12 Intergovernmental Method, Community Method, and Open Method of Coordination: The Resilience, Efficiency and Legitimacy of the EU's Modes of Governance[1]

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Introduction

The institutional architecture of the European Union (EU) and its modes of governance are subject to continuous institutional change. Europe was not made all at once and its *finalité politique* has always been disputed. From the onset, the integration process stood as a difficult political dilemma (Majone 2005) on whether to allow transfer of power to supranational institutions (the Commission, the European Parliament, the Court of Justice) or to protect national sovereignty and to resist attempts to supranationalization by strengthening the powers of Member States in the Council. Since the crisis of the "empty chair" in 1966, when Charles de Gaulle successfully prevented the use of the qualified majority in the Council whilst "vital" and "very important" national issues were at stake, until the entry into force of the Single European Act, the unanimity prevailed in the decision-making process of the European Communities. But through successive revisions of the Treaties, Member States decided to pool their sovereignty and to take decisions at the supranational level. Thus, since then two modes of decision-making shaped the integration process since: the community method and the intergovernmental method[2].

In EU studies, scholars portrayed the community method as the method of integration, whereas the intergovernmental one was conceived as a path to increase cooperation among Member

States. The former deepened the integration in a series of policies seen as being technical in nature, whilst the latter allowed Member States to cooperate and to maintain control in sensitive policy areas. Thus, the promoters of the supranational method argued that EU supranational institutions and non-state actors drive the integration process, seeking to expand the action of the EU and to strengthen their institutional power while the advocates of the intergovernmentalism contended that integration is driven by Member States through the Council and the European Council[3].

The community and the intergovernmental methods did not only shape the EU's as a polity with its set of institutions and policies; they have also evolved in parallel with the integration process as EU institutional actors sought to find a balance between legitimacy and efficiency and to articulate different logics of power at the supranational level. When the community and the intergovernmental methods reached their limits, EU institutional actors sought to experiment new modes of governance. Moreover, in the 1990s, the Open Method of Coordination (OMC) emerged as a promising policy-process of coordination of national policies cumulating the advantages of the preexisting community and intergovernmental methods.

This chapter scrutinizes the most recent evolutions of EU's modes of governance. It shows that the EU policy-making witnessed several transformations since the entry into force of the Maastricht Treaty and that the intensity of institutional change has been fueled by the Eurozone crisis, which put the decision-making process under considerable strain and shifted the balance of power at the EU level. In 2010, when it was unclear how to respond to the problems of the Eurozone (Van Rompuy 2014), EU institutional actors reacted rapidly to reassure the markets and to save the euro. The decisions taken from 2010 to 2012 altered prevailing modes of governance as the crisis forced the EU to adjust the decision-making process (Rodrigues and Xiarchogiannopoulou 2014).

Against this backdrop, the overarching aim of the chapter is to capture incremental changes in the power relations between the European Commission, the European Parliament (EP), the Council and the European Council. The chapter illustrates the "adaptability and resilience" of the EU policy-making (as Pollack, Wallace and Young 2010: 482; Schmidt and Thatcher 2013), that is the ability of EU institutions to adapt to incremental change and sudden disruptions. It depicts a process through which *de iure* EU institutional actors are granted new attributions in the formulation, decision-making and implementation of EU public policies and shows how *de facto* they perform new roles through their dynamic interactions.

The degree of institutional change is disputed in the literature. Scholars remain divided over whether the transformations introduced since the Maastricht Treaty and the Eurozone crisis have strengthened the power of Member States to the detriment of supranational institutions or vice-versa. While Bickerton, Hodson and Putter (2015) emphasized the growing empowerment of Member States, other argued that the Commission has been granted new roles and power (Bauer and Becker 2014; Dehousse 2015; Savage and Verdun 2015; Coman and Ponjaert 2016). Against the dichotomy opposing in EU studies the new intergovernmentalism to the new supranationalism (see also Schmidt 2016), this chapter points out to forms of hybridization of pre-existing modes of governance (Pollack, Wallace and Young 2010; Dawson 2015; Schmidt 2016; Coman and Ponjaert 2016), echoing the idea of the German Chancellor Angela Merkel of blending the community method and the intergovernmental method of decision-making. When the crisis was "hot", the European Council saw its role increased confirming the new intergovernmentalists' hypotheses. As soon as the crisis entered in its slow-burning phase, the Commission gained significant action capacity both in scope (e.g. by entering policy fields outside its area of competence) and depth, echoing the 'new supranationalists' tenants as the modes of governance born from the crisis positioned the Commission at the helm of a set of new iterative and differentiated relationships with each Member State (Coman and Ponjaert 2016).

