around 80 per cent of the rules governing the production, the distribution and the exchange of goods, services and capitals in the member states' markets.
 - 2.3. The construction of a European common/single market has made more rational the use of economic resources at a continental scale.



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- 2.4. In the EU, important sectors are regulated by independent agencies. Before the Lisbon Treaty there were 15 agencies (First Pillar) and further 4 agencies established under the Second and Third Pillar
- 2.5. Agencies may differ from “executive” to “regulatory” : but all have legal personality, financial and managerial autonomy, specific missions and independent executive bodies. The most important regulatory agency is the European Central Bank (ECB)
- 2.6. After the successful experience of the EU, the world witnessed the growth of several regional economic organizations (such as ASEAN, APEC, MERCOSUR, NAFTA). At mid-2000s there were circa 80 regional agreements with preferential entrance to member states. Only 3 out of the 130 members of the WTO did not belong to any of the existing regional aggregation.

3. The EU as “economic confederation”



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- 3.1. The “economic” interpretation of the EU is congenial with the confederal/intergovernmental vision of the EU polity.
 - 3.2. For this interpretation, the EU is a “commercial republic” created for supporting market integration through inter-states cooperation
 - 3.3. The states (their governments) are in full control of the institutional dynamics – through the Council of Ministers and the European Council
 - 3.4. The national governments delegate powers of economic regulation to the independent agencies – and to the same Commission. But they are able to control their choices. In particular in the field of foreign/security policy



3.5. What's wrong with this approach to the EU? Contrary to other economic regional organizations:

- The EU is a highly structured institutional system, functioning on a permanent basis (and not occasionally as diplomatic fora), covering virtually all areas of public policy (and not only those connected to the market). 2/3 of the legislation of its members is affected by decisions taken in Brussels.
- The EU is also an integrated legal order. It has been the European Court of Justice (ECJ) which has created, through its decisions, such a vertically integrated legal order for a common/single market. IGCs have thus institutionalized ECJ decisions.
- The EU is a “constitutionalized” political system (Treaties as its material constitution).

4. The political view



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- 4.1. Other scholars/politicians argue that the established European nation states have decided to pool parts of their own sovereignty on a voluntary basis for political reasons.
 - 4.2. The EU is the answer to the historical failure of the nation state in Europe. The main current of thought and action which has supported its development is largely federal (neo-functionalism as hidden federalism)
 - 4.3. The EU is a political system that allocates values in an authoritative way. It has transformed the European nation-states in EU member states. It has reduced the sovereignty of the nation states without creating a coherent supranational sovereignty
 - 4.4. This is due to its democratic deficit: how to reduce it? The EU needs a constitution which fosters its evolution towards a coherent parliamentary system

