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Robert Schuman Centre for Advanced Studies
Integrating Diversity in the European Union (InDivEU)

WORKING PAPER

Report on the expansion of the EUDIFF 1 dataset

Markus Jachtenfuchs, Philipp Genschel, Marta Migliorati

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The objective of InDivEU is to maximize the knowledge of Differentiated Integration (DI) on the basis of a theoretically robust conceptual foundations accompanied by an innovative and integrated analytical framework, and to provide Europe's policy makers with a knowledge hub on DI. InDivEU combines rigorous academic research with the capacity to translate research findings into policy design and advice.

InDivEU comprises a consortium of 14 partner institutions coordinated by the Robert Schuman Centre at the European University Institute, where the project is hosted by the European Governance and Politics Programme (EGPP). The scientific coordinators of InDivEU are Brigid Laffan (Robert Schuman Centre) and Frank Schimmelfennig (ETH Zürich).

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Integrating
Diversity in the
European Union

Abstract

The present report makes an overview of the progresses made so far in Work Package 5. At this initial stage, the main aim was to develop a new coding for core state powers in EU legislation. Such coding serves the purpose of expanding EUDIFF1 through new information on core state powers integration. The report is structured as follows: after a brief introduction, Section I presents a tripartite categorization of core state powers modes of integration. Section II tests the plausibility of the proposed categorisations through an empirical analysis that explores primary legislation from 1952 to 2016. Section III discusses the possibility of a more fine-grained distinction.

Keywords

Differentiated integration, European Union, core state powers

Contents

Introduction

Since its establishment the European Union (EU) has slowly sought to integrate policy areas involving core state powers (CSP), that is, ´key resources of sovereign government including money and fiscal affairs, defence and foreign policy, migration, citizenship and internal security`(Genschel & Jachtenfuchs 2016, p. 42-43). As Genschel & Jachtenfuchs (2016) argue, the process of integration of such powers lies at the foundations of several phenomena that have characterized the EU in the post-Maastricht era, including territorial differentiation, Euroscepticism and politicization dynamics. The first aim of our working package (WP5) is precisely that of detecting treaty provisions (included in the EUDIFF 1 dataset) affecting states´ exercise of these powers overtime, not only by distinguishing areas of core and non-core state powers, but also by grasping through which modes their integration has been proceeding.

Given that internal differentiation in primary laws is present especially in areas of core state powers such as monetary policies and border management, through the development of WP5 we will be able to observe how different modes of core state powers integration relate to the internal differentiation of EU policies.

Most of existing studies employ a policy-based categorization of core state powers that usually limits to consider whether EU legislation deals with issues related to ´high politics´ (Hoffmann, 1966). For example, Winzen & Schimmelfennig (2016) include a categorical variable within the EUDIFF1 dataset so as to distinguish ´core´ from ´non-core´ policies. Furthermore, the *degree* of integration in CSP has been quantified through Leuffen et al. (2013) integration measurement distinguishing between six levels of formal authority: no coordination at the EU-level (0); unanimous intergovernmental coordination without involvement of supranational institutions (1); unanimous intergovernmental cooperation with limited involvement of supranational institutions (2); joint decision-making by majority with limited involvement of the EP (3); joint decision-making by majority with EP involvement (4); supranational centralization (5).

Yet, there are problems with these approaches, because a) a simple policy-based categorisation of core state powers ends up with distinguishing between high and low politics, and b) the balance of formal authority does not grasp the mode through which powers are integrated. In our view a sensible categorisation of CSP should, rather, be able to grasp the amount and kind of resources involved in the integration of such powers. In fact, CSP integration costs tend to fall upon national actors. As public resources are limited, the distributive conflicts involved in the integration of core state powers tend to be more pronounced than in market integration and increase the chance of zero-sum conflicts. In general, although regulation is a less effective tool of integration in core state powers than in market integration because ´compliance costs fall squarely on the Member States rather than on market actors´ (Genschel & Jachtenfuchs, 2018, p. 181), previous research shows how regulation is precisely the most utilized mode of CSP integration. We deem relevant corroborating this view by looking at the resources mobilized by treaties so as to understand whether provisions simply refer to the realm of CSP, or whether they actually affect their exercise by regulating national resources or by even building capacities going beyond the national level. As resources can be mobilized by the EU in different ways, we seek to grasp, through our coding, different modes of the integration of CSPs ranging from the regulation of national CSPs (SGPs) to the creation of completely supranational CSPs (ECB). The main problem at stake is to define a useful scale that allows us to capture all the hybrids in between. The final aim is to see how different modes of CSP integration relate to differentiated integration overtime.