These topical debates are at the heart of this chapter. Thus, the first section examines the changing features of the intergovernmental method; it portrays the EU's policy-making process in light of the new intergovernmentalism (Bickerton, Hodson and Putter 2015) and focuses on the shifting roles of the Council and the European Council; the second section has as starting point the evolution of the community method; it illustrates the changing roles of the European Commission and the European Parliament (EP); the third part focuses on the Open Method of Coordination and the emergence of the European Semester, which is the new policy tool designed in 2010 for the coordination of macro-economic policies.

The intergovernmental method and features of the new intergovernmentalism

The intergovernmental method concedes a prominent role for Member States both in the initiation and the adoption of a decision at the EU level. In the policy-making process, it implies: first, that the right of initiative is shared between the Commission and Member States or it is confined to specific policy areas; in foreign and defense policy initiatives come from individual Member States or groups of Member States, the President of the European Council and the High Representative. Second, the decisions in the Council are adopted by unanimity; and third, the role of the EP is purely consultative. In other words, the intergovernmental method sees the involvement of the European Council in setting the overall direction of policy (Fabbrini 2015: 42), the predominance of the Council of Ministers, and the limited or marginal role of the Commission and the EP, whose attributions are reduced at consent and consultation.

Through the revision of the treaties the use of the intergovernmental method has been confined to a series of fundamental policies including the foreign policy, the economic, fiscal, financial and budgetary policies (Fabbrini 2015: 45). The intergovernmental method applies to the revision of the treaties, the activation of passarelle clauses, for sanctioning a serious and persistent breach of EU's values (Article 7), for enhanced cooperation and in financial crisis management. Although the Lisbon Treaty increased the number of policy areas requiring qualified majority voting, unanimity is maintained in sensitive policy areas such as the right of residence with a view to passports and ID cards, social security and insurance, tax harmonization and corporation taxes, minimum requirements for the social security and protection of workers, environmental policy measures with financial provisions, etc.

The rise of the new intergovernmentalism

In the aftermath of the Eurozone crisis, some scholars have argued that since the 1990s the most fundamental changes at the EU level have not been driven by a further supranationalization of competences, but through a new form of intergovernmentalism that prevails in the EU's decision-making process (Putter 2012: 57; Bickerton, Hodson and Putter 2015). Regardless of the interest "to cooperate more closely rather than less" (Putter 2012: 58), the reluctance of Member States towards further transfer of decision-making power at the supranational level increased (Bickerton, Hodson and Putter 2015). These debates have given rise to a new theoretical framework, that is the new intergovernmentalism, which examines the role of Member States and questions the capacity and power of supranational institutions to shape the direction of the integration process.

The new intergovernmentalism posits that the Member States seek to change the balance of power between institutions at the supranational level. Thus, instead of strengthening the power of the Commission and the EP, governments support the creation and empowerment of *de novo* bodies; ironically, Bickerton, Hodson and Putter contend that supranational institutions are not "hard-wired to seek ever-closer union" (2015: 31).

Against this backdrop, *de iure* the European Council - which brings together the heads of state or government, the President of the Commission and the High Representative for Foreign Affairs and Security Policy - has become a regular institution with the entry into force of the Lisbon Treaty and *de facto* has overall political leadership on all EU affairs (Piris 2010: 208). Created in the 1970s to define the *grandes orientations politiques* of the integration process and to reach agreements on contentious political issues, it has become more and more involved in "policy detail rather than on matters of strategic coordination only" (Putter 2012: 59), giving political instructions to both the Commission and the Council. By institutionalizing the European Council, the Lisbon Treaty established a dual executive, generating tensions between the European Council and the Commission. Thus, scholars contended that the Commission lost its role as *primus inter pares* in setting the agenda. Others maintained that the relationship between the Commission and the European Council could be best described as "competitive cooperation" (Bocquillon and Dobbles 2014: 21). As a result, the agenda-setting role of the European Council seems to be more conspicuous than before and this limits the room of maneuver of the Commission and its political leadership (even in areas which fall under the community method).

