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Chapter 1

What is the European Union?

At the heart of the debate about the European Union is the question of how best to define it. Unfortunately, there is no simple answer. The EU is more than a standard international organization, because it has involved more pooling or transfer of authority than membership of — for example — the United Nations (UN) or the World Trade Organization (WTO). But it also falls short of being a federal United States of Europe, or a European superstate. This leaves it in limbo somewhere between these two points of reference, with multiple opinions about how it is best understood. Scholars have applied terms such as multi-level governance and consociationalism in their efforts to define it, but none has yet gained traction. Others who study the EU have described it simply as sui generis (unique), but this is less a descriptive term than a surrender to the uncertainty. Perhaps, as former Commission president Jacques Delors once quipped, it is simply an unidentified political object.

Our failure to agree a label for the EU, or at least to agree its political and economic personality, has numerous ramifications. No least among these is the difficulty of shaping public opinion about the EU; if we do not know what it is, how can we really know what to think about it? Take, for example, the question of the democratic deficit (discussed further in Chapter 5). Critics often argue that the EU institutions are insufficiently responsible and transparent, and that they develop laws and policies without being held accountable to public opinion. But those same critics will resist attempts to create more elected offices in those institutions for fear that the result will be a federal Europe. Conversely, there are some who argue that the democratic deficit is a fiction because the EU is not a federal superstate, and its institutions are held accountable to voters through the governments of the member states, and via elections to the European Parliament. In short, the size (or even existence) of the democratic deficit depends on how we define the EU as a system of authority.

Most of the early analyses of European integration came out of the field of international relations, because the EU (and the European Community before it) was long approached by most scholars of integration — and by European political leaders — as an international organization. But since the 1990s there has been a growing trend towards understanding the EU as a political system in its own right, using explanations coming out of the fields of comparative politics and public policy. There is still
Understanding the European Union

no grand theory of European integration, and no agreement about how best to understand and describe the EU today, but our points of reference have changed as the EU itself has changed. Most recently, we have seen a reaction against the EU as fears about the effects of globalization and emigration have spread.

This chapter reviews the different theoretical and conceptual approaches to understanding the EU. It concludes that because the EU is both more than an international organization and less than a federal European superstate, it is best regarded as a confederal system with some federal qualities. In other words, it is for the most part a union of independent states that have pooled or transferred authority in those areas of policy where cooperation makes the most sense. At the same time, its members have stopped short of creating a European government with independent powers, and the EU remains very much an intergovernmental system in which decisions are made by the governments of its member states working together. True, there has been a federalizing tendency in several areas of policy, such as the single market, trade, agriculture and the environment, but it is still only a club in which the key decisions are made by the members, and not by a governing committee.

The EU in the international system

In order to understand the EU, we need to first understand the state, the most common approach to structuring large political systems, and one with which we are all familiar. World maps show continents divided by state frontiers, marking out territories under the administration of sovereign governments and subject to independent systems of law. When we travel from one state to another, we must usually show passports or other documents, and are reminded that we are in transit until we return to our ‘home’ state: the one to which we legally ‘belong’ and with which we feel a sense of identity.

A state is a legal entity with four key qualities:

- It contains a population, whose presence within the state is legal only if they have citizenship of the state, or legal permanent residence.
- It has legitimacy, meaning that it is recognized both by its people and by other states as having jurisdiction and authority within its territory.
- It operates within a fixed territory marked by borders, and has the authority to control the movement of people, money, goods and services across those borders.
- It has sovereignty over that territory and over the people and resources within its borders, and has the sole right to create and operate the system of government under which its residents live, and to impose domestic laws and taxes.
None of these qualities is absolute: there may be political disputes that create uncertainties about the borders of a territory; there may be legal, economic or political difficulties that limit the sovereignty of a state; the independence of states is qualified by external economic and political pressures; and levels of legitimacy vary according to the extent to which the citizens of a state (and the governments of other states) respect the powers and authority of that state (see Gill, 2003; Hay, Lister and Marsh, 2006). Furthermore, the viability of the state system has come under increased scrutiny of late, and there are some (see van Creveld, 1999; Ohmae, 2005) who argue that the state is in retreat – or is at least being transformed (Sørensen, 2004) – as a result of three critical developments.

First, public loyalty to the state – and the strength of state identity – has long been compromised by economic, social and political divisions. In Europe, most states are home to multiple different nations, or groups of people linked by history, language and culture. Occasionally, a nation will coincide with a state (for example, most of the residents of Portugal are Portuguese), but most European states are home to multiple nationalities. Thus Spain is a state, but its population is divided among Andalusians, Aragonese, Basques, Cantabrians, Castilians, Catalans, Galicians, Navarrese, Valencians and others. In many parts of the world, the focus of people’s allegiance has changed as national minorities have become more assertive and demanded greater self-determination, and even separation in some cases, as with the Scots in the United Kingdom, or the division of Belgium into new Flemish and Wallonian states.

Second, international borders have been weakened by the building of political and economic ties among states, driven mainly by the need to trade, to expand markets, to develop security alliances and to borrow money. Perhaps nothing has recently posed as much of a threat to the state as globalization: increased economic interdependence, changes in technology and communications, the rising power of multinational corporations, the growth of international markets, the spread of a global culture and the harmonization of public policies in the face of shared or common problems such as terrorism, transboundary pollution, and the spread of disease. Meanwhile, people have become more mobile: complex new patterns of emigration have been driven by a combination of political instability, economic need and personal choice, while mass tourism has broken down many of the psychological borders among states. But globalization and immigration have also sparked a reaction against the weakening of international borders, creating something of a return to support for the state.