Section I: A tripartite resource-based coding of CSP integration

We categorise different modes of CSP integration by resorting to the concept of ´ownership´. Put simply, we distinguish between different modes of CSP integration based on who is the main owner of the resources mobilized by primary legislation. Drawing on Genschel & Jachtenfuchs (2016) we distinguish between the regulation of national capacity through legislation and the creation of genuine supranational capacity. According to this categorization, on the one hand, provisions only regulating national resources do not generate any supranational level capacity per-se. Rather, they require member states to employ (or to commit to) certain resources in such a way as to comply with the treaty or with secondary laws to be approved subsequently. Resources can include, for example, national budget, police forces, bureaucrats and equipment. On the other hand, we define as supranational capacity those bodies, institutions etc. that are completely supranational, that is, employing resources that are pooled and run above the national level.

In addition to these two categories, a grey-zone in-between exists, in which national and supranational resources (money, personnel, equipment) co-participate in the pursuit of EU goals. We refer to the establishment of cooperative capacities when legislation establishes entities which involve different degrees of cooperation between EU and national resources. For example, the European agency Europol has a secretariat in The Hague and has staff hired at the EU level, but it also organizes missions which are run by member states´ police staff.

Table 1. Tripartite resource-based categorization of CSP modes of integration

Ownership		
National	**Cooperative**	**Supranational**
Stability and Growth Pact (SGP); Dublin Convention; PESCO; Battle groups; European Arrest Warrant;	EUROPOL[1]; EPPO; EUROJUST;	European Central Bank (ECB); EU Social Fund; European Investment Bank; Structural Funds; European External Action Service (EEAS); ESM

Zooming-in the grey-zone. Committees and agencies in the EU: national, joint or supranational capacities?

While regulation of national resources and supranational capacity building are quite easily detectable, middle-ground categories are more difficult to identify. In particular, how do committees and working groups fit into a resource-based categorization? Put simply, do they best fit within supranational, national, or cooperative ownership? A brief review of the academic literature on this subject can give us some useful insights to proceed to a sensible categorization.

At the time of writing, we can roughly distinguish between three kinds of committees: Commission expert groups, Council preparatory bodies and comitology committees[2]. While the first two are mainly used by the Commission and the Council throughout the legislative process, comitology committees deal with policy implementation. After Maastricht, more ´structured´ bodies emerge with both advisory and implementing roles, i.e. EU ´decentralised agencies´.

1 Mobilises national staff. See for example this operational task force: https://www.europol.europa.eu/newsroom/news/operational-task-force-leads-to-dismantling-of-one-of-europe%E2%80%99s-most-prolific-crime-groups-behind-%E2%82%AC680-million-operation

2 http://ec.europa.eu/transparency/regexpert/index.cfm?do=faq.faq&aide=2

In the past 20 years, different approaches have formulated several explanations of *what* committees and other EU-level administrative bodies are, *who* they represent, and *what* function they serve. Both the classic P-A models and intergovernmentalist approaches assume that most bodies involving member states experts and administrators such as committees (Franchino, 2000) and agencies (Kelemen, 2005) represent a quite straightforward way to impose constraints upon the supranational level. Indeed, committees in particular were born as means of intergovernmental control of the functions of the Commission (Dehousse, 2003). Yet, functionalist views have traditionally looked at committees and related bodies as channels of expertise which are detached from political bargaining and serve the purpose of efficient problem solving (Majone, 2005; Scharpf, 1988; Wessels, 1998). Organizational approaches focusing on the varying interactions between bureaucracies in turn, have argued that committees represent the middle ground between administrative ´fusion´ and ´diffusion´. Wessels (1998) in particular argues in favour of a more drastic ´fusion´ view according to which committees consist of arenas in which ´national governments and administrations, as well as other public and private actors, increasingly merge public resources from several levels of the state´. At the time of writing however, Wessels did not have a wealth of empirical data to corroborate his claims. Egeberg, Schaefer, and Trondal (2003) partially solved this problem by providing the first systematic attempt to put some empirical order in the complex system of committees involved at different levels of EU decision making. In their 2003 survey they find out that:

1. Council groups appear very much as intergovernmental arenas in the sense that participants primarily seem to behave as representatives of their home governments
2. Comitology committees exhibit many of the same basically intergovernmental features as the Council working parties.
3. Commission expert committees represent a setting significantly different from the two former ones.

Yet they also underline how ´the evocation of one particular interest or identity does not necessarily trump another. ´Officials learn to wear Janus-faces and to live with diversity and partially conflicting interests and loyalties´ (2003). Ultimately, it seems that Council working parties and committee members are more likely to behave as government representatives than Commission committees. In sum, participating in these supranational environments make bureaucrats at least more prone to familiarize themselves with the nature of the EU administrative system (2003, p. 31) so as to ´complement their identities as government representatives´ (Häge, 2007, p. 307).

In the same year Dehousse (2003) overviewed the mechanisms available to EU institutions to control committees, this way revealing a paradox: why should policy-makers control what is supposed to be a control mechanism in the first place? In his analysis he shows how comitology committees are progressively turning into ´transnational bureaucratic networks, which themselves need to be controlled´ because they mainly operate by consensus and the Commission has considerable power upon their work. Yet, Dehousse himself claims, in a study from 2014, that comitology decision making can be politicised and actually appears to be much more conflictual than it seems (Dehousse, Pasarín, & Plaza, 2014). What does this literature tell us?

