Contesting the Lisbon Treaty: Structure and Implications of the Constitutional Divisions Within the European Union

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Abstract

The article argues that the constitutionalization of the European Union is necessarily a contested process. The 'No' to the Lisbon Treaty, expressed in June 2008 by the Irish voters, is the last example of this contestation. The argument is based on an interpretation of the EU as a compound democracy. The compound democracy is the model organizing unions of states of different demographic size and different political history. Inevitably the States have different views on the constitutional nature of the polity. They share the need of staying together, but not the view on how to stay together. The article traces the rationale and implications of the divisions on the constitutional identity of the European Union.

A. The Argument

The 'No' to the Lisbon Treaty, expressed by the Irish voters in the referendum of 12 June 2008, is the last, but probably it will not be the least, expression of the contested nature of the process of constitutionalization of the European Union (EU). Certainly, the Irish 'No' represents a serious blow to the agreement reached in Lisbon by the European Council. The so called Lisbon Treaty, signed on 13 December 2007,[1] effectively transformed a large part of the previous Treaty establishing a constitution for Europe (hereafter Constitutional Treaty or CT) into a set of amendments to the two existing treaties and recognized the Charter of

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[1]   The Lisbon Treaty (also known as the Reform Treaty) consists of a series of amendments to the *Treaty on European Union* (TEU, Maastricht 1992) and the *Treaty Establishing the European Community* (TEC, Rome 1957), the latter renamed *Treaty on the Functioning of the European Union* (TFEU) in the process. The two consolidated treaties would form the legal basis of the Union, and include most of the content of the abandoned *Treaty establishing a Constitution for Europe*. Prominent changes in the Treaty of Lisbon include the scrapping of the pillar system, reduced chances of stalemate in the EU Council through more qualified majority voting, a more powerful European Parliament through extended co-decision with the EU Council, as well as new tools for greater coherence and continuity in policies, such as a long-term President of the European Council and a High Representative for Foreign Affairs. The Lisbon Treaty is scheduled to be ratified in all twenty-seven Member States by the end of 2008, in time for the 2009 European elections. As of 1 July 2008, nineteen countries have ratified the Treaty, with the only refusal of Ireland.

Rights as a *de facto* third treaty. Such an agreement was, in turn, the answer to the rejection of the CT in the referendums held in France and the Netherlands, on 29 May and 1 June 2005 respectively.[2] Although it is always puzzling to interpret the popular 'No' to a treaty (in the Irish and Dutch cases it might have been motivated by the fear that the EU has gone too far in its process of federalization, whereas in the French case the criticism came also from the disillusionment on a too timid federalization's process), each time a 'No' comes to be expressed against a treaty, an interpretation is advanced concerning the failure of the European integration process, but each time a new agreement is reached this is interpreted in terms of the inevitable success of the process of European integration.

Which interpretation is more appropriate? My argument is that both views are misplaced. Indeed, the EU's constitutional odyssey of the 2000s confirms its structural difficulty in finding a definitive solution to the issue of its constitutional identity. The contested nature of the constitutionalization process is due to structural and not only contingent factors.[3] Although it has been argued that failure is inevitable when complex constitutional treaties must be approved by popular referendum, one also has to consider cases, such as Spain, Romania and Luxembourg, where popular referendum brought approval, and not rejection, of constitutional treaties. Thus, the contestation is not due necessarily to the instrument (the referendum) utilized for waging the dispute on the constitutional nature of the EU (although the approval of a complex document through a popular referendum might lead more easily to the venting of a populist criticism than its approval through a parliamentary vote), but it is due to the very nature of the EU. Or rather to what the EU has become after the Single European Act (1986) and the Maastricht Treaty (1992) and should become with the new treaties of the 2000s.

I shall base my argument that the constitutionalization of the EU is a contradictory process on the interpretation of the latter as a compound democracy. I define as compound democracy the form which democracy takes when applied to a union of states that are demographically asymmetrical and historically differentiated, as has been the case with the United States (US) and Switzerland. The equilibrium between asymmetrical and differentiated states is preserved through the creation of a highly complex structure of multiple separations of

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[2]   The *Treaty establishing a Constitution for Europe* was signed in 2004, in Rome, by representatives of the Member States of the Union but was subject to ratification. Most Member States did so, by parliamentary ratification or by referenda, but France and the Netherlands rejected it. Its main aims were to replace the overlapping set of existing treaties that compose the EU, to codify human rights throughout the EU and to streamline decision-making in what is now an organization with 27-Member States. The failure of the treaty to win popular support in these two countries caused some other countries to postpone or halt their ratification procedures, and the European Council (of heads of government of the Member States) to call for a period of reflection. Had it been ratified by all Member States, the treaty would have come into force on 1 November 2006. 18 Member States ratified the text (three by referendum: Spain, Luxembourg and Romania) while 7 postponed the ratification process after the 2 rejections.

[3]   *See* F. Snyder, *The Unfinished Constitution of the European Union: Principles, Processes and Culture*, *in* J. H. H. Weiler & M. Wind (Eds.), European Constitutionalism Beyond the State 55 (2001).

powers and a rigid procedure for changing it.[4] These structural and procedural features make the preservation of the Union possible, but at the same time render uncertain any revision of its institutional relations or any re-distribution of its policy's competences. The difficulty with the EU is that, contrary to the US and Switzerland, it has become a compound democracy by necessity and not by design, with the consequence that the EU has come to face the choice of defining its nature later in its development, whereas the other two polities have tried to define the issue since their inception (although without success in both cases, and dramatically so in the American case).

Here I will proceed as follows: first, I will argue that EU is a constitutionalized compound democracy organizing a union of states created for closing a long era of European civil wars. Second, I will discuss the cleavages that the constitutionalization of the EU has brought to the surface. Third, I will discuss some problematic implications of those divisions on the future of the EU with particular regard to the Lisbon Treaty.