Third, states have not always been able to meet the demands of their residents for security, justice, prosperity and human rights. States have frequently gone to war with each other, many have failed to manage their economies and national resources to the benefit of all their
residents, and even the wealthiest and most progressive of states still often struggle with poverty and social division. Many states have also failed to meet the needs of their consumers for goods and services, a problem that has combined with the rise of multinational corporations in search of new markets and profits to change the nature of production, and to make state boundaries more porous.

The decline (or transformation) of the state has run in tandem with growing interstate cooperation on matters of mutual interest, ranging from the narrowly focused to the broadly idealistic. Cooperation has been most clearly obvious in the work of international organizations (IOs), which are bodies based on voluntary membership that promote cooperation between or among their members, but have neither autonomous powers nor the authority to impose their rulings on members. Some

![Figure 1.1 Key concepts in political organization](image)
IOs have national governments as members; they include intergovernmental organizations (IGOs) such as the UN, the WTO and the North Atlantic Treaty Organization (NATO). Others are non-governmental organizations (NGOs), including multinational corporations (such as Walmart, Royal Dutch Shell, Toyota or ING) or private organizations with focused interests (such as Amnesty International, Doctors Without Borders, Friends of the Earth or Oxfam).

In few places has the role of the state been more actively challenged than in Europe, where centuries of conflict and tension reached a climax with the horrors of two world wars, driving home the dangers of nationalism and emphasizing the value of interstate cooperation. Political divisions were further emphasized by the cold war, which made many realize that states seemed unable to guarantee the safety of their citizens except through a balance of violence with other states, and which found Europe caught in the middle of a political and ideological competition between the superpowers, the west obliged to follow the lead of the United States, and the east trapped in the Soviet bloc.

One of the responses to these developments was the creation of two new European IGOs: the European Coal and Steel Community (ECSC) in 1952, and the European Economic Community (EEC) in 1958. In both cases, decision making was primarily intergovernmental: like most IGOs, they were fora within which government representatives could meet, share views, negotiate and work to reach agreement. Membership was voluntary, management was communal, decisions were the result of the joint will of their members, and both organizations depended for revenue on member contributions. They lacked independent powers, they did not have the means or authority to enforce their decisions, and they could not impose sanctions on recalcitrant members other than those agreed by the membership as a whole.

But the focus of European cooperation quickly moved from the work of these two IGOs to the development of a regional integration association (RIA). Regional integration goes beyond cooperation by involving the transfer, sharing or pooling of sovereignty and the creation of regional institutions within which rules and regulations are developed in policy areas where the members have agreed to cooperate. The final say on the adoption of those rules and regulations is left to the member states, and the regional institutions have few if any direct powers of execution, a job left to the governments of the member states.

In many respects the EU is still a standard IGO in which decisions are taken as a result of negotiations among the leaders of the states, and its institutions mainly carry out the wishes of the member states. But in other respects it has become more supranational: a form of cooperation which results in the creation of a new level of authority separate from that of participating member states. In policy areas where the member states have ceded or transferred authority to the EU institutions,
the latter can make laws and policies that are binding on the member states. In some areas, such as trade, the EU now negotiates on behalf of the member states collectively, and other countries work with the EU institutions rather than with the governments of the member states. In several other policy areas, such as agriculture, the environment and competition, decisions are mainly taken at the level of the EU rather than by the member states acting in isolation.

Matters are complicated, however, by the different personalities of EU institutions. Some (notably the European Council and the Council of the EU) are more clearly intergovernmental, because they are meeting places for the representatives of the governments of the EU member states, and decisions are reached as a result of compromises based on competing state interests. Other institutions (notably the European Commission and the European Court of Justice) are more clearly supranational, because they focus on the broader interests of the EU, and their decision makers are not national representatives. But the debate about the logic and personality of the EU has provided few hard answers, in part because of competing opinions about how the EU has evolved, but also because of questions about whether it is even a good idea to begin with (see Box 1.1). Under the circumstances, pinning down the character of the EU is not easy.

The dynamics of regional integration

The pressures and motives for states to cooperate come from a variety of sources:

- States may be brought together by force, as they were in Europe by Napoleon and Hitler.
- They may come together out of the need for security in the face of a common external threat, as did the members of NATO during the cold war.
- They may share common values and goals, and agree to cooperate or share resources in selected areas, as have the Nordic states on transport, education and passports.
- They may decide that they can promote peace and improve their quality of life more successfully by working together rather than separately, as have the members of the UN.
- Cooperation can encourage efficiency by removing troublesome rules and barriers, and avoiding duplication.

Interstate relations in Europe were long influenced and driven by the first two of these motives, but since 1945 there has been a shift to the last three. In other words, compulsion has been replaced by encouragement,
Box 1.1 The pros and cons of regional integration

During its formative decades, European integration did not attract much public attention, mainly because the EEC was an international organization with limited goals. But since the early 1990s, when the EEC was transformed into the EU, there has been a more vigorous debate about the advantages and disadvantages of European integration.

