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The Six-Pack as a Test for the New Intergovernmentalism and Supranationalism Theories

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Abstract

The Euro crisis led to a blurring of the two main decision-making procedures in the EU: the intergovernmental and the Community method. By analyzing the Six-Pack, this paper reflects a new decision-making method - an intergovernmental-supranational method. Furthermore, it tests the premises of the new integration theories: the new intergovernmentalism and the new supranationalism.

Keywords: European crisis; community method; new intergovernmentalism; new supranationalism; Six-Pack.

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Introduction

The European Unions's (EU) ideal of an "Ever Closer Union" has been challenged since the start of the Euro crisis. Not only because the European economies did not converge, thus reflecting the weaknesses of Europe's architecture, but also due to political tensions within member states, namely a North/South divide, and the growing lack of trust from the European citizens in the Union.

The financial turmoil that hit the United States (US) and Europe in 2007 soon exposed the lack of appropriate firewalls that could prevent shock absorption and contagion among Euro area member states. However, only the trigger of a potential Greek default on its sovereign debt in early 2010 led to a consensus among national governments on the need to reform EU's economic governance and reaffirm governments' commitments to the Stability and Growth Pact.

Hence, the EU responses to the Euro crisis and a possible disintegration of the Euro area were driven by two main goals: the strengthening of the EU's ability to prevent future crisis, and the creation of crisis management tools. In fact, since 2010 the EU has embarked

on a number of different responses to the crisis: (1) the implementation of crisis management tools to ensure financial stabilization: the temporary European Financial Stability Facility (EFSF) and the European Stability Mechanism Treaty (ESM); (2) the implementation of fiscal policies under the Stability and Growth Pact to strengthen economic governance and to ensure budgetary discipline – the so-called Six-Pack, the Two-Pack, and The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (dubbed the Fiscal Compact); (3) the implementation of structural reforms – Euro Plus Pact – and (4) a banking union with supranational banking supervision - the Single Supervisory Mechanism (SSM) – and a banking recovery and resolution mechanism – the Single Resolution Mechanism (SRM) – towards an integrated financial framework.

Within this paper contemporary integration is viewed as a highly dynamic decision-making process leading to the building of new institutions and/or the reinforcement of new ones. Therefore, it is argued that the far-reaching consolidation of the Economic and Monetary Union has led to a supranational-intergovernmental integration. This dual perspective is the result of the following observations: (i) while some of the responses found within intergovernmental agreements (e.g. the European Stability Mechanism and the Fiscal Compact) empowered supranational institutions such as the European Commission and the European Central Bank (ii) other responses, found under the Community method (e.g. the Six-Pack and the Two-Pack), saw its legislative processes being damaged by the role of the European Council acting as an agenda-setter, and by the constant interference of the French-German leaders. The activism of the member states under the Community method reflects the complementarity of the Community and the intergovernmental governance methods.

The Maastricht Treaty (1992), with its pillar structure and the reassertion of the European Council's role, formalized these two different logics of decision-making: an intergovernmental, and a supranational, respectively, typically framed by the Community method (Fabbrini 2012). While the first pillar envisaged uncontroversial economic and technical issues like the single market program, sensitive areas such as foreign policy, security, and justice, the second and third pillars would remain within the more traditional intergovernmental framework, which meant allowing cooperation to develop outside the control of supranational institutions. The pillar structure implied a departure from the classical Community method, which is characterized by the sole right of the Commission to initiate legislation, the co-decision power between the Council and the European Parliament, and the use of qualified majority voting in the Council. On the other hand, as the intergovernmental method already implies voting by unanimity, the European Parliament's role is limited to that of being kept informed or consulted. Finally, the right to initiate legislation is shared with the Commission. In fact, the Commission lost its traditional monopoly over policy initiation in the second and third pillars and member states were given the right to make formal proposals to the Commission for the first time. As such, the Community method ceased to be the default method of decision-making and the European Commission lost substantial ground.