B. The EU as a Constitutional Regime

In order to argue about the contested nature of the constitutionalization of the EU, the first step is to show that the EU has become indeed a constitutionalized regime. The concept of 'constitution' is not univocal in its meaning.[5] At least, one can distinguish between a formal and material constitution. A *formal* constitution summarizes in a single written document the set of fundamental rights, institutional arrangements and functional procedures that shall regulate the workings of a given political community (which becomes such through this document). A *material* constitution consists of the social practices (derived from political conventions, historical traditions or specific judiciary regulations) recognized as the basic norms of a given society. Although it is evident that the EU does not have a formal constitution, it is also indisputable that it has a material constitution. However, the EU's material constitution does not consist of generic established social practices. Rather it is the juridical expression of higher-order principles (such as supremacy of Community law or direct effect of Community law on individual citizens) established by the European Court of Justice (ECJ) since the 1960s and recognized as such by the Member States and their citizens. One might argue that the material constitution of the EU has come to be based on the founding treaties which have been interpreted by the rulings of the ECJ as quasi-constitutions, and which thus have gradually been integrated in the constitutional orders of the Member States.[6] After all, more than a few

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[4] *See* S. Fabbrini, *Madison in Brussels: The EU and the US as Compound Democracies*, 4 European Political Science 188 (2005).
[5] *See* A. J. Menendéz, *Three Conceptions of the European Constitution, in* E. O. Eriksen, J. E. Fossum & A. J. Menéndez (Eds.), Developing a Constitution for Europe 109 (2004).
[6] *See* M. Everson & J. Eisner, The Making of a European Constitution. Judges and Law Beyond Constitutive Power (2007); *see also* P. Craig, & G. De Burca (Eds), The Evolution of the EU Law (1999); *also* G. F. Mancini, *Europe: The Case for Statehood*, 4 European Law Journal 29 (1998).

established national democracies are based on a material, rather than a formal, constitution. This is so in the case of the United Kingdom whose constitution is the sedimentation of legislative and judicial acts. But it is also the case for countries like Israel or Germany, that are based on fundamental laws, rather than on formal constitutions, that organize those democracies.[7]

Accordingly, one may argue that the EU material constitution has supported a process of constitutionalization,[8] if by *constitutionalization* is meant the process by which an integrated legal order is formed in a given political territory.[9] This constitutionalization has gradually transformed the European nation states (with few exceptions among the established democracies, e.g. Norway and Switzerland) into *Member States* of the EU.[10] The traditional European nation-states have had to redefine their sovereignty by sharing it with other states within a supra-states aggregate.[11] In this sense, the EU is a constitutionalized regime, because the ECJ has used the treaties to promote an integrated legal order among the EU Member States.[12] The constitutionalization of the EU has ensued from increasing levels of trans-national activity (exchange and cross-border cooperation) in that their regulation has required increasing intervention by the EU institutions.[13] The increase in trans-national economic activity has exacerbated legal disputes among economic actors operating in different national legal systems, and this in turn has required the Community system's judicial organ, the ECJ, to play a more active

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[7]   The *Wende* or German unity of 1990 was not accompanied by a new constitution. Indeed, the five reestablished federal states (*Bundesländer*) of East Germany – Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, Thuringia – formally joined the Federal Republic of Germany, along with the city-state Berlin which formally came into being at the same time, created out of the still formally occupied West Berlin and East Berlin, and admitted to the federation. In practice however, West Berlin had already acted as an 11th state for most purposes, so Berlin is generally not included in the list of '*Neue Länder*' The 'Basic Law' or *Grundgesetz* of West Germany was thus extended to include them. To facilitate this process, some changes were made to the 'Basic Law'. After the five '*Neue Länder*' of East Germany had joined, the *Grundgesetz* was amended again to indicate that all parts of Germany are now unified. However, this change still permits the adoption of another constitution by the German people at some time in the future.

[8]   *See* B. Rittberger & F. Schimmelfennig (Eds.), The Constitutionalization of the European Union (2007); *see also* M. Longo, Constitutionalizing Europe: Processes and Practices (2006).

[9]   *See* M.P. Maduro, *Europe and the Constitution: What if This is as Good as it Gets?*, in M. Wind & J. H. H. Weiler (Eds.), Constitutionalism Beyond the State 74 (2003); *see also* A. Stone Sweet & J. Caporaso, *From Free Trade to Supranational Polity: The European Court and Integration*, in W. Sandholtz & A. Stone Sweet (Eds.), European Integration and Supranational Governance 92 (1998).

[10]   *See* A. Sbragia, *From "Nation-State" to "Member State" The Evolution of the European Community*, in P. M. Lutzeler (Ed.), Europe After Maastricht. American and European Perspectives 69 (1994).

[11]   *See* N. Walker (Ed.), Sovereignty in Transition (2003).

[12]   *See* B. De Witte, *Direct Effect, Supremacy and the Nature of Legal Order*, in P. Craig & G. De Burca (Eds.), The Evolution of EU Law 177 (1999).

[13]   *See* A. Stone Sweet, *The Constitutionalization of the EU: Steps Towards a Supranational Polity*, in S. Fabbrini (Ed.), Democracy and Federalism in the European Union and the United States. Exploring Post-National Governance 44 (2005); *see also* A. Stone Sweet, W. Sandholtz & N. Fligstein (Eds.), The Institutionalization of Europe (2001).

role. The ECJ has used the opportunities afforded by the treaties to construct a new legal order for a supranational market, transforming those treaties into sources of law superior to those of the EU Member States.

The EU treaties, contrary to other international treaties, have thus given rise to a legal order which is binding on the citizens of its Member States and not only on the governments which signed them (as is typical of international treaties). A legal order has thus arisen that confers judicially enforceable rights and obligations on all legal persons and parties, public and private, within the territory of the Member States of the EU.[14] Certainly, constitutionalization based on inter-state treaties is different from constitutionalization based on a formal constitution deliberately chosen by the founding members.[15] In fact, although the treaties are part of a larger constitutional order supported by the Member States' constitutions, the EU constitutional order continues to be too ambiguous to settle the different views on what the EU should be.

It is possible to have a democratic regime without a formal constitution in culturally homogeneous and institutionally simple polities, as is the case in the UK, Israel and Germany. All of them are parliamentary democracies governed by the political majority of the day.[16] A union of asymmetrical states cannot be organized along the vertical lines of a parliamentary model, even in its federal form. Parliamentary federalism is possible only where the territorial units are relatively comparable, in terms of demographic size, economic capability and political history. As is the case in post World War II Germany, whose *Länder* were designed by the Allied authorities keeping in mind those criteria.[17] The self-sufficiency of each *Länder* was considered a necessary condition for precluding the emergence of an imposing territorial power, such as Prussia after the formation of the German confederation in the 1870s.[18] However, in compound polities, such as the US or Switzerland, the very existence of a formal constitutional document is the condition for taming the tension between its constitutive units through apolitical means.