In addition, the Council - which consists of ministers from the Member States - meets more often and in several formations covering the totality of policy areas of the EU. Hence, the decision-making at the EU level rely growingly on the domestic expertise and coordination of national policies in a mounting number of groups, committees and exchanges among national experts, civil servants and officials. Thus, the increasing number of gatherings of ministers and experts has become a routine feature of EU governance (Putter 2012: 56). Moreover, a wide range of executive and regulatory agencies have been established and empowered at the expense of the supranational institutions. This complex network of committees, agencies and working groups favors the policy-coordination between Member States and by the same token avoids transferring power to supranational institutions (Bickerton, Hodson and Putter 2015: 703). As a result, the abundance of committees and agencies created to support the work of the European Commission since Maastricht contributes to the increase in power of Member States. One revealing example is the Eurogroup, which brings together euro area finance ministers and representatives of the Commission and the European Central Bank. The Eurogroup acts as an 'informal forum for euro-area dialogue" (Putter 2012: 61), but its role in the EU policy-making raises political and legal questions and fuels controversies because of the stark contrast between its informal character, on the one hand and the power of its decisions for Member States, on the other.

The Eurozone crisis accelerated and accentuated the empowerment of Member States. During the two first years of the crisis, Herman Van Rompuy, the President of the European Council, became the most visible European figure at the EU level; the numbers of meetings bringing together Prime ministers and ministers exponentially increased; the solutions adopted to put an end to the Eurozone crisis had been the result of the bargaining power of Member States and their preferences in terms of economic policy (Jones, Kelemen and Meunier 2015; Schimmelfennig 2015: 183). For instance, in 2010, when Member States tried to respond to the sovereign debt crisis, the Members of the ECOFIN Council adopted the European Financial Stability Facility as an executive agreement to provide financial assistance to Ireland, Portugal and Greece. To do so, the members of the Council from the 17 euro-area countries “switched hats” and transformed themselves into representatives of their states at an intergovernmental conference (Fabbrini 2015: 50; De Witte 2014). The European Stability Mechanism (ESM) was adopted as a new treaty among Euro area Member States to safeguard the stability of the Euro as a whole; the ESM was established as an international organization under public international law, outside the treaties. Although these decisions sought to save the Euro and to reassure the markets, the intergovernmental process through which the European Financial Stability Facility, the European Stability Mechanism, the Fiscal Compact Treaty had been adopted undermined both the principles of transparency and accountability in the policy-making of the EU.

In a nutshell, the European Council acted as agenda-setter, role traditionally assigned to the Commission (Dehousse 2015). It also took decisions that would traditionally fall within the Council's attributions (De Schoutheete 2012: 13). As Frabbrini put it, during the Eurozone crisis, the intergovernmental method became a “subsection of the political system of the EU” (2015: 127) and an alternative to the community method (Fabbrini 2015: 129) as emphasized by President Nicolas Sarkozy in 2011 and Angela Merkel in 2013. While the former declared in Toulon that the “integration process will be intergovernmental”, the latter specified that increasing economic coordination at the EU level does not imply transferring more competences to Brussels. Against this backdrop, in the context of the Eurozone crisis the intergovernmental union – as defined by Fabbrini (2015) – was conceived to secure the coordination of national policies (such as the economic policy or the foreign policy) at the EU level drawing on the administrative and technical support of the Commission whose mission is to monitor and sanction non-compliance (Fabbrini 2015: 128). In addition, the intergovernmental union sees a limited role for the EP, as the legitimacy of the former lies in the legitimacy of national governments under the democratic scrutiny of national parliaments.