Drawing on the theories of the new intergovernmentalism and new supranationalism, complemented by new institutionalism approaches, this paper focuses on an empirical case study – the Six-Pack. Although its adoption has been claimed as a return to the Community method, in a policy area

strongly characterized by intergovernmental cooperation, it embodies the new “intergovernmental-supranational” decision-making method in the EU. In fact, the Six-Pack typifies the interaction of rules-based and coordination-based governance in the form of a hybrid process, which evidences the current institutional dynamics of EU rule-making in the economic realm as well as the resilience of the Community method to adapt to new forms and instruments of EU governance.

The relevance of the Six-Pack analysis arises from two main factors: not only was the legislative package adopted in 2011 considered to be “the most comprehensive reinforcement of economic governance in the EU and the Euro area since the launch of the [EMU]”,¹ but it was also the first time that the European Parliament had the opportunity to legislate on the definition of economic governance, given that the Lisbon Treaty proclaimed codecision as the Ordinary Legislative Procedure extending its application to a wider range of policies, namely to economic policy coordination, thus formally strengthening the community method. While some authors have been focusing on the supranational/intergovernmental complementarities (Schout and Wolff 2012), others have been analyzing the paradox of integration without supranationalisation (Bickerton et al. 2015; Fabbrini and Puetter 2016). While Ioannou et al. (2015) cover different theoretical approaches to the crisis, the new intergovernmentalism approaches can be found in Fabbrini (2016), Puetter (2016), and Thaler (2016), whereas the new supranationalism can be found in Bauer and Becker (2014) and Dehousse (2016). Finally, an empirical case on the Six-Pack has been analysed by Bressanelli and Chelotti (2016). Although having some similarities with the latter, the novelty of this paper lies in the fact that the Six-Pack empirical analysis tests not only the supranational-intergovernmental dichotomy in terms of the two decision-making processes, but also the arguments advanced by the new intergovernmentalism and supranationalism approaches.

The structure of this paper is the following: the next section reviews traditional and contemporary integration approaches. Secondly, an overview of the Euro crisis responses is presented. Thirdly, before conclusions, the Six-Pack case is presented. The analysis is based on official documents of the institutions and on previous interviews made by the author with key actors directly involved in the Six-Pack legislative process.

Traditional and contemporary integration approaches

In the late 1960s European integration theories aimed to explain why integration happened in Europe and who the main actors of the process were. Two theories stood out: neofunctionalism and intergovernmentalism. The dependent variable of these theories was integration itself and the debate was about “more or less integration” with the dichotomy between the supranational and the national level.

Developed in the late 1950s and 1960s, neofunctionalism’s main concern was the process of integration and its central focus was the relationship between economic and political integration, based on the logic of the “spillover effect” (Haas 1968). From an intergovernmentalist perspective, the

1 European Commission. “Press Release IP/10/1199, 29 September 2010” last modified February 19, 2018. http://europa.eu/rapid/press-release_IP-10-1199_en.htm?locale=en

European Community was essentially a forum for interstate bargaining, with the member states deciding on the integration path (Hoffmann 1966). Nevertheless, and according to Moravcsik's (1993) liberal intergovernmentalism view, it might be in the states' interests to pool their sovereignty and delegate certain powers to the European institutions, like the European Court of Justice and the European Commission so as to enable these institutions to work more effectively and give them greater credibility.

Neofunctionalist demands associating integration with transfers of competences to supranational institutions were put into question in the post-Maastricht period. Since then, member states' support for the European project has been accompanied by their reluctance towards further transfers of decision-making power to the supranational level (Bickerton et al. 2015, Fabbrini and Puetter 2016). From the observation of the post-Maastricht period and more recently the Euro crisis, two revivalist approaches of the classical intergovernmentalist and neofunctionalist theories stand out. As such, a new type of working method – the “new intergovernmentalism” has emerged with the European Council acting as “the new centre of political gravity” in EU decision-making, exercising its leadership role through consensus-seeking deliberation as well as the creation of the *novo* regulatory bodies (Bickerton et al. 2015, Puetter 2016). The main argument of the new intergovernmentalism is that deliberation and consensus found in the intergovernmental bodies (i.e. the European Council, the Council and the Eurogroup) have become the guiding principles for EU intergovernmental policy coordination.