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[14] *See* J. H. H. Weiler, *Federalism Without Constitutionalism: Europe's Sonderweg, in* K. Nicolaidis & R. Howse (Eds.), The Federal Vision. Legitimacy and Levels of Government in the United States and the European Union 54 (2001); *see also* J. H. H. Weiler, The Constitution of Europe (1999).

[15] *See* J. H. H. Weiler & U. R. Haltern, *Constitutional or International? The Foundations of the Community Legal Order and the Question of Judicial Kompetenz-Kompetenz, in* A. M. Slaughter, A. Stone Sweet & J. Weiler (Eds.), The European Courts and National Courts: Doctrine and Jurisprudence 331 (1998).

[16] It might be of interest to note that in UK after the devolution process initiated by the first Blair government of 1997-2001, many quarters have solicited a move to a formal constitution so as to order the relations between the various units of the Union, in particular the relations between England and Scotland.

[17] *See* C. Jefferey & P. Savigner (Eds.), German Federalism Today (1991).

[18] *See* D. Ziblatt, Structuring the State. The Formation of Italy and Germany and the Puzzle of Federalism (2006).

C. The EU as a Compound Democracy

If the EU is a constitutionalized polity, what kind of polity is it? It seems plausible to argue that the EU is the object of contestation because it has become much more than a "regulatory system,"[19] a "governance system,"[20] an "economic regional organization"[21] or a "political system."[22] The EU has become the object of contestation because it came to take more and more decisions that affect deeply the institutions, policies and identities of its Member States. Indeed, the EU meets all the criteria for being considered a democratic system.

Interpreting the EU as compounding both Member States and Community institutions, it is improper to deny that those who take decisions in the EU have been elected either by citizens in national elections (members of Council of Ministers) or European elections (members of the European Parliament) or selected by politicians elected in national and European elections (members of the European Commission). European decision-makers are compelled to act within a complex system of separation and balancing of powers, as it was gradually defined by the various treaties; and they are subject to the control of both national and European courts (constitutional courts, in the first case, and the ECJ, in the second case). The compound nature of the EU is due not only to the fact that it has aggregated distinct state units *and their* individual citizens, but also to the fact that those state units are demographically *asymmetrical* and historically *differentiated*. Compoundness refers to the structural integration of the Member States and the Community's institutions. The EU is constituted not only by the Brussels' institutions, but also by those of the Member States. One should not consider the former separately from the latter.

Thus, the EU is a democracy, although it is a democracy *of a new kind* when compared to the democracy of the EU Member States. It is a compound democracy[23] in which decision-making power is diffused among a plurality of actors within a multiplicity of institutions. Each decision inevitably is the outcome of a drawn-out process of negotiation between those actors and institutions. This diffused decision-making structure is protected by a diffusion of veto positions. Each member state or institutional actor may hinder or postpone an undesired decision, unless it is partially changed in accordance with the request of that member state or institutional actor. Certainly, in many policy fields, the Council of Ministers (which first and foremost represents the Member States' governments) may use (qualified) majority voting in order to decide between rival interests, although the decision finally reached will subsequently have to be re-negotiated with the European Parliament. However, even a (qualified) majority system leaves

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[19] *See* G. Majone, Dilemmas of European Integration. The Ambiguities and Pitfalls of Integration by Stealth (2005).
[20] *See* F. Scharpf, Governing in Europe. Effective and Democratic? (1999).
[21] *See* P. Katzenstein & T. Shiraishi (Eds.), A World of Regions: Asia and Europe in the American Imperium (2005).
[22] *See* S. Hix, The Political System of the European Union (2005).
[23] *See* S. Fabbrini, Compound Democracies: Why the United States and Europe Are Becoming Similar (2007).

many opportunities to a minority coalition of Member States or trans-national interests to mobilize its veto resources unless its preferences are somehow taken into consideration by the majority coalition. A system for reaching a decision which implies the involvement of reciprocally separated institutions (such as the Commission, the Council of Ministers, the Parliament and even the Court) is an incentive to the taking into consideration of the interests of each member state (small and medium sized ones included).

Certainly, in the early decades of the undertaking that has produced the EU in its present form, the Council of Ministers functioned as the institution able to ultimately monopolize decision-making power.[24] However, since the 1986 Single European Act (SEA), and the Maastricht Treaty of 1992, which organized the EU into three pillars, the EU has progressively structured itself as a system in which several institutions separately but jointly contribute to numerous public policy decisions. To be sure, such a structure concerns the first pillar more than the other two, which have tried to preserve the nature of an inter-governmental agreement. However, the growing interaction between the various policy fields has called into question the clear distinction of policies and institutions designed in Maastricht. Indeed, a process of cross-pillarization has led also the two 'inter-governmental' pillars to be affected by the logic of the first Community pillar.[25] One only has to think of the interaction between trade policy, which formally falls within the first pillar with the Commission playing a prominent role, and security policy, which formally falls within the second pillar with the Commission that should play a secondary role. Indeed, this interaction has led also security policy to adopt a supra-national more than inter-governmental logic. Or think of the third pillar of justice and home affairs pressured to deal, especially after 11 September 2001, with the challenge of the immigration of terrorist groups into EU Member States; a challenge that only closer cooperation between governments under the supervision of the Commission could face effectively.

Consequently, the originally pre-eminent institution in the system (the Council of Ministers) has been forced to acknowledge the considerable influence acquired by the Commission, also in the field of foreign, security and justice policies. It has then been obliged to recognize the co-determination and co-decisional power acquired by the European Parliament since its direct election in 1979, and especially since the SEA and the two fundamental treaties of the 1990s (Maastricht 1992 and Amsterdam 1997). However, the growing influence of these Community institutions (representative of supranational interests) has not reduced the influence of the Council of Ministers and therefore of the European Council (representative of the Member States, and therefore of the intergovernmental side of the EU).