For supporters of the EU, its benefits include the following:

1. Cooperation makes war and conflict less likely as self-interest is replaced with shared interests, and exclusion is replaced with inclusion.
2. Member states working together enjoy new global power and influence.
3. The single market offers European businesses a larger pool of consumers, and encourages innovation, opportunity, competition and more choice.
4. Mergers and takeovers create world-class European corporations, helping the EU better compete in the global marketplace.
5. Greater freedom of cross-border movement within the EU eases travel.
6. The pooling of the economic and social resources of multiple member states has widespread benefits.
7. Less advanced member states ‘rise’ to standards maintained by more progressive states.
8. Funds and investments create new opportunities in the poorer parts of the EU.

For critics of the EU, its costs include the following:

1. Loss of sovereignty, national independence and the freedom of national governments to make decisions.
2. Loss of national identity as laws, regulations and standards are harmonized.
3. Charges that the EU institutions are undemocratic, elitist and inefficient, and that they generate burdensome new regulations.
4. The creation of a new level of distant and impersonal European ‘government’.
5. Concern that the EU is headed down the path of becoming a federal European superstate at the expense of the self-determination of its member states.
6. Increased competition and job losses brought by the removal of market protection.
7. Concerns about internal migration arising from the removal of internal border controls, and its effects on jobs and national identity.
8. Concerns about increased cross-border crime and the movement of illegal immigrants.
9. Problems related to controversial initiatives such as recent bailouts of economically troubled eurozone states.
but just why and how this has happened remains a matter of debate. At first, there was an idealistic notion that out of the ruins of postwar Europe, and before state governments could reassert themselves, there was an opportunity to break with the past and create a new European federation. Federalists worried that if the prewar system was rebuilt there would be a return to nationalism and further conflict, and hoped that political integration would be followed by economic, social and cultural integration. With this optimistic idea in mind, the European Union of Federalists was created in 1946, but it was able to agree only on the creation of the Council of Europe, with its modest goal of intra-European cooperation.

Sparked by the tensions arising out of the nuclear age, postwar thinking about international relations instead came to be dominated by the more pessimistic notion of realism. This argues that states are the most important actors on the world stage (because there is no higher sovereign power), that they strive to protect their interests relative to each other in a hostile global environment, and that they use both conflict and cooperation to ensure their security through a balance of power with other states (see Waltz, 2008). Under this analysis, the EU today would be best understood as a gathering of sovereign states, which retain authority over their own affairs, transfer authority to new cooperative bodies only when it suits them, and reserve the right to take back that authority at any time. In short, realists argue that the EU exists only because the governments of the member states have decided that it is in their best interests. But realism was unable to explain the rising tide of cooperation that followed the Second World War, and left many unanswered questions about the motives behind international relations.

An alternative view was offered by functionalism, based on the idea of incrementally bridging the gaps between states by building functionally specific organizations (see Box 1.2). Instead of trying to coordinate big issues such as economic or defence policy, functionalists believed they could ‘sneak up on peace’ (Lindberg and Scheingold, 1971: 6) by integrating relatively non-controversial areas such as the postal service, or a particular sector of industry, or by harmonizing technical issues such as weights and measures. While realists spoke of competition, conflict and self-interest, functionalists focused on cooperation. While realists were interested in relations among governments, functionalists focused on cooperation promoted by technical experts, and argued that European integration had a logic that participating states would find hard to resist.

The first in-depth study of European integration, by the political scientist Ernst Haas in 1958, led to the expansion of these ideas as neofunctionalism. This argued that preconditions were needed before integration could occur, including a switch in public attitudes away
Box 1.2  A working peace system

At the core of thinking about the mechanics of regional integration are the ideas of the Romanian-born British social scientist David Mitrany (1888–1975). His treatise A Working Peace System (first published in 1943) became the basis of functionalism, defined as an attempt to link ‘authority to a specific activity [and] to break away from the traditional link between authority and a definite territory’ (Mitrany, 1966: 27). He argued that transnational bodies would not only be more efficient providers of welfare than national governments, but they would help transfer popular loyalty away from the state, and so reduce the chances of international conflict (Rosamond, 2000: 33). He argued for the creation of separate bodies with authority over functionally specific fields, such as security, transport and communication. This focus on particular functions would encourage international cooperation more quickly and effectively than grand gestures, and the dimensions and structures of these international organizations would be self-determined (Mitrany, 1966: 27–31, 72).

Once these functional organizations were created, Mitrany argued, they would have to work with each other. For example, rail, road and air agencies would need to collaborate on technical matters, such as the coordination of timetables and agreement on how to deal with different volumes of passenger and freight traffic. As different groups of functional agencies worked together, there would be coordinated international planning. This would result not so much in the creation of a new system as in the rationalization of existing systems through a process of natural selection and evolution. States could join or leave, drop out of some functions and stay in others, or try their own political and social experiments. This would eventually lead to ‘a rounded political system ... the functional arrangements might indeed he regarded as organic elements of federalism by instalments’ (Mitrany, 1966: 3–84).