There are two main benchmarks which we should keep in mind in order to set whether resources are EU or national, that is affiliation (who the staff works for) and budget (who pays the staff and provides equipment). As regards affiliation, theoretical accounts and empirical evidence just overviewed provide a quite mixed picture. Some literature points to the fact that committee members seem to be more and more socialized at the EU level, although not always and not at the same degree across policy areas. This would partly point at committees as situated in a grey-area between national and supranational, as some committee members tend to be/feel closer (although not always) to the supranational level rather than the national one. As regards the budget, the salary of members of the Working groups/Committees is fully under the competence of the Member States, due to the fact that

they are fonctionnaires of that members and not of the EU Institutions[3]. Given the mixed evidence about affiliation and in light of the fact that salaries are completely national, fonctionnaires working in committees can be considered a mobilization of national resources to help the Council in its legislative activity. In fact, they ultimately consist of people paid by national governments that spend time advising those governments for the final purpose of drafting of EU-level legislation. This is in line with Genschel & Jachtenfuchs´s (2016) definition of regulation of supranational capacities intended as the insertion of national administrations into a transnational administrative space. Moreover, it seems that working for EU committees does not reduce the role of national officials, but rather adds on to it as selected administrators work both for the EU and for their national ministry. In contrast, agencies are far more institutionalised (in terms of organizational structure) than committees, they are financed through the EU budget and they have a EU-level staff, and states add on to those through extra personnel and equipment. To be sure, a vast majority of scholars do see agencies as integral part of the development of a supranational administration built around the European Commission (Egeberg & Trondal, 2017; Egeberg et al., 2015; Trondal, 2013). Agencies exemplify, in sum, a further degree of expansion of the European Union and specifically, an expansion of its administration, in which national administrations participate too (Heims, 2018) while Committees and working groups are less institutionalised structures with an advisory role paid by the national level. Agencies then should belong to the ´cooperative´ category, and committees to the ´national´ one.

Section II: Explorative treaty analysis[4]

In order to ascertain that this categorization is suitable to our context we engaged in an exploratory investigation by reading and analysing the original text of the treaties included in the EUDIFF1 dataset, that is:

- ECSC
- EAC
- EEC
- IT
- Merger Treaty
- Budget Treaty
- Single European Act
- Maastricht Treaty
- Amsterdam Treaty
- Treaty of Nice
- Treaty of Lisbon
- Charter of Fundamental Rights
- Schengen Treaty
- Schengen Convention
- Prüm Convention
- Fiscal Compact
- ESM

The sections below summarise the main empirical findings obtained by using the tripartite categorisation[5].

It should be stressed that the extent to which these provisions affect member states´ resource ownership depends of subsequent acts of secondary law and how each state actually implements them. Some of them may be differentiated in the extent to which each state commits to the implementation of such policies and of course, how much they comply with them (although this goes beyond our package´s scope). However, according to the EUDIFF1 codebook, provisions are internally differentiated on the basis of treaties only in those cases where states opted out (EMU, Schengen) or entered at a later stage. Therefore, the correlation between differentiation and mode of CSP integration may be affected by this.

3 I have made an inquiry to the Council Secretariat, this was their response.
4 See doc Treaty_Analysis for treaty-by-treaty descriptio.
5 Summary table further below.

National ownership

EU regulation on national resources is present since the beginnings of the EU integration process, with the Treaty of Rome and the Euratom treaty specifically.

As a consequence of Art 48, setting the free movement of workers within the common market, Art. 51 of the Treaty of Rome requires the implementation of social security measures for migrant workers. This article is important because, compared to the ECSC treaty Article 51 EEC opens ´the way for the Council to adopt measures by means of Community law´(Cornelissen, 2009, p. 12) in this policy field. Although EU social security legislation does not replace national systems with a single European one, it still requires member states to go beyond their national interests by taking into account not only their citizens´ needs, but also those of migrants. The purpose of the Regulations approved after the EEC Treaty has been ´to overrule, at least partially, the application of the 'principle of territoriality' by the Member States´(Cornelissen, 2009, p. 15). For this reason, Art 51 may be included in the mobilization of national resources affecting welfare expenditure in the member states. Yet, each state can decide the content of their social security schemes according to their preferred approach, which generates in turn differentiation in the implementation of social security rules across country.

Art 108 of the Treaty of Rome envisages state mutual assistance in economic policies in case `a Member State is in difficulties or seriously threatened with difficulties as regards its balance of payments´. Specifically, from this Article derives Council decision 71/142/EEC by which the Council activated the possibility of mutual assistance in the form of bilateral loans for crisis situations concerning balance of payments[6]. The Treaty of Rome also establishes some committees (e.g. the monetary Committee).