The complexity of the compound democracy of the EU is not easy to change. A stringent procedural rule for defining or changing the treaties, i.e. the rule of

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[24]   *See* D. Dinan, Ever Closer Union. An Introduction to European Integration (2005).
[25]   *See* S. Stetter, EU Foreign and Interior Policies. Cross-pillar Pillar Politics and the Social Construction of Sovereignty (2007); *See also* A. von Bogdandy, *The European Union as a Supranational Federation: A Conceptual Attempt in the Light of the Amsterdam Treaty*, 6 Columbia Journal of European Law 27 (2000).

unanimity, protects the structure of the multiple separation of powers, vertically (between Brussels and the Member States) and horizontally (within the latter), whereas this is not the case in the non-compound democracies of the EU Member States. In simple democracies, in fact, it is possible to change the rules of the game through a parliamentary majority, although in some countries it needs to be confirmed by a subsequent electoral majority expressed through a popular referendum. In compound democracies instead, any such change has to enjoy a broad basis of consensus. Hence: in the EU *all* the Member States' parliaments or electors have to agree on the change; in the US super-majorities need to be reached in order to approve a constitutional amendment (it has to gain the support of 2/3 of the members of the House of Representative and the Senate and, thus, of the legislatures or special conventions of 3/4 of the states), although some important constitutional changes were introduced through rulings of the Supreme Court.[26] In Switzerland any constitutional amendment, whether introduced by popular initiative or in Parliament, in order to be approved needs the double majority of both the national popular vote and a majority of cantonal popular vote.[27] Thus, what distinguishes the EU from both the US and Switzerland is the unanimity rule which pays lip service to the sovereignty of the Member States, although that sovereignty has been largely reduced and substantially reconfigured in a supra-national direction. One should observe, however, that the unanimity rule was introduced in the founding treaties of Rome (1957) when the then European Economic Community (EEC) consisted of only six countries. Probably due to the logic of path-dependency, that rule has survived in a EU of 27 Member States, making it much more troublesome to periodically adjust the rule of the games to the new realities the polity has to face.

D. The EU as a Peace Pact

If one considers that the EU is a *pact* for promoting peace through prosperity among traditionally warring states jealous of their own national identity, then it becomes possible to understand why it came to be organized in such a complex way. All compound democracies, such as the US[28] and Switzerland,[29] are based on a peace pact among previously independent neighbouring states. They are unions of states that sought to domesticate the international relations of their constitutive units, although not all unions of states have become compound democracies.[30] The EU is the outcome of inter-state treaties intended to create a supra-states polity, able to close the long era of European civil wars[31] by fostering

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[26] *See* B. Ackerman, We the People: Transformations (1998).
[27] *See* H. Kriesi & A. H. Trechsel, The Politics of Switzerland. Continuity and Change in a Consensus-Democracy (2008).
[28] *See* D. C. Hendrickson, Peace Pact. The Lost World of the American Founding (2003).
[29] *See* J. Blondel, *Il modello svizzero: un futuro per l'Europa*, 28 Rivista italiana di scienza politica 203 (1998).
[30] *See* M. Forsyth, Unions of States. The Theory and Practice of Confederation (1981).
[31] *See* T. Judt, Postwar. A History of Europe Since 1945 (2005).

the growth of a common market on a continental scale. Of course, those treaties were imposed not only by dramatic historical events, but also by wise politicians and public officials.[32] Compound democracies are generally the outcome of elite-driven processes of institution-building. Although their purpose was to create the conditions for a new pact among traditional enemies, it is interesting to note that the security side of the pact was controlled by the US (a non-European power acting as the external enforcer) through its leadership in NATO.

Thus, the European (initially, continental) states had to recognize that they had no chance to avoid wars generated by the rivalries their own nationalism produced, but by building a *novus ordo seclorum*. However in Rome 1957, contrary to Philadelphia in 1787,[33] the features and rationale of that new 'international' order were not discussed. Certainly, the founding fathers of the then EEC were aware that the traditional Westphalian system of states, with its balance-of-power logics, was the source of the permanent inter-states insecurity, thus triggering periodical attempts by one or other state to super-impose an imperial order. What we now call the EU is thus the outcome of an attempt to go, *de facto,* beyond the Westphalian solution to inter-states rivalries. In fact, if the inter-governmental side of the EU has stressed the role of the states as the 'masters' of the treaties, the supra-national side has recognized that the 'masters' need to be embedded in a larger institutional context which they cannot control unilaterally. For the first time in European history, the European nation states have tried to build an institutional order with supra-state and not only inter-state features, institutional order through peaceful means (basically through negotiation over common economic issues).

In this sense, the EU constitutes an attempt to transform the international relations of the European nation states into the internal features of a supranational polity. In fact, the peace pact could have not been guaranteed solely by an inter-states (or intergovernmental) agreement (as historical experience had amply shown). The inter-states (or intergovernmental) agreement needed to be protected by supra-states (or Community) features. Without supra-states (or Community) authorities (that is, authorities institutionally separated from the states that had created them in the first place), there was no guarantee that the partners of the inter-states (or intergovernmental) agreement would abide by their own rules. In the EU, Community features were, and are, thus necessary in order to protect the *pact* from the inter-states rivalries and instability. The premise of the peace pact consisted of trans-national cooperation on a growing number of common economic matters.[34] This cooperation has led to the progressive institutionalization of the close network of European Community institutions envisaged by the original treaties – the Council of Ministers, the European Commission, and the European Parliament – but also institutions not originally envisaged, like the European Council. In sum, in order to preclude the possibility of another internecine European war, the EU has come to organize itself in a way which could guarantee,

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[32] *See* C. Parsons, A Certain Idea of Europe (2003).
[33] *See* D. H. Deudney, *The Philadelphia System: Sovereignty, Arms Control, and Balance of Power in the American States-Union, Circa 1787-1861*, 49 International Organization 191 (1995).
[34] *See* L. N. Lindberg, The Political Dynamics of European Economic Integration (1963).

at the same time, the recognition of the nation states which constituted it in the first place and their transformation into Member States of a larger polity as a consequence of EU institutional development.

E. The Logic of a Compound Democracy

In order to function properly, a compound democracy has to be an anti-hierarchical institutional order in which separated institutions share decision-making power (or *co-decide*, to use the EU lingo). In an anti-hierarchical order the formation of a coherent political or territorial majority across all the separated institutions is difficult, unless the polity has to deal with life-or-death-issues which always tend to render political divisions simple and homogeneous. Compound democracies tend to discourage the growth of hegemonic majorities,[35] although they allow for the nesting of powerful minorities within specific institutions. Of course, reality has often differed from theory, showing that in specific areas (i.e., foreign policy in the US) one institution (the presidency) has come to be pre-eminent *vis-à-vis* other institutions (Congress). However, it has been political pre-eminence and not institutional predominance. Indeed, the unilateral decision-making style typical of two-parties parliamentary systems with strong Cabinets and *primus super pares* prime ministers is structurally impracticable in these democracies. Neither the president of the Commission, nor the six-months rotating president of the European Council could impose their will on the other actors participating in the decision-making process.