Mitrany was not much interested in regional unification, which he felt would simply expand the problems of the state system and replace interstate tensions with interregional tensions, and nor did he support the idea of world government, which he felt would threaten human freedom. Nonetheless, his ideas were at the heart of the thinking of the two men most often described as the founders of the EU, French bureaucrat Jean Monnet and French foreign minister Robert Schuman (see Chapter 3). They believed that the integration of a specific area (the coal and steel industry) would encourage integration in other areas. As Schuman put it, ‘Europe will not be made all at once or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity’ (Schuman Declaration, reproduced in Weigall and Stirk, 1992: 58–9).
from nationalism and towards cooperation, a desire by elites to promote integration for pragmatic rather than altruistic reasons, and the delegation of real power to a new supranational authority (see Haas, 1958; and Rosamond, 2000, ch. 3). Once these changes took place there would be an expansion of integration caused by spillover, a process described by Lindberg (1963: 10) as one by which ‘a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn create a further condition and a need for more action’. For example, the integration of agriculture would only really work if related sectors – including transport and agricultural support services – were integrated as well.

Spillover is a valuable analytical concept, but it is broad and ambiguous, and is better understood when it is broken down into more specific varieties, of which there are at least three:

- **Functional spillover** implies that economies are so interconnected that if states integrate one sector of their economies (for example), it will lead to the integration of other sectors (Bache et al., 2015: 12). So many functional bodies would need to be created to oversee this process that the power of national government institutions would decline, leading eventually to economic and political union.

- **Technical spillover** implies that disparities in standards will cause states to rise (or sink) to the level of the state with the tightest (or loosest) regulations. For example, Bulgaria and Romania – which had few environmental controls in place before they joined the EU – were encouraged to adopt such controls because of the requirements of EU law, which had in turn been driven by pressures from states with tight environmental controls, such as Germany and the Netherlands.

- **Political spillover** assumes that once different functional sectors are integrated, interest groups will switch from trying to influence national governments to trying to influence regional institutions. The groups would appreciate the benefits of integration and would act as a barrier to a retreat from integration, and politics would increasingly be played out at the regional rather than the national level (Bache et al., 2015: 12).

Neofunctionalist ideas dominated studies of European integration in the 1950s and 1960s, but briefly fell out of favour in the 1970s, in part because the process of integrating Europe seemed to have ground to a halt, and in part because the theory of spillover needed further elaboration. The most common criticism of neofunctionalism was that it was too linear, and needed to be expanded
or modified to take account of different pressures for integration, such as changes in public and political attitudes, the impact of nationalism on integration, the influence of external events such as changes in economic and military threats from outside, and social and political changes taking place separately from the process of integration (Haas, 1958: xiv–xv).

Neofunctionalism was given a new twist by Nye (1971: 208–14) when he suggested taking it out of the European context and looking at non-western experiences. He concluded that experiments in regional integration involve an integrative potential that depends on several different conditions, including the economic equality or compatibility of the states involved, the extent to which the elite groups that control economic policy in the member states think alike and hold the same values,

<table>
<thead>
<tr>
<th>International relations</th>
<th>The study of relations among states, focusing on alliances, diplomacy, war and peace, and based heavily on the use of theory.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comparative politics</td>
<td>The study of different political systems, usually based on cases, and aimed at drawing up general rules about how those systems function.</td>
</tr>
<tr>
<td>Public policy</td>
<td>The study of the actions taken (or avoided) by governments and other authorities as they address the needs of society.</td>
</tr>
<tr>
<td>Functionalism</td>
<td>The theory that the creation of functionally specific interstate institutions and agencies will allow regional integration to develop its own internal dynamic, encouraging peace among states.</td>
</tr>
<tr>
<td>Neofunctionalism</td>
<td>The theory that supranational institutions, interest groups, and political parties all play a key role in efforts to achieve interstate integration.</td>
</tr>
<tr>
<td>Spillover</td>
<td>The idea that cooperation among states in one area of policy will lead to pressures to cooperate in other areas.</td>
</tr>
<tr>
<td>Integrative potential</td>
<td>The qualities that determine the extent to which different groups of states are likely to succeed or fail in their efforts to integrate.</td>
</tr>
</tbody>
</table>

Figure 1.2 Key concepts behind the study of the EU
the breadth of interest-group activity, and the capacity of the member states to adapt and respond to public demands, which in turn depends on the level of domestic stability and the capacity – or desire – of decision makers to respond.

On all these counts the EU has always had a relatively high integrative potential: the member states are economically compatible (in the sense that their goals and values are generally the same, even if Eastern European members are still shaking off the effects of central planning), elite groups may disagree on the details but they tend to have broadly similar goals and values, interest groups have taken advantage of the rise of a new level of European decision making (see Chapter 5), and the democratic processes and structures of EU member states are responsive to public demands, even if there is sometimes a mismatch between what majority public opinion says and what political leaders do. By contrast, similar exercises in integration in other parts of the world generally have more handicaps to overcome (see Box 1.3).

A response to criticisms of neofunctionalism came in the form of intergovernmentalism, a theory which draws on realism and takes neofunctionalism to task for concentrating too much on the internal dynamics of integration without paying enough attention to the global context, and for overplaying the role of interest groups. Intergovernmentalism argues that while organized interests play an important role in integration, as do government officials and political parties, the pace and nature of integration are ultimately determined by national governments pursuing national interests; they alone have legal sovereignty, and they alone have the political legitimacy that comes from being democratically elected. Put another way, governments have more autonomy than the neofunctional view allows (Hoffman, 1964).

A variation on this theme is liberal intergovernmentalism, a theory which emerged in the 1980s and 1990s, and combined the neofunctionalist view of the importance of domestic politics with the role of the governments of the EU member states in making major political choices. Proponents argue that European integration has moved forward as a result of a combination of factors such as the commercial interests of economic producers, and the relative bargaining power of important governments (see Moravcsik, 1998).