In the same year, the Euratom Treaty sets the establishment of a Joint Nuclear Centre (Art 8) and safety facilities on MS territories, as well as the launch of joint undertakings for research and development (Art 46).

New regulatory provisions enter into force with the Maastricht Treaty´s Art 104 setting the excessive deficit procedure, which will be implemented through the stability and growth pact (SGP).

In 1995 the Schengen Convention enters into force and sets a number of rules that may have an impact on the utilization of national resources including police staff, administrative staff and equipment utilization and sharing. These provisions range from articles requiring the designation of specific authorities to perform certain tasks, to provisions asking to establishing databases and providing mutual assistance.

With the Amsterdam Treaty Art J2-J4 introduce the possibility to undertake joint actions in Common Foreign and Security Policy (CFSP), Article K15 regulates closer cooperation in criminal matters among member states that wish to do so: in spite of this provision introducing the possibility to produce differentiation, closer cooperation was never applied (see Cantore, 2011).

In the Nice treaty, closer cooperation is modified and subsequently called ´enhanced cooperation´. According to Eur-Lex definition, ´enhanced cooperation is a procedure where a minimum of 9 EU countries are allowed to establish advanced integration or cooperation in an area within EU structures but without the other EU countries being involved. This allows them to move at different speeds and towards different goals than those outside the enhanced cooperation areas. The procedure is designed to overcome paralysis, where a proposal is blocked by an individual country or a small group of countries who do not wish to be part of the initiative. It does not, however, allow for an extension of powers outside those permitted by the EU Treaties.´. In a nutshell, enhanced cooperation is – in theory- tightly related to differentiation as countries are allowed, by primary law,

6 https://ec.europa.eu/commission/sites/beta-political/files/role-flexibility-clause_en.pdf

to opt-out from certain policies because they do not seek to commit in these specific fields. The concept of enhanced cooperation since the publication of the ´White Paper on the Future of Europe (2017) is pivotal to the pursuit of deeper integration of core state powers.

Furthermore, the Nice Treaty establishes a social Protection Committee through Article 144 and, in CFSP a Political and Security Committee (PSC) composed by member states´ representatives through Article 25. Other committees in CFSP will be established through secondary legislation subsequently to the Nice treaty, including the Military Committee (EUMC) and the Military Staff (EUMS), and the Politico-Military Group (PMG), but also the Committee for Civilian Aspects of Crisis Management (CIVCOM).

In 2006, the Prüm convention asks member states to establish DNA files and sets that operational costs originated by the agreement should be borne by each member state accordingly.

With the Lisbon Treaty, supranational regulation of national capacities is extended through the solidarity clause on terrorist attacks (188R). The solidarity clause as it stands is formulated in a quite vague manner and may, potentially, mobilise a high amount of resources (Keller-Noellet, n.d.) and represents one of the major innovations brought forward by the Lisbon Treaty in the Area of Freedom Security and Justice (Kaunert, 2010)security and justice (AFSJ Moreover, the Lisbon Treaty further formalizes the ´enhanced cooperation´ procedure introduced by the Amsterdam treaty and introduces the possibility for permanent structured cooperation (PESCO) in defence matters. Wessels (2018) outlines how they differ from each other (2018, p. 23-24) and suggests to put PESCO under the umbrella of enhanced cooperation in order to make it more effective. Like enhanced cooperation, PESCO is a case of differentiation in CSP.

Finally, ESM sets the ´irrevocable commitment to contribute´ to the ESM establishment, while the Fiscal Compact introduces a new set of rules on budgetary discipline including Surplus balance; 0.5% structural deficit, a 1/20 per year deficit reduction, the establishment of Budgetary and economic partnership programme as well as the possibility of ECJ sanctions for non-compliant states.

Cooperative ownership

There is no presence of anything classifiable as cooperative ownership in the founding treaties. It should be noted that the Euratom treaty establishes a Supply Agency, which however operates under very tight budgetary constraints (not even a million euros per year) and 17 staff members seconded by the Commission (2017 figures). Given these constraints, it is hardly classifiable as a cooperative capacity. Rather, cooperative capacity emerges from the Amsterdam Treaty onwards, and this makes quite a bit of sense considering that administrative structures connecting national and supranational regulators started emerging only in the second half of the 90s. The Amsterdam Treaty mentions Europol as the means to pursue cooperation in criminal matters and lays the basis for the establishment of a European Data Protection Supervisor (art 213b). Moreover, the Treaty establishes a ´Policy planning and early warning unit´ in the General Secretariat of the Council under the authority of the High Representative for the CFSP (established through the treaty of Amsterdam as well). The unit comprises specialists drawn from the General Secretariat, the member states, the Commission and the Western European Union (WEU), its tasks include:

- monitoring and analysing developments in areas relevant to the CFSP;
- providing assessments of the Union's foreign and security policy interests and identifying areas on which the CFSP could focus in future;
- providing timely assessments and early warning of events, potential political crises and situations that might have significant repercussions on the CFSP;

- producing, at the request of either the Council or the Presidency, or on its own initiative, reasoned policy option papers for the Council.[7]

The Nice Treaty in turn establishes EUROJUST, which is one of the few agencies of the European Union, together with Europol and EPPO, to figure in the treaties.