The community method and the transforming role of supranational institutions

The community method is the decision-making procedure through which the EU produces legally binding decisions in areas in which Member States agreed to assign competences to the EU. This method involves a proposal from the Commission that the EP and the Council can amend on equal foot so that it comes closer to their policy preferences. The community method is characterized by the prominent agenda-setting role of the Commission, the widespread use of qualified majority voting in the Council[4], the involvement of the EP acting as a real counter-weight to the Commission and the Council power and, ultimately, the role of the Court of Justice of the EU (CJEU) whose jurisdiction covers the whole policy areas of the EU since the entry into force of the Lisbon Treaty [5]. This method allowed for an increased parliametarization of EU politics as the EP is equal co-legislator. The EP and the Council act like the two chambers of the EU legislature (Fabbrini 2015: 243) and have the right to ask the Commission to submit a legislative proposal. Since the entry into force of the Lisbon Treaty, the community method covers 83 issue areas related to the single market in which decisions are taken through the ordinary legislative procedure.

The decline of the community method and the rise of the new supranationalism

In the 1980s and the 1990s the legislative activity of the Commission was particular intense as the aim of Jacques Delors was to achieve the internal market through the adoption of a wide range of regulations and directives. After 1990s the number of the proposals issued by the Commission dropped by half (Bauer et al. 2016: 8). This declining number of binding decisions contributed to the perception of a Commission less pro-active in driving the integration process, while at the same time the amount of soft law and non-binding norms spectacularly increased. Against this backdrop, many declared that the classical community method was in decline or even death. Moreover, the community method witnessed a series of transformations as a result of the gradual empowerment of the EP[6] and the European Council. As Jacques Delors put it (2013: 171), the community method has been eroded not only by the treaties but also by the behavior of the other institutions, in particular the European Council.

On the one hand, the evolving nature of the EP reshaped its relations with the Commission, altered its functions and redefined the features of the community method. In this respect, Fabbrini argued that the empowerment of the EP "produced contradictory effects on the Commission" (2015: 157). In his view, in order to balance the power of the Council, the EP has become the institutional ally of the Commission; on the other hand, in order to act as an equal partner, the EP involved in negotiations with the Council, bypassing the Commission and reducing its "mediating role" in the community method (Fabbrini 2015: 157).

Moreover, in the context of the Eurozone crisis, the decisions taken to save the Euro increased the perception that the EP and the Commission find themselves at the losing side and that they fail to shape fundamental policy choices in the new economic governance in accordance with their political views (Crum 2015: 1). From 2010 to 2012 the role of supranational institutions such as the European Commission and the EP had been drastically reduced, most of the decisions related to the Eurozone's new governance architecture being adopted through opaque negotiations in intergovernmental meetings (Coman and Ponjaert 2016). Thus, it has been argued that the room for manoeuver of the Commission in the different stages of the policy process (agenda-setting, formulation, decision-making, implementation and evaluation) is diminishing.

However, scholars remain divided on this finding. Whereas some scholars observed a disempowerment of the Commission, others demonstrated that the Commission's power had been strengthened in the aftermath of the Eurozone crisis. Those who maintain that the Commission lost power, highlight that in the new economic governance the Commission plays a "technical role" "not a decision-making one" (Fabbrini 2015: 46), which entails "a gradual transfer of decision-making authority and resources from the Commission to the intergovernmental level and to the European Central Bank" (Da Coneicao-Heldt 2016: 95). For example, Crum suggests that the new prerogatives conferred to the Commission, in particular the monitoring competences to analyze the performance of Member States along a set of economic and fiscal indicators, are "administrative in kind" but also subject to political instructions from Member States (2015: 5). If Member States empower the Commission, this is explained by Schimmelfennig as an illustration of the willingness of Member States to centralize decision-making and to reduce the uncertainty about the behavior of other governments (2015: 188).