Puetter (2012) refers to this new form of decision-making and institutional change within the European Council and the Council as “deliberative intergovernmentalism”. In the new areas of EU activity brought about by the pillar structure, instead of legislative decision-making, there has been a top level intergovernmental policy-coordination on a regular basis. As Puetter (2016, 602) notes, “the Euro crisis has been a major test for the new intergovernmentalism”, also adding a new activism for the European Council in legislative matters. Another variation of the new intergovernmentalism is presented by Fabbrini – the union Intergovernmentalism. The reasoning is that member states gathering in the European Council and the Council have, since Maastricht, been able to “control a regularised and institutionalised decision-making process” (Fabbrini 2016, 587). The new intergovernmentalism replaced the old intergovernmentalism as member states' bargaining, in line with the old concept, focused more on protecting national sovereignty and domestic economic matters (Schmidt 2016). New supranationalists accept the view that the Commission lost part of its entrepreneurial room but argue that even in the *novo* bodies created by member states after the Euro crisis and outside the EU framework, supranational institutions ended up with their powers reinforced. In fact, the Commission enjoys a strong political grip to deliver opinions and recommendations far beyond public finances, as in the new policy field of financial stability support (Bauer and Becker 2014; Dehousse 2016).

The Euro crisis responses

Regarding the neofunctionalist view of supranational institutions' role in fostering integration, the Commission seems to have had a rather discrete role, notwithstanding the fact that the “economic part

of EMU” is a rather intergovernmental policy area. At the onset of the crisis, the rescue mechanisms that were created to help countries in financial distress and threatened by default (EFSF in 2010 and the ESM-European Stability Mechanism in 2012) were intergovernmental agreements leaving little room for the Commission to have a say. The fact is that, in exchange for the solidarity shown by the creditor countries (contributing the biggest percentages to the ESM paid-in capital) the tightening of economic and fiscal policy surveillance was imposed to the southern debtor countries. As such, in January 2013 three governance reform instruments were put in place: the Six-Pack, the Two-Pack and the Fiscal Compact. It is worth noticing that under the pressure of Germany, financial support from the ESM was made conditional on the ratification of the Fiscal Compact. Other reasons may explain the sidelined Commission’s role. The limited EU budget, the urgency and the novelty that surrounded the crisis, and the Commission’s lack of experience in the field of financial stability support may explain why the Commission refrained from presenting bold integration proposals. Also, an initial institutional response to the crisis through the Community method could have meant a too prolonged response for such an urgent immediate action.

Although the EU’s responses to the crisis did not add any new competences to the Commission, the new instruments of economic governance allowed the supranational institution to have a stronger role in macroeconomic governance, namely through the Six-Pack, which has confirmed and strengthened its role in budgetary and economic policy coordination. Also, and within the European Stability Mechanism, the Commission’s prominent role in the “Troika” has expanded its activity to a new field – financial stability support – by way of proposing decisions on granting financial assistance, as well as negotiating and monitoring agreements with member states involved in the financial rescues.

Opinions diverge on whether the Euro crisis led to further supranationalism or not. While Schimmelfennig (2014, 323) considers that there was “a major leap of supranational and technocratic integration in fiscal and financial policy”, Bickerton et al. (2015) have a different perspective. They consider that in the two key intergovernmental treaties – the Fiscal Treaty and the European Stability Mechanism Treaty – only the former empowered the European Commission to a certain degree. As regards the banking union, the authors consider that only the ECB has been empowered with new competences. In fact, proponents of the new intergovernmentalism argue that the Council acting as co-legislator has avoided the transfer of new powers to the Commission, creating *de novo* EU bodies such as the ESM, which they can control.