It has been the institutionalization of the structure of multiple separations of powers (between the Brussels' institutions and between them and the institutions of the Member States) which has strengthened the compound nature of the EU. It is interesting to note that in separation-of-power systems, the relation between the separated institutions has a positive-sum game character. In the case of the EU, it has been possible to increase the power of one institution (such as the Parliament) without decreasing the power of the other institutions (such as the Council or the Commission). Exactly the opposite has happened in fusion-of-power systems, where the increasing power of the government/cabinet has brought about a dramatic reduction of the power of the parliament, following a zero-sum logic. In Brussels decisions are taken and values are authoritatively allocated, but they are the outcome of a process of negotiation and deliberation taking place within the loose borders of a system of separated institutions. The EU is functioning *without a government acting as a single institution*; yet it is able to take authoritative decisions. The institutionalization of a structure of multiple separations of powers has gradually nested a powerful anti-majoritarian logic within the EU. If that was not sufficient, the unanimity procedure required for the change of the basic rules of the polity (for adopting or amending the treaties) precludes the formation of a constitutional majority able to impose its views on the minority.

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[35] *See* V. Ostrom, The Political Theory of a Compound Republic. Designing the American Experiment (1987).

Thus, the inevitable contrast of interests and views among its Member States and citizens cannot be resolved through the will of the incumbent parliamentary majority (as happens in the EU Member States), i.e. through political means. The anti-hierarchical nature of the institutional system is a necessary condition for aggregating asymmetrical states, but is also an invitation to struggle for decision-making pre-eminence. The compound democracy of the EU is structured mainly around cleavages between Member States or clusters of Member States (territorial sections),[36] rather than among economic classes (as are the majoritarian democracies) or ethnic-linguistic-religious communities (as are the consensual democracies).[37] Likewise the political development of the US has been based on sectional cleavages more than on ideological (or left-vs-right) cleavages.[38] The same economic cleavages have been recomposed within the competition between regions.[39]

With the progressive deepening of European integration (i.e. the proliferation of public policies decided in Brussels), the constitutionalization of the EU has grown increasingly more political, and increasingly less economic,[40] and thus more contentious. The institutionalization of the EU has ended up bringing in through the window the very issue which was not allowed to enter through the door in Rome in 1957 and in Paris in 1952, namely the issue of what the EU should be. In fact, since the 1990s, with the end of the Cold War and the prospect of the political reunification of the continent, the dispute on the constitutional identity of the EU came to the fore. The reference to a Charter of Rights (though not its binding recognition) in the 2000 Treaty of Nice has further stoked the debate on the constitutional nature of the EU. The dispute on the constitutional nature of the EU thus made it necessary to hold a Convention in Brussels.[41] The outcome of the Brussels Convention (2002-2003) has opened a formal constitutional process within the EU.[42] Such a constitutional process has manifested deep divisions concerning the organization that the EU should assume, the strategies that should be pursued to organize the power of the Community actors participating in

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[36]   *See* S. Bartolini, Restructuring Europe: Centre Formation, System Building, and Political Structuring Between the Nation State and the European Union (2005).

[37]   *See* A. Lijphart, Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries (1999).

[38]   *See* R. F. Bensel, Sectionalism and American Political Development: 1880-1980 (1987).

[39]   *See* A. M. Sbragia, Debt Wish. Entrepreneurial Cities, U.S. Federalism and Economic Development (1996).

[40]   *See* M. P. Maduro, *Contrapunctual Law. Europe's Constitutional Pluralism in Action?, in* N. Walker (Ed.), Sovereignty in Transition 502 (2003); *see also* N. Walker, The Idea of Constitutional Pluralism (2002).

[41]   *See* P. Norman, The Accidental Constitution. The Story of the European Convention (2003); *see also* B. De Witte (Ed.), Ten Reflections on the Constitutional Treaty for Europe (2003).

[42]   *See* N. Walker, *The EU as a Constitutional Project*, 19 The Federal Trust, online paper (2004). *See also* E. O. Eriksen, J. E. Fossum & A. J. Menéndez (Eds.), Developing a Constitution for Europe (2004); *see also* B. De Witte, *The Closest Thing to a Constitutional Conversation in Europe: The Semi-Permanent Treaty Revision Process, in* P. Beaumont, C. Lyons & N. Walker (Eds), Convergence and Divergence in European Public Law 39 (2002).

authoritative decisions, and the guarantees that should be introduced to promote individual rights and to protect social ones.[43]

The structural cleavages which were dormant during the 'passive consensus' of the long period of the material constitutionalization of the EU have emerged especially since the debate on the CT (which, in some way, was the closest approximation to a 'formal' constitution ever elaborated), and thus have accompanied the tortuous journey which has seen the transformation of the CT into a new treaty, the Lisbon Treaty, in its turn contested by the Irish voters.

F. Asymmetrically-Based Cleavage: Size Matters

Certainly, few of the cleavages or divisions that emerged during the constitutional debate of the 2000s were of a temporary nature. The position of some Member States on specific issues has changed in relation to the government of the day. However, at least three types of cleavages have proven to be of a permanent character, reflecting stable differences of views and interests among Member States, due to their different sizes, histories and political values. Each of these cleavages seem to have both centripetal and centrifugal effects, that is their development might be either compatible or incompatible with the logic of a compound democracy.

The first cleavage is the structural one between large and medium/small Member States. This conflict is an effect of the asymmetry between Member States within the EU. It has emerged regularly during the development of the EU, which started as a pact between two large countries (France and Germany) mediated by a medium size country (Italy) and three small countries (the so called group of Benelux). However, since the 1990s, as an effect of various enlargements, this division has gained relevance. One has only to think of the Nice Treaty of 2000, when medium/sized Member States (such as Spain) were able to obtain very favourable conditions in the weighing of the votes within the Council of Ministers (thus benefiting also the then future candidate state of equivalent size, such as Poland). This advantage provoked a negative reaction in large states such as France and (especially) Germany, that indeed (also on the basis of other considerations) pushed immediately for a revision of the Nice Treaty in the European Council meeting held in Laeken on 15 December 2001. The Laeken Declaration called for a convention on the constitutional future of Europe, a convention subsequently held in Brussels in 2002-2003. Inevitably, this division re-emerged during the works of that convention, with the small/medium Member States asking for an over-representation in the voting within the Council of Ministers and the larger Member States asking for a representation in the European Parliament proportional to the population.