Whatever the debates about how and why the EU evolved, there is no question that its institutions today constitute an additional level of political authority in Europe, being involved in making decisions that impact the governments and residents of the member states. So while the debates over how the EU reached its present state are interesting, of more immediate interest now are attempts to understand what the EU
Box 1.3  Regional integration around the world

The EU is the example of regional integration that has attracted the most international attention and that has had the most evident effects both on its member states and on states doing business with the EU. But regional integration is very much a global affair, and there are similar experiments under way on every continent. Levels of progress and political commitment have been mixed, regional groupings do not always have the same levels of ambition, and their integrative potential varies. Extrapolating from the arguments made by Nye (1971), the chances of success are greatest where the states involved have the most in common and where there are obvious advantages to integration. So, for example, while the five-member East African Community and the 10-member Association of Southeast Asian Nations (ASEAN) bring together countries with often common historical experiences and comparable political and economic conditions, the 54-member African Union faces enormous challenges in bringing its members together.

Since its creation in 1994, the North American Free Trade Agreement (NAFTA) has tried to open up trade among the United States, Canada and Mexico. But it has been handicapped by economic differences, minimal political support, public indifference and concerns about international terrorism and the enormous challenge of controlling illegal immigration into the United States. The United States is much wealthier than Mexico, elite groups in Mexico are more in favour of state intervention in the marketplace than those in the United States and Canada, trade unions in the United States have been critical of NAFTA, and both Mexico and Canada are wary of the political, economic and cultural power of their giant neighbour.

Elsewhere, the Union of South American Nations, the Caribbean Community, the Economic Community of West African States, the South Asian Association for Regional Cooperation and the Pacific Islands Forum have all had teething troubles, but have made progress toward encouraging their member states to work together on issues of mutual interest, notably internal trade. With its common history, language, religion and culture, the Arab world would seem to offer strong prospects for integration, but the Arab League, the Council of Arab Economic Unity, the Gulf Cooperation Council and the Arab Maghreb Union have all been handicapped by the political and religious divisions of the region.

has become, and to tie down its contemporary personality and character. Here again, there are many competing explanations and little agreement.
Understanding the European Union

Explaining the EU today

To summarize the discussion so far: the EU has many of the typical features of an intergovernmental organization, in that membership is voluntary, the balance of sovereignty lies with the member states, decision-making is consultative and the procedures used to direct the work of the EU are based on consent rather than compulsion. At the same time, it also has some of the qualities of a state: it has external borders that are harder than its internal borders, there is an EU system of law to which all member states are subject, it has administrative institutions with the authority to make law and policy, the balance of responsibility in many policy areas has shifted to the European level, and in some areas – such as trade – the EU functions as a unit.

That so much emphasis has been placed on analysing the EU as an international organization can be explained in part by the dominance in the academic debate of theories of international relations (IR). IR has made important contributions, to be sure, but it is concerned with interactions between or among states, and pays little attention to the internal characteristics and qualities of the states themselves. As long as the EU was mainly an association of states, this presented few problems, but once the EU began to develop a life and personality of its own, and its institutions accumulated stronger roles, so IR analyses became less useful. As a result, there has been growing support since the early 1990s for efforts to understand the EU as a political system in its own right (Sbragia, 1992; Hix and Høyland, 2011), and for making greater use of the analytical methods of comparative politics and public policy.

With its focus on institutions and processes, comparative politics can help us better understand how political power is exercised within the EU, how Europeans relate to EU institutions, and how EU-wide administration is influenced by political parties, elections and interest groups. In other words, instead of studying the motives and dynamics behind integration, we can try to better understand the structure of the EU using the comparative method, or the process by which different cases or samples are systematically studied in order to establish empirical relationships among two or more variables while the others are held constant (Lijphart, 1971). In other words, we can focus less on assessing the EU as an international organization, and more on comparing its institutions and procedures with those found in states, and in other regional groupings of states. Meanwhile, the methods and theories of public policy can help us better understand the EU decision-making process: the forces and limitations that come to bear on decision-making, the relative balance of influence of the EU and the member states, and the steps involved in setting the EU agenda, developing plans of action, implementing decisions and evaluating the results.
In using comparative and public policy approaches, it is important first to understand that – unlike states – the EU does not have a government. The term *government* typically refers to the institutions and officials that make up the formal administrative structure of a state, and the context in which it is normally used implies that they have discrete powers to make laws and set the political agenda. But while the EU clearly has a network of ‘governing’ institutions and full-time officials, that network is rarely described in the language used to describe national systems of government. Instead, it is more usual to see the system of authority within the EU described as *governance*, a term which plays down the role of institutions and focuses instead on processes: governance is the exercise of authority through interactions involving a variety of actors, which in the case of the EU includes member state governments, EU institutions, interest groups and other sources of influence.

At the heart of any such discussion is the matter of sovereignty, defined – as we have seen – as the right to hold and exercise authority. A state is sovereign over its territory in that it has the power to decide what happens within that territory, and to make laws that govern the lives of the people who live there. More specifically, sovereignty is usually said to lie in the hands of the institutions that exercise control over the territory, which in democratic systems means the national executive, legislature and judiciary. Theoretically, there are no legal constraints on a sovereign power, only moral and practical ones – sovereign institutions are not answerable to any higher authority, but can only exert their powers to the extent that those under their authority will allow, and to the extent that they can practically implement their decisions.