Schimmelfennig (2014, 323) notes that the Euro crisis has produced all ingredients for a “postfunctionalist moment” in European integration. In fact, developments at the EU level have had profound impacts on national governments: overthrow of governments, popular unrest, and the rise of Euro scepticism. However, throughout the crisis, European citizens had increasingly been identifying the Heads of State and Government as their legitimate representatives, as media cover brought an increased focus on European Council meetings, giving them a collective responsibility to decide upon the best instruments to tackle the crisis. As such, it may be argued that the active European Council’s role in the crisis management was a consequence of the very nature of the crisis, which required political leadership rather than a technocratic approach. There was no alternative to the European Council taking the lead

of the initial responses, in terms of status and authority, as the policy instruments to tackle the crisis needed coordination at the national level and the endorsement of EU decisions by national parliaments.

Since the beginning of the sovereign debt crisis in 2010 the main claim among observers was that the crisis greatly undermined the institutional balance inside the EU, bringing about a “new era of intergovernmentalism” powered by the multiplication of French and German bilateral initiatives. As Crespy and Schmidt (2012, 352) note, “Franco-German initiatives appear to have remained the basic dynamic of integration”.

Since the early days of European monetary integration, France and Germany have always played a decisive part in defining the institutional framework of the EU, in spite of showing divergent assessments and approaches. Similar divergences can be found not only in the interpretation of the sovereign debt crisis, - which in the German’s view was more a consequence of fiscal profligacy than the underlying problems of competitiveness and macro-economic imbalances pointed out by the French, – but also in relation to the manner in which to address EU’s responses to the crisis. While Germany supported a rules-based approach as a continuation of the German ordoliberal tradition, France preferred a policy discretion approach by prescribing neo-keynesian stimulus, with the European Council and Euro summits acting as the economic government of the euro area; while the German discourse to justify bailouts to Greece centred on “stability”, the French would mention “solidarity”. However, at different junctures, German preferences had to “adapt” to French demands, so that both countries could set the agenda. Despite Germany’s key role, it ended up following some French demands and policy solutions (Crespy and Schmidt 2012).

Schild (2013) refers to the Franco-German bilateralism as a form of “compromises by proxy”, in the sense that the urgency of the crisis led to the acceptance of these compromises by the other EU member states, although they did not reflect converging preferences. Indeed, and according to Schimmelfennig (2014), actors’ preferences have been shaped by structural financial and economic positions. While the solvent countries led by Germany limited the expansion of rescue mechanisms, opposed collective liability schemes, and pushed for fiscal discipline and sanctions, the indebted countries, led by France, pushed for the expansion of rescue funds, the issuing of Euro bonds, and more Keynesian instruments to promote economic growth instead of austerity policies. The economic interdependencies between Euro area member states were such that maintaining the status quo could have meant the collapse of the Euro. As such, member state divergences were overlapped by a path dependency translated as a common preference – the survival of the Euro and the Euro zone.

The Six-Pack case

Although the Delors report on Economic and Monetary Union (EMU) adopted in 1989 stressed the need for a balance to be struck between the monetary and economic fields, the Maastricht Treaty (1992) embodied a political choice not to create a fully-fledged economic union to complement the monetary union, thus creating a fundamental asymmetry in the structure of the institutional

framework: a centralized monetary pillar governed by the European Central Bank and decentralized economic policies which remained a competence of individual governments. As such, member states would share a common currency but not a common economic policy. During the mid-1990s, fearing that fiscal discipline could be relaxed by member states after the entry into the euro area and that the excessive debt procedure would not suffice to ensure such discipline, German finance minister Theo Waigel proposed the establishment of a “Stability Pact for Europe”, by which member states pledged to comply with rules governing fiscal discipline, going further than the existing thresholds for budget deficits enshrined in the Maastricht Treaty (i.e. a three per cent threshold for the deficit-to-GDP ratio and a 60 per cent threshold for the debt-to-GDP ratio).