5. The political as parliamentary view



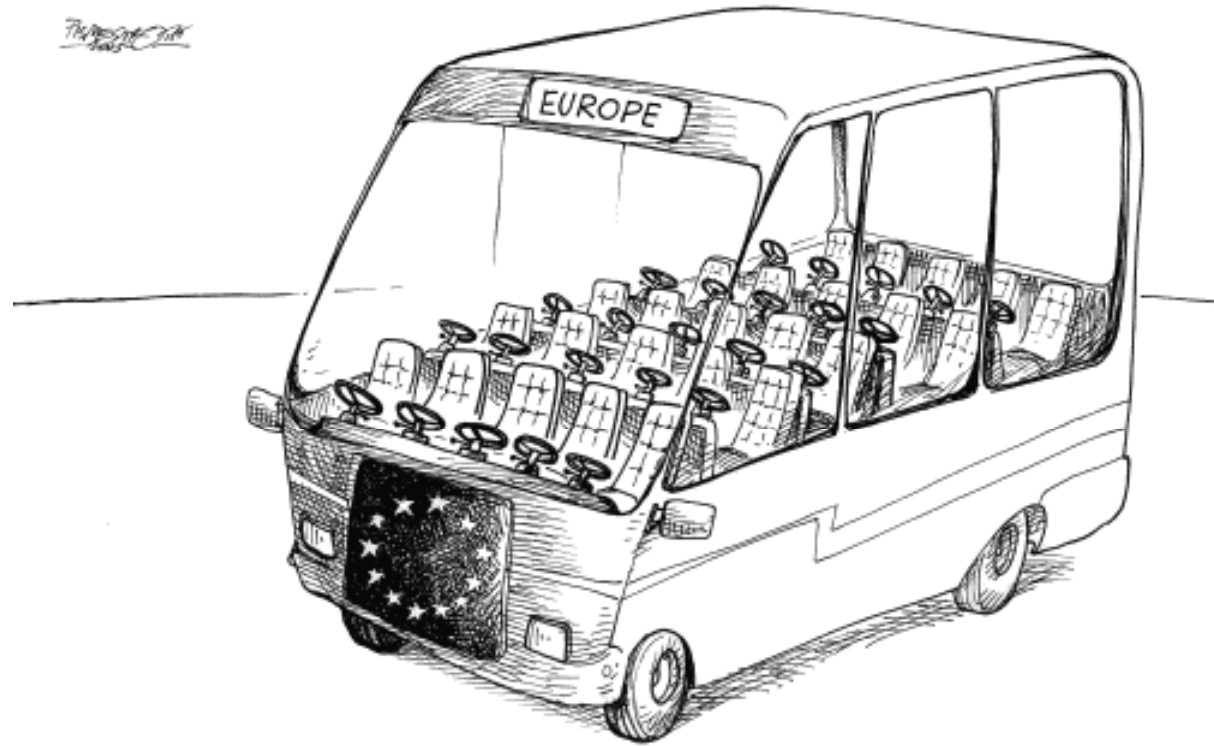
5.1 Indeed, for many scholars and politicians, the EU has a democratic deficit because:

- decision-making is distant from the citizens and has an opaque nature: it is not clear who is responsible for what;
- an important decision-making role is played by the indirectly elected officials of the Council of Ministers as well as by the unelected officials of the Commission;
- the EP is not as crucial in forming the government as the national parliaments, and the European elections have a second-order nature;
- thus, the democratic deficit might be resolved through a parliamentarization of the EU;



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- 5.2. Indeed, the EU is considered “democratically deficitary” because it continues to be seen from the perspective of the European nation states. In the latter, there is generally a link between voters, parliaments and governments;
 - 5.3. Certainly, that link is differently institutionalized in competitive/majoritarian or consensual/consociational member states.
 - 5.4. Yet – all of them are based on the government as the central decision-making institution. This is not the case in the EU where there is not a government, but many, separated, functionally differentiated, governmental institutions.
 - 5.5. In the EU: (a) the decision-makers have been directly or indirectly elected; (b) they operate in a system of separation of powers; (c) their decisions are supervised by a very complex system of judicial control.

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6. The alternative: the compound democracy



- 6.1. I advance a different political interpretation of the EU, distinguishing between “state” and “democracy”
- 6.2. The EU is a democracy although not based on a government because it is a Union of states. Union of states cannot function on a centralized basis because of specific structural constraints: the asymmetrical relation among large and small member states and their differentiated and contrasting experience with nationalism.
- 6.3. Union of states are created because of the need to give an answer to the question of war. Balance of power systems have not guaranteed peace.

6.4. This is why the EU is so complex institutionally. It is based on a collaboration among states but it has to introduce at the same time supra-states features for regulating and forcing that cooperation (in order to avoid free-riding and centrifugal pressures). In this sense, it is a post-Westphalian organization.