With the Lisbon Treaty we observe an increase in cooperative capacity, signified by the establishment of the European Defence Agency (EDA) and the above mentioned European Public Prosecutor Office (EPPO). The European Defence Agency is ´tasked with assessing member-state contributions in the light of the criteria laid down for pioneer groups. Based on these assessments, the Council can decide to suspend participants for failing to respect the criteria. The agency is also charged with 'identifying, and, if necessary, implementing any useful measure...improving the effectiveness of military expenditure' (Menon, 2011, p. 81). The public Prosecutor Office is an interesting case in point because not only it can be classified as a cooperative ownership, but it is also one of the few examples of differentiation under the enhanced cooperation procedure: Denmark, Hungary, Ireland, Poland, Sweden, UK have indeed opted out of EPPO.

The SRM in turn, gives tasks to the Single Resolution Board (established through a separate regulation, Regulation (EU) No 806/2014) to handle a EU-level fund, i.e. the Single Resolution Fund (see EU ownership). The Single Resolution Board is a quite good example of cooperative capacity because it is a central resolution authority within the banking union and exercises her tasks by working closely with the national regulatory authorities, the European Commission (EC), the European Central Bank (ECB), the European Banking Authority (EBA) and national competent authorities (NCAs).

Supranational ownership

The ECSC paves the way for the establishment for the first supranational institutions (High Authority and ECJ) and sets the first budgetary contributions. The Treaty of Rome in turn, envisages the introduction of agricultural funds, sets a European Social Fund, the European Investment Bank, the European Economic and Social Committee, the Committee of control (will become court of auditors in 1975), and budget contributions for the EEC. In practice, the first two treaties signify a quite important commitment by member states to pool capacities at the EU level. Although all these acts of capacity building turn around economic development, growth and administrative responsibilities, resources are given up to the pursuit of EU goals.

Euratom in turn establishes joint undertakings financed by the Community and sets budget Contributions too.

The Single European Act sets specific structural funds including the European Regional Development Fund and the European Agricultural Guidance and Guarantee. Moreover, it introduces the possibility to establish other joint undertakings in research and technological development. These actions do not, per se have to do with areas of core state powers because they are confined, again, to economic development. Yet, requiring states to participate in an EU-level fund means that they are required to use a portion of their national budget to help other states, also giving up the right to decide how this money is used (the Commission handles the funds). For this reason we include structural funds in the supranational ownership category.

With the Maastricht Treaty there is a raise in the construction of EU-level capacity exemplified, quite obviously, by the establishment of the ECB (preceded by the European Monetary Institute[8]). Moreover, Maastricht sets the possibility for Community financial assistance in emergency situations, establishes a Cohesion Fund[9] and creates two new institutions, i.e. the Ombudsman and the

7 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aa19000
8 Precedes the ECB. I count this until ECB starts working
9 Latest of the trio of structural and cohesion funds

Committee of Regions. These two are financed through the EU budget and hire staff at the EU level hence should as well be included in the expansion of the EU-level administration.

An important step forward in the resource commitment to pool resources in areas of core state powers is taken through the Amsterdam Treaty, which extends the EU budget to CFSP and police cooperation.

The treaty of Lisbon is the first treaty setting the establishment of a start-up fund for initiatives in the framework of the common foreign and security policy (Article 41.3). Moreover, Lisbon establishes the European External Action Service. This body, which new-intergovernmentalists (Bickerton et al. 2013) classify as a ´de-novo body` can fall within the supranational ownership category for different reasons: first of all, EEAS is financed through the EU budget[10].

Second, in drawing together staff from the Council, Commission and member states under a new institution, the EEAS has theoretically rendered turf wars between officials in the two EU institutions over security policy redundant (Menon, 2011).

The ESM treaty establishes the European Stability Mechanism. This latter is an interesting case in point because it does not have the legal status of a European decentralized agency or independent authority (like the SRB), it lends money to EU countries but does not rely on the EU budget as it raises money through the financial markets. On the top of that, ESM manages its own capital of €80 billion, which has been paid in by the euro zone countries. It cannot be used to make loans as this is a guarantee. Strictly speaking the ESM could be described as an intergovernmental institution endowed with a supranational secretariat. Hence, the ESM can be classified as a supranational capacity.

Finally, the Intergovernmental Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund regulates the core elements of the Single Resolution Fund (SRF)[11]. The SRF is a ´common safety net´ (European Parliament, 2019) funded by ex-ante contributions paid annually at individual (solo) level by all credit institutions and certain investment firms established in the 19 Member States participating in the SRM.