By contrast, others maintain that Commission has emerged as the winner of the Eurozone crisis as the powers granted in the aftermath of the Eurozone crisis go beyond the initiation of the policy process (Bauer and Becker 2014: 215). Those who see an empowerment of the Commission observed also the rise of a new type of supranationalism (Dehousse 2015). Against this backdrop, they show how supranational institutions adapt to new challenges and to increased demands from Member States for intergovernmental coordination (Dawson 2015; Coman and Ponjaert 2016; Kudrna 2016). For example, European Commission drafted the Two and Six-Pack and supported a series of solutions such as the euro bounds and the establishment of a banking union (Vilpišauskas 2013: 366). These new provisions strengthened the power of both the Commission and the EP in economic governance. In this regard, Dawson maintains that the Six Pack strengthens the ability of the Commission to monitor compliance with the EU's debt and deficit criteria ex post but also to provide recommendations for the reform of national budgets prior to their adoption (2015: 979; Chang 2013: 65). Analogously, Bauer and Becker (2014: 213) and Savage and Verdun (2015) demonstrate that the Commission has been granted stronger and more implementation roles in areas covering financial stability, economic policy surveillance, the financial sector and the coordination of national policies. For Coman and Ponjaert, the Two and Six-Packs instituted a new institutional equilibrium in the coordination of macro-economic policies, which is reflected in the new dynamic relationship between domestic and European institutions (2016).

Towards new modes of governance

In the 1990s, the growing democratic deficit of the EU and the reluctance of Member States to transfer more power to the supranational level determined EU actors to revisit the traditional methods of decision-making. The limitations of both the community and the intergovernmental methods determined EU institutional actors to explore new instruments for policy-making as alternatives to the traditional ones (Dehousse 2011).

The Open Method of Coordination

Thus, new modes of governance emerged including the spread of policy coordination since the 1970s and the Open Method of Coordination (OMC) in the 1990s designed as a solution to Member States' willingness to better coordinate their economic, social, environmental, and employment policies (Borrás and Radaelli 2014). As Sabel and Zeitlin (2008) put it, it marked the beginning of the "experimental turn in EU decision-making". At the moment of its inception, the method consisted in the identification of a series of objectives by the Council as well as the establishment of a series of measuring instruments (indicators, benchmarks, guidelines, peer review, reporting etc…) to compare Member States performances and exchange best practices. The OMC emerged as a form of soft coordination as it does imply neither binding legislation nor changes in the national laws. Since the 1990s, the use of the OMC had been generalized to a large number of policy areas, with the Council standing at the center of this soft process of policy coordination, the Commission fulfilling monitoring and surveillance functions and the EP playing a rather marginal role. Initially praised for its potential to secure implementation and to improve the coordination of Member States policies, the OMC received severe criticism with regard to its ability to encourage change at the domestic level. Being designed as a "voluntarist" form of governance, the OMC has had little implementation capacities and "uncertain links between input and output" (Citi and Rhodes 2007). Despite its novelty and potential of sharing best practices and ideas, soon after its initiation the OMC attracted strong criticism for its inability to increase policy coordination.

The European Semester

Against this backdrop, the Eurozone crisis saw the emergence of a new mode of governance for economic coordination: the European Semester. Established in 2010, the Semester was designed to allow Member States to coordinate more effectively their budgetary and fiscal policies at the EU level. To do so, EU institutions produce the Annual Growth Surveys (AGS), that is the analysis of the Commission setting out the EU's priorities for the next years, including the economic and fiscal policies – to ensure stability and growth; Country Reports which are analyses produced by the European Commission to examine the situation in each Member State and to see whether an imbalance exists and whether this imbalance is in need of policy, while Country Specific Recommendations (CSR) are made by the Commission to help Member States to improve their economic performances. The Country Reports and Country Specific Recommendations are intended to shape the policies of Member States. On this basis Member States produce the National Program Reforms and Stability or Convergence programs which include their plans for structural reforms and plans for sound public finance.

By establishing the Semester, the aim was to go beyond what already existed in the framework of the Stability and Growth Pact, to achieve concrete commitments and to follow a clear timetable for policy implementation; the European Council and DG ECFIN sought to rewrite the rule book, so as to change both attitudes and practices at the EU level with regard to policy implementation at the domestic level. Thus, what is new in the policy coordination process established by the Semester is the timing of policy formulation, the focus on *ex ante* guidance and rigorous monitoring: National Governments are asked to submit their Stability and Convergence Programs before they are discussed at the domestic level and translated into national legislation and Member States present their National Programs together with their budgetary projections (Coman and Ponjaert 2016).