The complaint made most often by critics of European integration is that it has involved the surrender of sovereignty. But whether or not this is true depends upon how we understand the EU and the changing role of its member states, the point being that sovereignty has not been lost so much as pooled or redistributed. Where sovereign power was once monopolized by the governments of the member states, it is now shared by those governments and by the institutions of the EU. But just how is it shared, and how do national governments interact with EU institutions? One analytical concept that has gained popularity in recent years has been multi-level governance (MLG), which describes a system in which power is shared among the supranational, national, sub-national and local levels, with considerable interaction among them all (see Puchala, 1975; Marks, 1993; Bache and Flinders, 2004).

The debate within academic circles about the value of MLG has been vigorous, but once again inconclusive. And what almost everyone has failed to acknowledge is that MLG is a conceptual cousin of two other, older concepts which also play a role in the debate. The most important of these is federalism, which has generated often heated debates among European political leaders and publics, more
often being used as a red flag marking what the EU should be avoiding than as an objective measure of what it has become, or might become. Less important, but only because it has rarely been discussed in the context of the EU, is confederalism, a looser form of administration which stops short of political union.

**Federalism**

Although there is no fixed template for federalism (see Burgess, 2006, ch. 1; Watts, 2008), it is best understood as an administrative system in which there are at least two levels of government (general and local), each of which has independent powers but neither of which has supreme authority over the other. A federation usually consists of an elected general (or federal) government with sole power over monetary, foreign and security policy, and separately elected local governments with powers over such matters as education and policing. There is a single state currency and a common defence force, a federal constitution that spells out the relative powers of the different levels of government, a court that can arbitrate disputes between them, and at least two major sets of law, bureaucracy and taxation. The local units will also have their own constitutions and governments, and the cumulative interests of the local units help define the interests of the general government, which deals mainly with those matters better addressed jointly rather than separately.

There are about two dozen federations in the world, including Australia, Canada, Germany, India, Mexico and Nigeria, but the best known and most thoroughly studied is the United States. It has been a federal republic since 1789, when the Articles of Confederation were replaced with a federal union by which states voluntarily gave up power over such areas as security, retaining their own sets of laws and a large measure of control over local government. The fifty American states today can raise their own taxes, and have independent powers over such policy areas as education, land use, the police and roads. But they are not allowed to make treaties with other states or foreign nations, or to have their own currencies, to levy taxes on imports and exports, or to maintain their own armies. Meanwhile, the federal government in Washington DC cannot unilaterally redraw the borders of states, impose different levels of tax by state, give states different levels of representation in the US Senate (where each state has two Senators) or amend the US constitution without the support of two-thirds of the states. Meanwhile – an important point – the US constitution (in the Tenth Amendment) reserves to the states or the people all the powers not delegated to the national government by the constitution or prohibited by it to the states.

EU member states can still do almost everything that the states in the US model cannot do: they can make treaties, still have a near-monopoly
What is the European Union?

over tax policy, maintain independent militaries, and some still have their own national currency. The EU institutions, meanwhile, do not have the same powers as the federal government in the US model: they cannot levy taxes, they do not have sole power to negotiate all agreements on behalf of the member states with third countries, they can only do as much as the EU treaties and the member states allow them to do, their budget is small and subject to strict limits, and they do not yet enjoy the undivided loyalty of most Europeans. Despite this, the EU has several of the features of a federal system:

- It has a complex system of treaties and laws that are the functional equivalent of a constitution, are uniformly applicable throughout the EU, apply to all the member states and their citizens, are interpreted and protected by the European Court of Justice and coexist with national laws and constitutions.
- It has several levels of administration, ranging from the European to the local, that each have some autonomy in different areas of policy.
- In those policy areas where the member states have agreed to pool some or all authority – including trade, competition, agriculture and social policy – EU law supersedes national law.
- It has a directly elected representative legislature in the form of the European Parliament, which has growing powers over the process by which EU laws are made. As those powers grow, so the powers of national legislatures are declining.
- Although still small by comparison with most national budgets, the EU budget gives the EU institutions an element of financial independence.
- The European Commission has the authority to oversee negotiations with third parties on behalf of all the member states, in those areas where it has been given such authority by the treaties.
- Most of the EU member states have their own currency, the euro, meaning that they have transferred monetary policy from their own national central banks to the European Central Bank in Frankfurt. In the wake of the eurozone crisis there has also been more transfer of responsibility for fiscal policy.

One way of looking at the practice of European federalism is to picture the EU as a network in which individual member states are increasingly defined not by themselves but in relation to their membership of the EU, and in which their interactions with one another create incentives for self-interested cooperation (Keohane and Hoffmann, 1991: 13–14). Once they are involved, the governments of the member states must take some of the responsibility for actions taken by the EU as a whole. (In practice, though, as has particularly been the case with Britain, some are more than happy to blame the EU for their domestic
or regional problems, even though the EU has few autonomous powers, and its institutions are either directly or indirectly accountable to the governments and voters of the member states.)

Federalism is not an absolute or a static concept, it changes over time, and it has taken different forms in different situations and at different times according to the relative strength and nature of local political, economic, social, historical and cultural pressures. For example, the US model of federalism was adopted more to avoid the dangers of chaos and tyranny than to account for social divisions, was in place long before that country began its westward expansion, and explicitly includes a system in which the powers of the major federal government institutions are separated, checked, and balanced. It began with a relatively weak federal government and relatively strong state governments, but the states have steadily lost power to the federal government. In India, by contrast, federalism was seen as a solution to the difficulty of governing a state that was already in place, and that had deep ethnic and cultural divisions; the union (federal) government has a fused executive and legislature on the British model, and while India is a federal republic like the United States, political reality has ensured that powers have often been more centralized in the hands of the union government.