With the establishment of the SGP in 1997,² although fiscal policy remained a competence of member states, they were subject to constraints embodied in the Pact. While the main decision-making procedures remained in the Council, the Commission’s role was mainly a technical one, defined as the monitoring the economic performance of member states. The Pact comprised of a preventive and a corrective arm. Before the crisis, the preventive arm functioned primarily through soft law processes (peer and political pressures) and although the corrective arm envisaged sanctions to be imposed on the member states that had breached the Pact’s terms, this never became the case. Economic policy coordination was also a soft law process enshrined in the Broad Economic Policy Guidelines (BEPGs). Notwithstanding, the fact was that the EMU’s governance proved weak in the face of a crisis that challenged to turn obsolete the all Euro project.

Comprising a total of six regulations and one directive, the “Six-Pack” adopted in 2011 to strengthen the Union’s economic governance was the most visible use of the Community method as a response to the Euro crisis. More than the heightening of rules-based governance, its most distinctive feature was the institutionalisation of the processes of economic policy coordination and the increased surveillance and monitoring powers attributed to the Commission.

The Commission as agenda-setter

The Community method has been questioned several times since the outbreak of the sovereign debt crisis, along with the perceived weak role of the Commission, which contrasts one of the premises of neofunctionalism which saw this supranational institution as a political entrepreneur. This section investigates the alleged limitations of the Commission’s role as agenda setter in the pre-legislative stage of the Six-Pack, namely at the time of the setting up of the “Van Rompuy Task Force”. In fact, the Commission’s monopoly on legislative initiative, - one of the central elements of the Community method, - was constrained both by the intergovernmental character of the Economic and Monetary Union governance, but also by the political nature of the decision-making process.

² The Stability and Growth Pact, based on two Council Regulations (CR1466/97 and CR 1467/97), was enshrined by the Amsterdam Treaty of 1997, and was later institutionalized by the Lisbon Treaty, in Protocol 12.

The Commission's role as political initiator in the integration process has since 2010 been largely taken over by the European Council or just a few key governments, leaving the Commission to focus on its subordinate, albeit important technical role. In fact, the European Council started including policy "requests" for the Commission in its European Council conclusions, a practice that was never formalized in the Treaty and led to a broad consensus that the European Council was taking the role of an informal pre-initiator of legislation.

The most comprehensive case refers to the Six-Pack. Although these proposals on economic reform were decided upon under the Community method, the Commission's formal role as agenda setter was shared with a Task Force with representatives of the member states, the rotating Presidency and the European Central Bank and presided by the President of the European Council, Van Rompuy. While this Task Force was set up and held six meetings between May 21 and September 27, 2010, the Commission presented two communications on May³ 12 and June 30, 2010⁴ addressing the same need to reinforce economic policy coordination. In an attempt to regain its position as agenda setter, the Commission presented the Six-Pack proposals in September 2010, a month before the Task Force's report was released. Although the latter was broader in scope, as it included a proposal for the creation of a permanent stability mechanism, both proposals were very similar regarding fiscal policy and macroeconomic surveillance.⁵ Although the Task Force was set-up with cooperation from the Commission, its proposals seem to have served as a rough draft for the Van Rompuy Task Force's proposals.

A rational choice approach is useful in order to analyse the pre-legislative phase of the Six-Pack through a principal-agent perspective as a contract where multiple principals - member states acting in the European Council - delegate functions to their agents - the Commission and the Task Force - to propose economic and budgetary reforms. The set-up of the Task Force, besides removing the information asymmetry (in favour of the Commission) should be understood as a "police patrol" ensuring that the other agent does not shirk, which means that it does not deviate from the principal's preferences.