Since 2010 the European Semester has reshaped the power relations between institutions. Starting with the Commission, as Bauer and Becker write (2014), its role is more intrusive and prescriptive in this cycle of policy coordination. Overall, the power of control and constrain of the Commission increased (De Schoutheete 2012: 33) as the Commission provides ideational and political leadership in a wide range of policy areas covered by the Semester (Becker et al. 2016). Within the Council, the coordination of the committees and working groups concerned by the Semester (in particular the Economic Policy Committee, the Economic and Financial Committee, the Employment Committee and the Social Protection Committee) is now a complex coordination exercise for the Secretary General of the Council and each rotation presidency. Regardless of a series of decisions taken to strengthen the legitimacy of the Semester, the role of the EP is still marginal. However, in 2015, as a result of an interinstitutional agreement, the Commission involved the EP in the discussion of the Annual Growth Surveys before their publication. Another institutional innovation that differentiates the Semester from the OMC is the Economic Dialogue – which seeks to enhance the exchange of ideas between the EP, the Commission, the Council and the Eurogroup.

Thus, the European Semester places the Commission at the center of this complex process of policy coordination and creates novel interlinkages between the domestic and European levels of governance (Coman and Ponjaert 2016): on the one hand the Economic Dialogue seeks to enhance the exchange of ideas between EU institutions on the Annual Growth Survey (AGS); on the other hand, the interparliamentary meetings bring together national politicians and MEPs on the subject of the National Reform Programmes (NRP) and the Stability and Convergence Programmes (SCP). Moreover, the most noticeable change and interlinkage is the bilateral dialogue between Commission and Member States articulated around the Country Specific Reports and recommendations (Coman and Ponjaert 2016). These meetings represent crucial moments both for the Commission and for Member States as the actors can exchange information and explain the nature of the reforms to be undertaken. The practice is new and tends to take different forms varying from one country to another. For instance, while high-level officials in the bilateral meetings with the Commission represent some Member States, technical experts represent others. According to interviews, the Commission seems to favor the political style over the more technical approach chosen by some Member States (Coman and Ponjaert 2016). The ever-growing centrality of the Commission's bilateral relationship with each Member State is a core innovation at the heart of the European Semester's workings. These bilateral relationships empower the Commission. The Commission is *"very active"* and *"very knowledgeable in contacting stakeholders like Parliaments, like the different cabinets, organizing informal meetings to explain things to people*" (Interview, Permanent Representation of Belgium to the EU). In addition, the Commission has since 2012 used the 'comply or explain' rules of the European Semester to oblige the Council to provide a written explanation of its reasons for modifying any of the Commission's recommendations (Article 2-ab(2) of Regulation (EU) No. 1175/2011 of the European Parliament and the Council). The Commission holds to this principle both in the meetings of the Council and in the technical committees with Member States experts. As one official of the Council stated, the Commission often reminds in these meetings that the Council *"is expected to, as a rule, follow the recommendations and proposals of the Commission or explain its position publically"* (Interview, General Secretariat, Council of the EU).

To sum up, the iterations of the European Semester indicates strong supranationalization of the policy coordination as well as the subtle balance of political and administrative power exercised by the Commission. With regard to the relationship between institutions, the new interlinkages include (1) agenda-setting powers at the European Council level are shared with the Commission and discussed with the EP; (2) a gradual empowerment of the Commission through an important role of monitoring of national policies which leaves the Commission with "more power" and "strong interpretative authority for the assessment of imbalances" (Bauer and Becker 2014: 220); and (3) a European Parliament whose largely symbolic role in macro-economic coordination has grown in importance as the new European economic governance has institutionalized the Economic dialogue with the Commission and the Council (Schmidt 2016; Coman and Ponjaert 2016).

Conclusion

The EU system of decision-making is characterized by increased innovation and diversity. With every critical juncture and crisis, EU institutional actors sought to overcome political and legal obstacles by designing new tools and modes of governance to accommodate both efficiency and legitimacy in the policy-making. The Maastricht Treaty altered the balance of power between institutions. The Eurozone crisis altered the behavior of EU institutional actors to such extents that it amplified the intergovernmental feature of the policy-making at the costs of the community method. When the crisis was "hot", the new intergovernmentalism prevailed; as soon as the crisis entered in its slow-burning phase, supranational institutions and actors regained power and visibility in the decision-making process (Dehousse 2015; Bauer and Becker 2014; Bauer et al. 2016; Schmidt 2016).