The compromise found in the Rome European Council of October 2004, and introduced in the Lisbon Treaty, that a decision of the Council of Ministers will be effective if supported by a majority of 55 per cent of the Member States

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[43] *See* A. M. Sbragia *et al., Symposium: The EU and Its Constitution*, 39 PS: Political Science and Politics 237 (2006).

representing at least 65 per cent of the population, was subsequently challenged by the Polish government at the Berlin European Council of June 2007. In the Lisbon European Council, which formally agreed on the new or reform treaty, the Polish government successfully imposed the deferral of the introduction of this rule to November 2014 (with an extra transition period until March 2017, during which a member state can ask for a qualified majority on a specific issue if considered of national importance). This division also emerged on the issue of the Commission's composition during and after the Brussels Convention.[44] The small/medium Member States requested and obtained a number of commissioners equivalent to the number of the Member States (that is one commissioner for each member state), whereas the large Member States supported the project of a down sizing of the Commission (setting the number of the commissioners to 2/3 of the Member States). The compromise reached has settled that the number of Commissioners would be reduced, in the sense that only two out of three member-states would have the right to representation (on a rotating basis). Again, however, the introduction of this reform has been postponed to 2014.

This cleavage is inevitable in a union of (asymmetrical) states. It represents a clash between the legitimate interests of both small/medium and large Member States. If properly represented, and adopting the necessary and pragmatic compromises, it may produce a centripetal pressure within the EU. Indeed, in order to favour such centripetal pressure, the US constitution makers meeting at Philadelphia were prone to introduce those institutional devices which, although they were (and are) at odds with democratic criteria,[45] could keep such division of interests under control. One only has to think of the compromise of assigning two senators to each state regardless of its demographic size and of electing the President through electoral colleges of states which over-represent the small ones.[46] Certainly, in the case of the EU, the contrast between small/medium and large Member States has been made more complex by its economic implications. In general the large states (such as Germany, France and the UK) have been more developed and richer than the small ones. However, through the structural fund policy, introduced for compensating the economically weak states for the costs they have to pay for operating within a single market, this contrast has been tamed by a significant redistribution of resources from the large and rich Member States to the small and poor ones. Indeed, this policy was also important for attracting the small/medium size states of Eastern and Southern Europe to the EU.

However, this division has also spawned centrifugal forces. Some of the large states have pursued clearly hegemonic strategies. For example, in France,

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[44]   *See* P. Magnette & K. Nicolaidis, *Coping with the Lilliput Syndrom: Large vs. Small Member States in the European Convention*, 14 Politique Européenne 1 (2004).

[45]   *See* R. A. Dahl, How Democratic Is the American Constitution? (2001).

[46]   The American President is indirectly elected by the so called presidential electors who constitute the Electoral College of each state. The Electoral College of each state is composed of a number of ad hoc presidential electors equal to the number of representatives of that state in the House of Representatives plus the two senators each state has in the Senate. In this way, thanks to the Senate clause, the small states have a number of presidential electors superior to what they would have according to the criteria of representation proportional to the population.

important sections of the political elites have interpreted the EU as a sort of Greater France. To them, the process of integration could present an opportunity for promoting the French role on a larger scale. At the same time, some of the small states have manifested an opposition to the integration process that was so persistent that it could not only be explained by the fear of being overwhelmed by the large states in specific decisions. For example, Denmark, the Czech Republic and thus Ireland in the 2008 referendum have advanced reiterated claims for preserving the national sovereignty of the 'small native land' which is at odds with the requirements of a supranational union of states.

G. Historically-Based Cleavage: Identity Matters

This brings us to the second structural division, which has its origin in the traditional one between the countries of western continental Europe and the countries of northern insular Europe. This cleavage has for years accompanied the process of European integration, in particular since 1973 when the UK, Denmark and Ireland entered the EU.[47] It is a division which reflects the different historical experiences of the 'islands' and the 'continent' in the formation of the nation state and its international extensions. Indeed, since its entrance into the EU, the UK has come to head a coalition of EU Member States that view integration primarily as a process of building a common market. At issue for these Member States is the formation of a market regime, not of a political regime. Indeed, these countries have regarded the deepening of the integration process as a threat to their national sovereignty to be countered by pressing for further enlargement.[48] In any case, not only is the EU, since the 1960s, more than an economic regional organization (such as the ASEAN, the APEC, the MERCOSUR or the NAFTA), but it is interesting to note that the UK has also been one of the Member States more respectful of EU regulations and directives.

Nevertheless, in these countries, the defence of sovereignty springs from the distinct historical phenomenon of democratic nationalism: it is nationalism which has enabled them (especially the UK) to preserve democracy.[49] The UK, Ireland, Denmark and Sweden have obtained regular opt-outs from parts of the treaties or from recognizing the jurisdiction of the EU concerning specific social and economic rights. In particular, in exchange for signing the Lisbon Treaty, the UK government has obtained the possibility to opt-out from adopting even the Charter of Fundamental Rights and together with the Irish government it has also opted out from adopting the article on qualified majority voting in the sector of Police and Judicial Co-operation in criminal matters. That notwithstanding, it is evident that these concessions have not reduced these countries' fears of seeing their national prerogatives challenged by Brussels' institutions and officials.

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[47] *See* M. Gilbert, Surpassing Realism: The Politics of European Integration Since 1945 (2003).
[48] *See* A. Geddes, The European Union and British Politics (2004).
[49] *See* N. D. MacCormick, *Liberalism, Nationalism and Post-Sovereign State, in* R. Bellamy & D. Castiglione (Eds.), Constitutionalism in Transformation: European and Theoretical Perspective 141 (1996).