Findings

Table 1 shows the types of resources mobilized in each treaty, while Table 2 is a line chart showing trends in different kinds of resources mobilised. The measurement for resources consists of a simple count of articles mentioning either of the three categories.

From the graph in Table 2 emerges that regulation of national capacities predominates, especially after the adoption of treaties regulating border management and police cooperation. Cooperative capacity starts ´appearing´ after the Nice Treaty and increases with the Lisbon Treaty. It should be noted that this measurement grasps just a fraction of cooperative capacity, given that the EU agencifiaction process is not visible from the treaties apart from few exceptions. Finally, supranational capacity seems rather high since the beginnings but then increases less steeply from Maastricht onward. The reason for the initially high levels lies partly in the fact that EU institutions as established by the treaties (ECJ, Court of Auditors et cetera) are included, and that the budget contributions of ECSC, EEC and Euratom are counted separately.

10 However, the salaries of member state diplomats and seconded staff depends on their status. There are 'Temporary Agents' paid by the EEAS and 'Seconded National Experts'. Within the SNEs, so-called "cost-free" national experts are paid by their Ministry of origin. The EEAS covers however some expenses such as missions etc. For other SNEs who work in HQs and Delegations, included the military staff seconded to the EEAS, those do not receive a salary but a combination of daily and monthly allowances, the amount of which depends on the distance between their place of origin and their place of assignment.

11 For a summary, see here: http://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-economic-and-monetary-union/file-single-resolution-mechanism-(srm)

Figure 1. Types of Capacity Mobilised, by Treaty

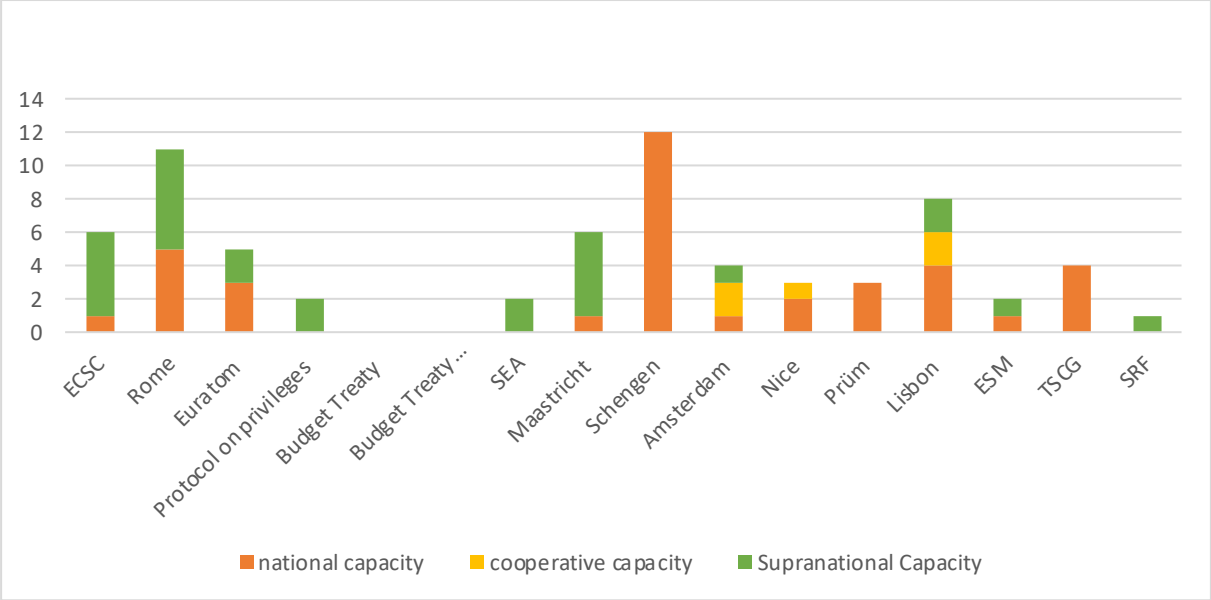
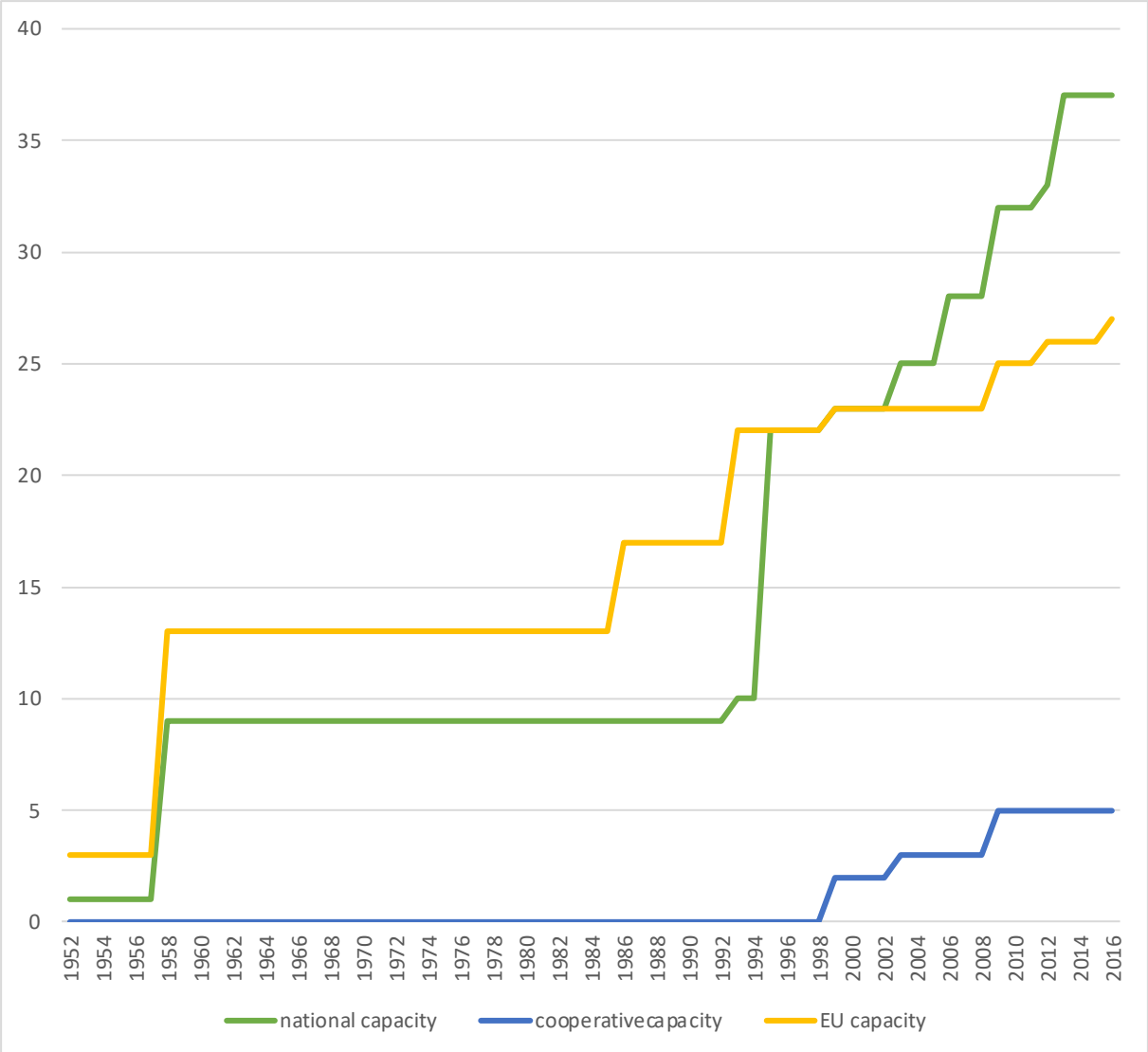