The academic debate on the transformation of EU's modes of governance and the shifting of institutional balance between intergovernmental and community method is ongoing. The points of view put forth by those who claim the empowerment of Member States at the costs of supranational institutions and vice-versa seem to be plausible depending on the policy area. While scholars trying to cover the broader picture of the EU's policy-making tend to confirm the spread of the new intergovernmentalism, those taking a closer look at the interactions between institutions contend that the loss of powers at the costs of supranational institutions is compensated by other types/forms of empowerment, subtle and less visible. Where some scholars see the empowerment of Member States or, conversely, the Commission, other strand of the literature point out a combination of old and new, a "hybridization" of modes of governance (Coman and Ponjaert 2016) or even a combination of an intergovernmental decision-making process with a supranationalized implementation (Dawson 2015). As Philippe De Schoutheete put it, even if the community method was not the epicenter of the decision-making in hard times, after the storm, the EU seem to be "more community-based than ever" (2012: 32). Progressively each of the EU's main actors has integrated the new European Semester and thus been in varying degrees empowered by it *de iure* (by the Two and Six Packs) or *de facto* (through interactions and interinstitutional agreements). Thus, to give unequivocal answer to the question "who governs" is rather complicated (Schmidt 2016) and it will always be given the *sui generis* nature of the EU and the co-existence of multiple modes of governance in each policy area. Drawing a picture in black and white would be an oversimplification as institutional interdependencies are enshrined in the treaties. Not only the *de iure* empowerment of EU institutional actors matter, but also their behavior *de facto.*

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[1] This chapter draws on data collected in the framework of the H2020 research project ENLIGHTEN (European Legitimacy in Governing through Hard Times: the role of European Networks) - which brings together 4 academic partners: the Université libre de Bruxelles, Copenhagen Business School (coordinator), Amsterdam University and the Central European University in Budapest.

[2] Whereas decision-making procedures in the Common Agricultural Policy, Competition, Fishing and the monetary policy become more supranational, in areas like defense and foreign affairs, energy, health, taxation and macroeconomic policy the procedures remained mainly intergovernmental. Moreover, the policies related to the internal market (environment, regional, transport etc.) as well as those concerning employment and the area of freedom, security and justice bring together areas in which decisions are taken through either the community or the intergovernmental method.

[3] Three elements distinguish the two methods: 1) the involvement of supranational institutions vs. Member States in the decision-making process; 2) the voting rules in the Council and 3) the binding/non-binding character of the decision taken.

[4] The decisions in the Council have to reach the support of at least 55% of the Member States, corresponding to at least 65% of the population.

[5] Since the abolition of the three pillars, the Court's jurisdiction covers now the whole area of Freedom, Security and Justice. There are exceptions however as the CJEU cannot review the validity or proportionality of operations carried

out by the police or other enforcement services of a Member State (in the area of judicial cooperation in criminal matters and police cooperation).

[6] As a reminder, the European Parliament was conceived as a scrutiny chamber in the 1950s, but since the establishment of the first Parliamentary Assembly its members constantly called for more legislative power. The successive revision of the treaties as well as the inter-institutional agreements concluded with the Commission and the Council saw the prerogatives of the EP consolidated: first, the consultation procedure introduced by the Treaty of Rome allowed the EP to be a discussion forum, with the ability to pass a non-confidence vote vis-à-vis the High Authority (the Commission). The Treaty of Rome introduced the obligation for the Council to hear and to consult the Parliamentary Assembly. In the 1970s, the EP gained power in the budget adoption procedure, forming the "budgetary authority with the Council" (Kohler 2014: 602). The Single European Act introduced the cooperation procedure which conferred to the EP the right to amend the Commission's proposal while giving to the Council the right to veto the EP's amendment and to overrule with unanimity; ultimately, at the beginning of the 1990s, the co-decision procedure marketed the triumph of parliamentarism at the EU level as the EP and the Council became equal co-legislators. The Maastricht Treaty conferred to the EP veto powers in the policy-making. In search for simplification, the Lisbon Treaty revised the legislative procedures and ranged them in two categories: the ordinary legislative procedure (the former co-decision procedure) and the special legislative procedure (which covers the EP assent as well as the former consultation and cooperation procedures).