In relation to processes of agenda setting it may be difficult to assert which actor influenced the original Commission's proposal. As Princen (2007) argues, it is generally impossible to identify one ultimate source of a proposal, as the Commission cannot ignore member states' preferences. In fact, some of the key elements envisaged both in the Task Force report and in the Commission's proposals were longstanding calls of the latter and perceived as necessary by member states. Nonetheless, the European Council did not limit itself to pointing out economic governance reform general guidelines;

3 European Commission. "IP/10/561, Reinforcing Economic Policy Coordination, 12 May 2010." last modified September 26, 2013. http://ec.europa.eu/economy_finance/articles/euro/2010-05-12-reinforcing-economic-policy-coordination_en.htm

4 European Commission. "IP/10/859, Enhancing Economic Policy Coordination for Stability, Growth and Jobs-Tools for stronger EU Economic Governance, 30 June 2010." last modified September 26, 2013. http://ec.europa.eu/economy_finance/articles/euro/2010-06-30-enhancing_economic_policy_coordination_en.htm

5 The proposals of the Van Rompuy Task Force and the Commission contained many of the same elements such as: the concept of strengthening the SGP by operationalizing the debt criterion and giving the sanctioning process more automaticity. Also measures relating to macroeconomic surveillance, incorporating European fiscal rules into national legislation, and the creation of a European semester, appeared in both reports.

rather, it was able to offer detailed guidance through the set-up of the Task Force. Furthermore, the constant intervention of member states' representatives, namely from Germany and France, does not exactly help to conform the image of an impartial Commission seeking the Union's common good. Already on May 6, 2010 (one day before the loan granted to Greece, the first Task Force's meeting, and the first Commission's communication) a joint letter from Chancellor Merkel and President Sarkozy to the Presidents of the European Council and the European Commission⁶ paved the way to the reinforcement of the Stability and Growth Pact and the establishment of a "robust framework for crisis resolution". In other words, fiscal discipline was demanded in exchange for solidarity. Although at the time of presenting its proposals the Commission wanted to emphasize the mutual cooperation with the Task Force, referring to "[...] a constructive relationship"⁷ (Chang 2013, 256), the activism of member states representatives, in Chang's words, meant a "re-intergovernmentalisation of policy" and "confirmed the weakness of the Community method".

Different actors involved in the Six-Pack negotiations had different readings of this attempt by the Task Force to set the legislative agenda: while some of the interviewees noted that "the Commission participated actively and constructively in the Von Rompuy Task Force" (interview A), others had a different perception of the fact, "all this scheme was built by the Council, the European Commission just executed the plan and acted as a mere secretariat" (interview B). Either being a competitive or a cooperative work, the Task Force meetings – functioning as debate forums – were a clear way to identify (although diverging) member state's preferences.

Two institutional perspectives diverge regarding this cooperative/competing relationship. As explained by one of the interviewed, the work developed by the Commission in cooperation with the Task Force was "a very excellent forum to see among the various ideas that were around, which ones had the possibility of going forward and which ones would never go forward [...] there is an interest in the Commission side for this work in team, that the Council tests in an informal manner, with the member states saying what the red lines are, which proposals can go forward" (interview C). Another reading of the facts is much more critical of the Commission: "that was completely subordinated to the Council [...] first the Commission asks theoretically to the Council, asks to Mr Schäuble and Chancellor Merkel if they agree with a specific issue, then the Commission takes some soundings to more or less disguise the obvious: if they agree, the Commission makes a proposal [...] the Commission's proposals are a Task Force's assignment work, it is completely unacceptable" (interview B).