Figure 2. CSP and Capacity



Summary Tables

Below summary tables of the Treaty Analysis are attached.

Table 2. Summary Tables

TYPE	National ownership: provisions regulating the utilisation of national capacities	TOT
ECSC	• Committee of Experts (Transport) (art 10)	1
R	• Social Security measures for migrant workers (Art 51) • Mutual assistance in economic policies (Art 108) • Committee on Transports (Art 83) • Monetary Committee (Art 105) • Special committees (Commercial Policies, art 111-113)	5
Euratom	• Joint Nuclear Research Centre[12] (Art 8) • Establishment of safety facilities to monitor radioactivity in the air (Art 35) • Joint undertakings financed by the member states (Art 46)	3
MA	• Excessive Deficit Procedure (Art 104c) • Possible joint actions in DEVCO (Art 130) • Economic and Financial Committee (doesn´t count as it substitutes the Monetary Committee)	1
SCH	• Reciprocal compensation in case of financial imbalances (Art 24) • Asylum seekers (Art 33) • police cooperation in the detection of criminal offences (Art 39) • Equipment exchange (Art 44) • Mutual assistance in criminal matters (Art 50) • Redistribution of guards (Art 71) • Authority to be designated to implement the Schengen information system (Art 108) • Designation of supervisory authority (Art 114) • Costs of the Schengen information system (Art 119) • Permanent working party on drugs (Art 70)	12

12 For further info: http ://aei.pitt.edu/34499/1/A668.pdf ; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:4337565. It starts as a center functioning through national capacities. Through Decision 96/282/Euratom, it becomes a Commission DG.