This group of so-called traditional Euro-skeptics was joined by some new East European Member States, even before the enlargements of the 2000s. In particular, the nationalistic governments of some new Member States of the EU (such as the Polish government of the period 2005-2007 and the Czech government that emerged from the parliamentary elections of 2007) have been engaged in defending their regained national sovereignty after almost half a century of enforced Soviet domination. Also for these Member States, the EU has to be (or it has to return to being) mainly a common market regime, through which they can remedy their economic backwardness without constraints on their regained political sovereignty. However, significant differences have emerged within this group of Member States. Some of them, in fact, like the UK, accept a European regulatory framework, while others, such as the Czech Republic, seem to distrust even this. One might argue that the UK holds a confederal position which recognizes the importance, of course in the first pillar of the common market, of the Community institutions and rules (and especially of the *acquis communitaire*) for promoting a single market. In the case of the Czech Republic, one might argue that the position held by the incumbent President of the Republic seems more coherent with a customs union view of the EU. Indeed, in some of the new East European states, the spread of Community rules is sometimes perceived as an imperial policy pursued by the West.[50]

The other side of the division has been represented by the large majority of European continental Member States. Indeed, their historical experience was very different from that of the 'islands'. In the case of many continental states, nationalism was historically the force which erased democracy, owing to a set of cultural and ecological factors. The development of the democratic state has encountered much more unfavourable conditions in the land-bound European countries than it has in the sea-bound ones.[51] In the former, nationalism has been frequently anti-democratic,[52] bending to (or sustaining) the centralist ambitions of dominant authoritarian groups. Inevitably, for the EU Member States that have inherited this historical experience and memory, integration has represented the antidote to the virus of authoritarian nationalism, while those that have inherited the "island" experience view integration as a threat to their democratic identity. For this reason, many Western and Eastern countries of continental Europe have tended to interpret integration as a political rather than economic process.[53] After all, this is the core of countries which needed to sign the peace pact for closing the long era of European hot and cold wars.

However, also in these countries differences have thrived. For example, France has displayed rather ambivalent sentiments towards a politically integrated Europe.[54] It was the formidable drive of French politicians and officials (from Robert Schuman and Jean Monnet in the 1950s to Francois Mitterand and Jacques Delors in the 1980s) which has made the initiation and the progress of the

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[50] *See* J. Zielonka, Europe as Empire. The Nature of the Enlarged European Union (2006).
[51] *See* C. Tilly (Ed.), The Formation of National States in Western Europe (1975).
[52] *See* A. D. Smith, National Identity (1991).
[53] *See* G. Hendricks & A. Morgan, The Franco-German Axis in European Integration (2001).
[54] *See* A. Guyomarch, H. Machin & E. Ritchie, France in the European Union (1998).

integration of the continent possible. But it was also the formidable opposition of French leaders and public opinion that has regularly jeopardized the very same project of political integration (from the parliamentary rejection of the European Defence Community in 1954 to the 'empty chair' of Charles De Gaulle in the 1960s and the 'difficult referendum' which barely approved the Maastricht Treaty in 1992, to the fatal blow to the CT in the referendum of 2005). Such ambivalence probably reflects the peculiar development of nationalism in France, which was the condition for promoting 'the rights of the man and the citizen', but also a constraint on the liberal evolution of the country.

The division between sea-bound and land-bound Europe is also an effect of the competition between two traditional European powers, the UK and France. After all, they are the only two European countries with strong democratic credentials, with a proper military strength, with a tradition of international power (which for a long time assumed the form of colonialism and imperialism), with a permanent seat in the United Nations Security Council and with a ruling elite aware of the game to be played in global affairs. Their competition has also been based on two different interpretations of Europe's role in the Atlantic alliance. Since the end of the World War II, the UK has traditionally been in favour of a Churchillian perspective, i.e. of a Europe firmly allied with the US, with the UK playing the crucial role of bridging the two shores of the Atlantic, whereas France has rather pursued a Gaullist perspective, based on the idea that Europe should be independent from, if not competitive with, the US.[55]

It is plausible to argue that nationalism in Europe has played (and continues to play) a dividing role similar to the issue of slavery in the US. As with slavery, the defence of national sovereignty is incompatible with a supra-national compound democracy. The contrast between different national identities might be channelled in a centripetal direction if the elites of the Member States, and their public, agree on the need to operate in a larger institutional framework compatible with multiple identities. However, if national sentiments are allowed to roam unleashed, it is the very project of European integration which could be called into question. If national elites use supranational institutions and officials as scapegoats, then it is inevitable that national sentiments against Brussels will tend to emerge. In sum, such a cleavage might develop in a very centrifugal direction, unless national and supranational elites will be able to construct a convincing discourse on the necessity and features of a new European democracy.[56]

H. Politically-Based Cleavage: Democracy Matters

These structural cleavages have been overlapped by a cross-cutting territorial division of a political kind. In particular, there has arisen a contrast between those who advocate a more federal Europe and those who maintain instead that the

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[55] *See* T. Garton Ash, Free World. America, Europe, and the Surprising Future of the West (2004).
[56] *See* V. A. Schmidt, Democracy in Europe. The EU and National Polities (2006).

EU has gone too far in its federalization process.[57] The latter position emerged dramatically in the Irish 'No' against the Lisbon Treaty, which was criticized by many in the name of homeland democracy and its cultural and religious identity. But even in the French and Dutch 'No' against the CT there was the fear that the process of federalization was challenging the social cohesion of the two countries through the opening of the borders and the arrival of waves of immigrants from Eastern and Southern new Member States. Nonetheless, there is no serious elaboration of this position comparable to the Anti-Federalist papers of the post-Philadelphia convention's debate. The political criticism of a EU too advanced in its supranational development has been raised by fringe groups in European politics, such as the National Front in France or the Northern League in Italy. The criticism against the so-called 'F'-word (or Federal Europe) continues to be very common in the British press. Certainly, behind this position there is a popular uneasiness with some of the crudest side effects of integration, such as illegal immigration. However, unless one thinks to create a fortress Europe or to go back to the before World War II national barriers, it seems very unlikely to deal effectively with such side effects without stronger cooperation among EU Member States. In any case, here reside, probably, the more centrifugal forces of the European debate.

The other side of the cleavage is represented by those groups advocating a closer union in order to deal with the challenges of globalization and democratization. Only a fully 'Federal Europe' can play an important role in the global system, effectively negotiating better economic and political conditions with the other global powers, on behalf of its Member States. In particular, only an integrated Europe may protect the social model which characterizes many of its Member States. On its own, each of the EU Member States, including the larger ones, has no chance of protecting its own way of life. It is from within this rank of 'Federal Europe' supporters that traditionally the criticism on the democratic deficit of the EU has been voiced. Indeed, this criticism has been levelled for a long time against the EU by the more radical sections of public opinion.[58] The core of the criticism is unequivocal: "The fact is that Europeans cannot hold their politicians accountable for what the EU does."[59] The transformation of the EU in a parliamentary federation is thus seen as the magic formula for solving its democratic deficit.