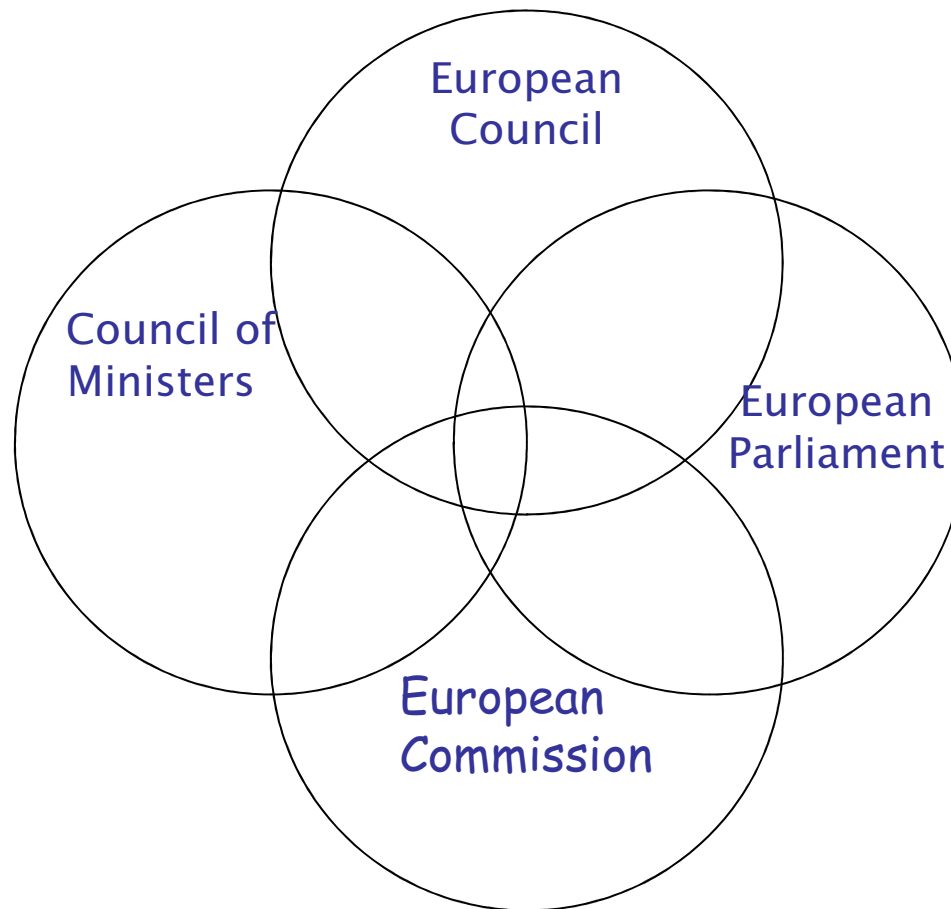
6.5. The combination of inter-states and supra-states features requires a diffusion of decision-making power in order to guarantee that all interests are taken into consideration. Here the importance of checks and balances mechanisms protected by veto positions.

6.6. The checks and balances system as an alternative way of organizing democracy to the parliamentary system



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- 6.7. The EU is a compound democracy because it has to “compound” (aggregate) separated/asymmetrical states and their citizens. Politically, compound democracies are based on inter-states more than on social or economic cleavages. Institutionally, compound democracies are separation of power systems.
- 6.5 Separation of power systems do not have a government (as parliamentary or semi-presidential systems). They are systems of “separated institutions sharing powers”. In separation of power systems, powers are divided not only vertically, but also horizontally.
- 6.6. Compound democracies are thus power-sharing regimes inhospitable to permanent and across-the-board majorities (see Fig.a).

Fig.a. Power-sharing between EU institutions (post-Lisbon)



7. The logic of compoundness



- 7.1. Certainly, the EU did not start as compound democracy. From the 1950s to the 1980s the Council of Ministers played a very important role, many decision were taken unilaterally by few decision-makers, who were in general French and German politicians and civil servants.
7. 2. However, since the 1990s, the EU gradually institutionalized as a compound democracy. The several waves of enlargement (in particular the last ones of 2004 and 2007 which doubled the political size of the EU) have reduced the steering capacity of the Franco-German axis (at least in low politics issues).
- 7.3. Diffusion of co-decision making and qualified majority voting procedures.
- 7.4. The constitutionalization of the EU cannot be confused with its parliamentarization. Why does the EU need a formal constitution?