	• Joint supervisory authority(Art 115) • Executive Committee[13] (Art 131)	
A	• Enhanced Cooperation in CFSP (Protocol to Art J7) • K3: Common action on judicial cooperation in criminal matters	2
N	• Social Protection Committee [14] (Art 144) • Political and Security Committee (Art 25)	2
P	• Establishment of DNA files (Art 2) • (Designation of national contact points (Art 6-12-15-17) • Protection of foreign police officers (Art 20) • Operational Costs borne by member states (Art 34)	3
L	• Strengthening of coordination and surveillance of states´ budgetary discipline in the Eurozone (Art 115) • Solidarity clause on terrorist attacks (188R) • Additional costs for enhanced cooperation (280 G) • PESCO (28 E)	4
ESM	• Irrevocable commitment to contribute	1
FC	• Surplus balance; 0.5% structural deficit; (Art 3) • 1/20 per year deficit reduction (Art 4) • Budgetary and economic partnership programme (Art 5) • ECJ sanctions (Art 8)	4

TYPE	**Cooperative ownership: provisions requiring the utilization of both national and EU resources**	
R		0
Euratom		0
MA		0
SCH		0
A	• Europol (Art K1-K2) • EDPS (Art 213b)	2
Nice	• Eurojust (Art 31)	1
L	• European Defence Agency (Art 28 D) • European Public Prosecutor Office (Art 69E) • (European Space Agency)[15]	2

13 Purely intergovernmental, meets in MS territory and employs ministerial staff.
14 https://ec.europa.eu/social/main.jsp?catId=758. It´s part of the Commission.
15 Only mentioned, not established by the Treaty.

TYPE	**Supranational ownership:** provisions establishing entities which rely on supranational resources	
ECSC	• Council (Art 26) • High Authority (Art 8) • Consultative Committee (Art 18) • European Court of Justice (Art 31) • Budget Contributions (Art 78)	5
R	• Agricultural Funds ´may be established` (art 40.4) • European Social Fund (Art 125) • European Investment Bank (Art 129) • European Economic and Social Committee (Art 193) • Committee of control (will become court of auditors in 1975) (Art 206) • Budget Contributions (Art. 200)	6
Euratom	• Joint undertakings financed by the Community (Art 46) • Budget Contributions (Art 172)	2
SEA	• European Regional Development Fund; European Agricultural Guidance and Guarantee Art 130 b) • possibility to establish other joint undertakings (130 o)	2
MA	• ECB (Art 4a) • European Monetary Institute[16] (art 109f) • Community financial assistance in emergency situations (art 103a) • Cohesion Fund[17] (130 d) • Ombudsman (Art 138 e) • Committee of Regions (Art 198 a)	5
A	• Budget extended to CFSP and police cooperation (Art J18)	1
L	• Rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy + startup fund (Árt 28d) • European External Action Service (Art 13a)	2
ESM	• ESM	1
SRF	• SRF	1

16 Precedes the ECB. I count this until ECB starts working.
17 Latest of the trio of structural and cohesion funds.

Section III: An alternative categorisation

Although the categorisation proposed and analysed above is quite parsimonious, it may be leaving some areas uncovered. Hence, for the sake of precision, this last part of the report develops a more fine-grained categorisation that distinguishes between *who* regulates *whose* resources according to the information gathered through the treaty analysis. National regulation of national resources takes place when treaties only mention the possibility for member states to join resources for common purposes: this is the instance of PESCO. National regulation of supranational resources refers, instead, to intergovernmental governance of resources pooled at the supranational level, like the European Stability Mechanism. Committees and Working groups, in turn, are a good example of cooperative regulation of national resources (see section above on committees), while agencies can be classified as completely cooperative, given that both the governance and the resources come from both national and supranational levels. Supranational regulation of national resources is exemplified by legislative provisions setting rules on how member states should organise their own resources, such as the Stability and Growth Pact and the rules set in Schengen. Supranational regulation of cooperative resources is exemplified by the EEAS: it is an entirely EU-level institution with an EU budget that runs both national and supranational resources. Finally, the ECB and the EIB are examples of supranational regulation of supranational resources.

What we should decide, in sum, is whether we care more about parsimony or about precision. Personally I think that the tripartite measurement works fine to provide a broad distinction between ownerships, but it is unable to grasp a) the share of resources involved and b) the varying extent of resources member states commit to different policies. For instance, the EEAS and the ECB are both categorised as supranational but clearly they are not the same thing (ECB is much bigger and genuinely supranational, the EEAS has some hybrid features although it is mainly supranational), plus ECB is a bank and EEAS is a diplomatic service. Or PESCO and the excessive deficit procedure are not the same thing: PESCO is a voluntary participation to joint military actions and capacity building, excessive deficit is a precise rule applying to all countries in the EMU about their budgetary rules.

Table 3. Alternative categorisation

Regulation	**National**	**Cooperative**	**Supranational**
Resources			
National	PESCO	Committees, working parties et cetera	SGP ESM (irrevocable commitment to contribute) Schengen and Prum Rules (guards, surveillance systems et cetera)
Cooperative		Europol, Eurojust, EPPO, EDPS, SRB	EEAS
Supranational	ESM	SRF	ECB European Investment Bank EU Budget – EU social fund et cetera

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