Of course, it is true that a compound democracy has two important negative side-effects. It makes the decision-making process extremely cumbersome and it obfuscates responsibility. At the end of the day, it is impossible to answer the question of who is responsible for what in the EU. Why so? Because the diffusion of responsibility and the slowness of the decision-making process are conditions for keeping together states of different size and histories and with (often) conflicting expectations and interests. However, because many critics of the EU democratic deficit do not seem to be aware of the systemic imperatives

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[57] *See* P. Taggart, *The Domestic Politics of the 2005 French and Dutch Referendums and Their Challenge for the Study of European Integration*, 44 Journal of Common Market Studies 7 (2006).
[58] *See* D. Marquand, A Parliament for Europe (1979).
[59] *See* K. Nicolaidis, *We the Peoples of Europe* ..., 83 Foreign Affairs 97, at 98 (2004).

of a compound democracy, they have tended to see the EU through the eyes of national (parliamentary and federal) democracies. But the EU cannot become a parliamentary-federal democracy, unless both its Member States are 're-designed' in order to make them of comparable size and their histories are obliterated within a single narrative framework. Whereas in the EU Member States the parliament is the only one institution expressing popular sovereignty, in the EU sovereignty is fragmented, pooled and shared by several separated institutions. Indeed, it is this structural difference between the EU and the parliamentary systems of its Member States which has brought many to talk of an EU democratic deficit.

The EU does not have a political decision-making body (like the cabinet in parliamentary systems) which voters can judge politically,[60] because it cannot have one. Unions of states cannot support centralization of power, but only separation of powers, both vertically and horizontally, as is shown by the experience of both the US and Switzerland. Moreover, in a union of states the predominant line of division is between states rather than between parties (i.e. between left-vs-right as in the EU Member States). Indeed, in the EU, there are convergences among national parties belonging to different European political groupings and divergences within these various political groupings which cannot be related to the divisions within national party systems. The left-vs-right division may be working within the European Parliament but it cannot regulate the divisions also within the Council of Ministers or the Commission. In particular in the Council, inter-states cleavages have been more relevant than the traditional political division proper of EU Member States. However, also this political division has manifested a singular incongruence. For instance, in the French referendum on the CT of 2005, supporters of a 'Federal Europe' voted 'No' because the treaty was not sufficiently democratic, thus joining hands with the opposite critics of the CT who considered it to be too much advanced in the federal direction.

In conclusion, these various divisions are only indicators of the constitutional divisions existing within the EU. In fact, in the Northern 'islands' as well in the Eastern Member States there are positions in favour of greater political integration, just as in the Member States of Western continental Europe there are influential groups pushing only for economic integration. Nevertheless, these cleavages express relatively stable divisions within the EU on its constitutional future and each of them might generate either centripetal or centrifugal effects.

I. Conclusions

The institutionalization of the EU as a compound democracy where more and more decisions are taken at the supranational level has triggered, since the 1990s, a debate on the constitutional nature of the polity. What was swept under the carpet in Rome in 1957, has come to the surface after decades of passive consensus on the integration process. As a result, divisions on what the EU should be and how it should be organized have finally emerged. Here three kinds of divisions were

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[60] *See* B. Kohler-Koch, *"Framing". The Bottleneck of Constructing Legitimate Institutions*, 7 Journal of European Public Policy 513 (2000).

discussed, the first motivated by the different size of the EU Member States, the second by their different historical relation with nationalism, and the third by different expectations concerning the EU. Each of them may have both centripetal and centrifugal implications, in the sense that each of them might turn out to be compatible or incompatible with the logic of a compound democracy. Other compound democracies have experienced a similar ambivalence. In the case of the US it was a bloody Civil War which resolved that ambivalence. In particular, after that war, the constitution came to be recognized as the basis for managing the subsequent conflicts. Once settled the question of the preservation of a indivisible union, the US constitution has provided the normative (and semantic) basis for representing the different interests and views of its Member States and citizens. Of course, the ambivalence on the nature of the EU cannot be resolved through force. However, in particular the Irish 'No' seems to indicate that the ambiguities surrounding the EU have to be faced, unless the EU is to remain in a permanent condition of stalemate. A stalemate motivated by the fact that it is impossible to return to the pre-1960s EEC and it is difficult to move in the direction of a formally constitutionalized supranational democracy.

In order to resolve the stalemate, two options seem available. The first one concerns the possibility that if the 'No' to the Lisbon Treaty will remain confined to Ireland, the rigid rule of unanimity might be substituted *de facto* with the more pragmatic one of the quasi-unanimity for approving it (thus waiting for Ireland to find a way for going back on board). In this case, the EU will remain the only organization in town, although the pragmatism used for the implementation of the Lisbon Treaty would be checked by an extension of the principle of opting-out for those Member States unwilling to participate in specific policies. One might argue that this option would make the EU more a *compound polity* than a compound democracy. The second option, on the contrary, would move in the direction of recognizing the existence of 'two Europes'. If the 'No' to the Lisbon Treaty will be shared by other countries, and considering that some of the 'Yes' were delivered *obtorto collo* by the national legislature, then the EU would have to face the structural nature of its internal cleavages. A group of Member States might use the Nice Treaty clause on reinforced cooperation to moving in the direction of a political integration, to the point of creating a formal constitutional entity. In this case, the EU will be the name of the economic organization of the common market of an entire continent (the EU as compound polity), whereas (just as an example) a Union of European States might be created as the political organization of those EU Member States willing to build a formally constitutionalized regime (the EU as a *compound democracy*). The two options are not incompatible, given that the first has a short-term and the second a long-term perspective. However, both would encounter serious difficulties in their implementation. The short-term project because it runs against the dictate of the Lisbon Treaty, which still requires the respect of the unanimity rule for being implemented. The long-term project because of the formidable technical and political constraints it would face in the process of extracting a new organization from the old EU.

In conclusion, after the Irish 'No' to the Lisbon Treaty and the French and Dutch 'No' to the CT, the discussion on the *finalité* of the project of European

integration can no longer be evaded.[61] However, that discussion might be more fruitful if based on the recognition of what the EU is and the implications of the constitutional divisions on what the EU should be.

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[61]   *See* N. Walker, After Finalité? The Future of the European Constitutional Idea (2007).