8. Madison in Brussels



- 8.1. The EU is not the only experiment of compound democracy pursued in the world. Indeed it was the US which started the experience of compoundness. Thus followed by Switzerland. All three polities are unions of states.
- 8.2. The US is the first post–Westphalian experiment in the western world. Also the US is a “peace pact” among separated states in order to avoid war among them. That “peace pact” was not only challenged by the Civil war (1861–65), but also by the domestic transformation and the external exposition of the country. Paradoxically, the US seems today the champion of Westphalian states.
- 8.3 Nevertheless, the EU and the US have similar institutional structures and function according to a similar political logics (Tab. a and b). However, they have an important difference: the US is based on a constitution (although open to a permanent interpretation) whereas the EU has not a formal constitution (although it is a constitutionalized regime)

Tab.a. Compound v. non-compound democracies: the institutional structure

| Institutional levels | United States European Union | Unitary EU member states | Federal (or quasi-federal) EU member states |
|----------------------------------|---|--|---|
| <i>Executive</i> | Institutional separation from the legislature | Institutional fusion with the legislature (including semi-presidentialism) | Institutional fusion with the legislature |
| <i>Legislative</i> | Dispersed law-making process | Centralized law making process | Semi-centralized law making process |
| <i>Centre/periphery</i> | Territorial diffusion of power | Central control of national territory | Territorial diffusion of power |
| <i>Judiciary</i> | Autonomous policy-making | No autonomous policy-making role | Limited autonomous policy-making role |
| <i>Overall role of the state</i> | Regulatory | Interventionist/mixed | Interventionist/mixed |

Tab.b. Compound v. non-compound democracies: the political process

| Features | Compound democracies | Non-Compound democracies |
|--|--------------------------|--------------------------|
| <i>Function of elections</i> | To choose governors | To choose a government |
| <i>Political representation</i> | Multiple, differentiated | Party dominated |
| <i>Interest intermediation</i> | Pluralist | Neo-corporatist |
| <i>Political cleavages</i> | Sectional, geographic | Social, ideological |
| <i>Level of political responsibility</i> | Sub-systemic | Systemic |
| <i>Scope of political issues</i> | Specific | General |
| <i>Nature of political process</i> | Open, segmented | Closed, controlled |
| <i>Decision-making logic</i> | Deliberative | Non-deliberative |

9. The challenge of a political union



- 9.1. Compound democracies are systems with weak decision-making process and uncertain line of accountability, because of the difficulty to centralize power in unions of asymmetrical states.
- 9.2. A polity like the EU cannot function properly, at both the domestic and international levels, without some effective decision-making instruments.
- 9.3. At the same time, the EU should increase popular participation in the formation of its separated governmental institutions for strengthening its legitimacy.
- 9.4. The search for effectiveness and legitimacy has generated conflicts within the EU. These conflicts cannot be handled without a formal document assessing a shared system of values and establishing accepted rules for taking decisions.



9.5. Where is the EU going?



10. The future: beyond Lisbon



10.1. The EU needs a formal document for preserving peace and promoting fairness and growth. Without a common constitutional language the EU will have difficulties to manage the divisions of a union of states and citizens.

10.2. However, its increasing political size has made the approval of such a document quite implausible. Differences between member states have grown (island vs. continental ms; west vs. east ms; large vs. small ms). The different experiences with “nationhood”, “stateness” and “democracy” are supporting quite opposed views of the EU (a regulated market/ economic confederation vs. a compound democracy/political union).

10.3. The “silent consensus” of the past towards the EU has been transformed in vociferous popular discontent (as it became clear with the French and Dutch referenda on the CT of 2005 and the Irish referendum on the LT of 2008 and 2009) .

10.4. How to come out from this conundrum? The role of political elites is crucial. The EU needs a new narrative, a new legitimating discourse

10.5. Without the EU, not only peace will not be guaranteed in the European continent, but Europe will become redundant in the world system.

10.6. If it will be impossible to have a constitutional document, is it also impossible to remain for long in such ambiguous situation.

10.7. Rather than to cut the tree upon which the EU has climbed, are there other solutions available to Europeans?