The most committed European integrationists would like to see a federal United States of Europe in which today’s national governments would become more like local governments, with the same kinds of powers as Länder governments in Germany or state governments in the United States. Before this could happen, however, there would need to be – at the very least – a directly elected EU government, a federal constitution, a common tax system, a substantial EU budget, a single currency and fiscal policy, a common military, and EU institutions and their leaders would have to be able to act on behalf of all the member states in foreign relations. But the political resistance to a shift of powers on this scale would be substantial, and just how far the process of integration would have to go before there was a federal EU is debatable. There are several quasi-federations in existence – including Argentina, Britain, Spain and South Africa – which have some of the features of a federal system without having formally declared themselves as federations. There is no reason why European federalism (should it ever come) would need to look like the US, Indian or even German models.

To complicate matters, the EU model of integration has never been uniform across all the member states. The British and the French, for example, have long taken the lead on defence and security cooperation, while the EU’s neutral or smaller member states have been less committed. In spite of efforts to remove barriers to the free movement of people, such barriers remain but are targeted mainly at stopping citizens of poorer EU states moving to richer states. Not all EU states have yet adopted the euro, and progress on the development of common
monetary and fiscal policies has varied. These and examples like them have spawned multiple labels – Europe à la carte, multi-speed Europe, enhanced cooperation and differentiated integration, among them – which all have approximately the same meaning: member states that wish to proceed more rapidly with cooperation in a given policy area may do so, with no obligation on the others and without a formal extension of the powers of the EU (see Andersen and Sitter, 2006). It is one thing to understand a group of countries engaged on a shared project, but quite another when they pick and choose among the policies that most or least interest them.

Confederalism

While federalism is found only within states, confederalism is a looser system of administration that exists between or among states. In other words, two or more independent states retain their separate legal existence but give limited and specified powers to a central authority for reasons of convenience, mutual security or efficiency. Lister (1996: 22–3) argues that if a federation is a union of peoples living within a single state, then a confederation is a union of states. The balance of power in a confederation is tilted towards the member states, central authorities are kept subordinate, the shifting of powers to those authorities must be approved by the states, ultimate control remains firmly fixed with the governments of the member states (which exercise it jointly in the various confederal decision-making bodies) and the loyalty of individuals remains focused on their home states. ‘In a confederal setting,’ Lister argues, ‘the central institutions are both the agents of the member states and the instruments that enable those states to attain the degree of political union that is provided for in their treaty-constitutions’ (Lister, 1996: 83).
Expressed differently, the member states in a confederation are sovereign and independent, and the central authority is weaker than in a federal system, existing at the discretion of the members, and doing only what they allow it to do. If states were to form a confederation, then the citizens of those states would continue to relate directly to their own governments, and only indirectly to the higher authority (see Figure 1.3). Unlike a federal system, where government exercises power over both its constituent units and its citizens, and there is a direct relationship between citizens and each level of government, the higher authority in a confederation does not exercise power directly over individuals.

One example of confederalism in practice was the United States in 1781–9. Following the end of the War of Independence, the original 13 states cooperated under a loose agreement known as the Articles of Confederation, or a ‘league of friendship’. Central government could declare war, coin money and conclude treaties, but could not levy taxes or regulate commerce, and founded its system of ‘national’ defence on a network of state militias. The Articles could not be amended without the approval of all 13 states, and treaties needed the consent of at least nine states. There was no national executive or judiciary, and the powers of the confederation lay in the hands of an elected Congress in which each state had one vote. Congress rarely met, and had no permanent home, so its powers were exercised by committees with variable membership. The assumption was that the states might cooperate enough eventually to form a common system of government. This did not happen, so work was begun in 1787 on developing the federal system of government that we find in the United States today.

Confederalism was also used in Germany in 1815–71, when a 39-member confederation was created under the domination of Austria and Prussia following the Congress of Vienna in 1815. Based on the old Holy Roman Empire, it was more an empire than a new state. Few restrictions were placed on the powers of the member kingdoms, duchies and cities, whose representatives met sporadically (just 16 times in the life of the confederation) in an assembly in Frankfurt. Amendments to the constitution needed near-unanimity, and most other measures required a two-thirds majority. Regular business was conducted by an inner committee in which the 11 largest states had one vote each, and the smallest had six among them. There were no common trade or communications policies, and the development of a common army was frustrated by the refusal of smaller states to cooperate (Carr, 1987: 4–5).

Switzerland, too, was confederal until 1798, and although it now considers itself to be a federation, it has transferred fewer powers to the national government than has been the case with other federations, such as Germany, the United States or Russia. Its 1874 constitution allocates specific powers to the federal government, the rest being reserved to the 20 cantons and six half-cantons. The Swiss encourage direct democracy
by holding national referenda, have a Federal Assembly elected by proportional representation, and are governed by a seven-member Federal Council elected by the Assembly. Comparable arrangements can be found in Bosnia and Herzegovina. Even though it is formally described as a federation, and the federal government has accumulated more powers with time, the two partner states – the Bosnian Muslim-Croat Federation of Bosnia and Herzegovina and the Bosnian Republika Srpska – still have a high degree of independence. Each has its own system of government, with a president, a legislature, a court, a police force and other institutions, but they come together under a joint Bosnian government with a presidency that rotates every eight months between a Serb, a Bosnian Muslim and a Croat.

The EU has several of the features of a confederal system:

- Its member states are sovereign and independent. They have their own separate identities, have their own systems of law, can sign bilateral treaties with other states, can act unilaterally in most areas of foreign policy and can argue that the EU institutions exist at their discretion.
- There is no European government in the sense that the EU has obvious leaders – such as a president, a foreign minister or a cabinet – with substantial power to make or direct policy for the EU member states. The most important political leaders in the EU are still the heads of government of the individual member states.
- The citizens of the member states do not relate directly to any of the EU institutions except Parliament (which they elect), instead relating to them indirectly through their national governments. Despite their powers of making and implementing policy, the key EU institutions – the European Commission, the Council of the EU, the European Council and the Court of Justice – derive their authority not from the citizens of the member states, but from the leaders and governments of the member states, which in turn derive their authority from the citizens of the member states.
- There is no general EU tax system. The EU raises funds in part through levies and customs duties, which are a form of tax, but the vast majority of taxes – income, corporate, property, sales, estate, capital gains, and so on – are raised by national or local units of government, which also make tax policy.
- There is no European military or defence system. The armies, navies and air forces of the member states still answer to the governments of the member states, although contingents have come together as the seeds of a European security force (see Chapter 9).
- The EU may have its own flag and anthem, but most of the citizens of the member states still have a greater sense of allegiance to their own national flags, anthems and other symbols, and there has been only limited progress towards building a sense of a European identity (see Chapter 2).
In spite of the EU’s many confederal qualities, and in spite of how much confederalism offers to the debate over European integration, the concept is rarely mentioned in conjunction with the EU (see Majone, 2006, and Moravcsik, 2007, for exceptions). This is unfortunate, because much of the public confusion about the character of the EU might be addressed if the concept was to be used more often, and if the EU was to be formally declared as a confederation. There are several possible reasons for its underuse: federalism is more often found in practice and has been more thoroughly studied, federalism has been at the heart of the criticisms directed by eurosceptics at the EU, confederalism falls short of what the most enthusiastic federalists would like for Europe, and in those few cases where confederalism has been tried in practice it has always evolved ultimately into a federal system. In his 1981 study of confederation and the EEC, Forsyth argued that studies of federalism seemed to have little connection with the realities of European integration, and that if we were to look more closely at historical examples of confederations, we would find that the EEC was clearly an economic confederation in both content and form (Forsyth, 1981: x, 183). Lister agrees, describing the EU as a ‘jumbo confederation’ whose member states and governments continue to dominate the EU’s institutions (Lister, 1996, ch. 2).

Conclusions

What, then, is the EU? The answer depends upon who you ask, and what preferences and perspectives they bring to their analysis. It is clearly more than a conventional international organization, but it has not yet been comfortably slotted in to discussions about the state. It often works in the company of states, as in peacekeeping operations in world trouble spots, where EU soldiers might be operating alongside those from individual states, or in negotiations held under the auspices of the WTO, where there is a single EU trade representative who speaks on behalf of all EU member states (even though the latter are still individual members of the WTO).

In spite of the time and energy devoted to first understanding the process of European integration, and then to understanding the personality of the EU, all that has been agreed is that nothing in the political lexicon captures the essence of the EU. It is, in other words, sui generis, or unique. To describe it as such is to avoid taking a hard position, and yet to take a position, and to describe the EU as federal, confederal, quasi-federal, an exercise in multi-level governance, or something else, is to invite immediate criticism. This is one of the great frustrations of studying the EU. No one can quite agree what it is, it constantly changes form, it is on the path to an end-state whose features are unknown,
there are different opinions about when the end-state will be reached, and it is unlikely that we will even know we have reached that end-state until many years after the event. Political scientist Michael Burgess summarizes the dilemma best when he argues that the most we can say about the EU is that it ‘works in practice but not in theory’ (Burgess, 2006: 245).

But whatever theories and concepts we apply to its evolution, and however we choose to understand the EU today, there is little question that the laws and decisions that govern the lives of Europeans are being made less at the local or national level, and increasingly as a result of negotiations and compromises among the EU member states. Developments at the EU level have become as important for Europeans to understand as those in their national capitals. Not long ago an ‘informed citizen’ was someone who knew how their national system of government worked, how their national economy functioned and how their national society was structured. To be ‘informed’ now demands a broader horizon, and familiarity with an additional set of institutions, processes and political, economic and social forces. As we will see, however, most Europeans still do not understand the EU or its effects, and much of what they have seen and heard of late – whether negative votes on national referenda, alarmed debates about the problems of the eurozone, or the often strident claims of eurosceptic political parties and media – has been neither encouraging nor always entirely accurate or well-informed.

Opinions on the value of regional integration – and its long-term prospects – will remain divided as long as discussions are confused and obscured by questions and doubts about the conditions that encourage integration, the logic of the steps taken towards integration, and the end product. Comparing the EU with a conventional state can give us more insight, but we are still some way from agreement on what drives the process, and from understanding what we have created. The next three chapters will attempt to address some of the confusion by looking at the personality, evolution and structure of the EU.
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