In the end, the Six-Pack proposals presented by the Commission in September 2010 seem to have not been significantly altered by the set-up of the Task Force, as most of the measures overlapped. This policy process was singular in that it represented the first important platform for the newly elected President of the European Council. As president of the Task Force, Van

6 France in the United Kingdom. "Joint letter from Nicolas Sarkozy, President of the Republic, and Angela Merkel, Chancellor of Germany, to Herman Van Rompuy, President of the European Council". Last modified August 24, 2011 <https://uk.ambafrance.org/French-and-German-leaders-defend>

7 European Commission. *Proposal for a regulation of the European parliament and of the council: in the effective enforcement of budgetary surveillance in the euro area*. Brussels: EC, 2010. http://ec.europa.eu/economy_finance/articles/eu_economic_situation/pdf/com2010_524en.pdf

Rompuy had “an opportunity in the new landscape created by the crisis to demonstrate what European Council-centred government really means” (Ludlow 2010, 58).

Although the premises of the new intergovernmentalism seem to hold, given the centrality of the European Council, the new supranationalism’s view of the Commission as a policy entrepreneur cannot be completely disregarded as the need to reinforce economic policy coordination was already highlighted on several occasions prior to the Euro crisis. In 2002, the Barcelona European Council’s summit invited the Commission to present proposals in order to reinforce the EMU’s governance. The proposals then presented by the Commission already pointed to, among others, the operationalization of the debt criterion and the issuance of early warnings by the Commission directly to member states without recourse to a Council vote. The Council broadly welcomed the Commission’s communication as a valuable contribution to the debate on strengthening of budgetary policy co-ordination, but the key policy architecture on fiscal coordination remained unchanged. In fact, mainly due to German resistance “the measures proposed by the Commission at that time did not correspond to the member states’ preparedness to change the *status quo*” (interview D). Later, in 2004, a new proposal by the Commission referred to the need of a “European Semester” and reaffirmed, among others, the need to place more focus on debt developments.

In sum, it may be concluded that the Commission acted as a technical agenda setter, since the Commission’s formal agenda setting was shared with the European Council and constrained by the setting-up of the Van Rompuy Task Force. However, in the end, the Commission was able to successfully pursue its general policy priorities already claimed in 2002 and 2004. The Six-Pack agenda-setting phase proves that the new description made by Fabbrini and Puetter (2016, 481) of the Community method as “the mechanism through which collective decision-making at the EU-level takes the form of legislative decision-making” is indeed correct, thus suggesting a strong interconnection between the two main methods of decision-making.

In the next section, the formal policy-making phase of the Six-Pack, under the codecision procedure, is analysed. The leading role does not pertain to the Commission, but to the Council and the European Parliament. The latter, through the almost two thousand amendments made to the Commission’s original proposals and the agreements bargained with the Council in the dialogues, was able to significantly increase the Commission’s powers. The perceived accommodation of the Commission to the red-herrings defined by the member states, confirms one of the premises of the new intergovernmentalism, in that on more than one occasion the Commission has been a complicit of the European Council (Bickerton et al. 2015).

The Six-Pack legislative process

Although the Task Force may have limited the Commission’s ambitions in its proposals of the Six-Pack legislation, the set-up of the Task Force influenced the Six-Pack policy process more than its outcomes as the European Parliament was able to go further than the proposals tabled

by the European Commission with respect to greater discipline, transparency, and democracy, leading to the strengthening of the Community method.

Member states preferences were often expressed through a “communicative” discourse, in speeches or interviews to the press, which “simultaneously signal(ed) their positions to fellow policymakers” (Crespy and Schmidt 2012, 357). By contrast, the amendments included in the Rapporteur’s files, clearly displayed the Parliament’s political willingness to influence policy outcomes and strengthen the original Commission’s proposals presented in September 2010. On November 16, 2011 the European Parliament and the Council adopted the Six-Pack almost fourteen months after the Commission submitted its proposals simultaneously to the two institutions. Although the Commission and member states gathered in Euro area summits had urged for a rapid adoption of the Six-Pack proposals in order to send markets a clear sign of the EU commitment to strengthen budgetary discipline, enforce the Stability and Growth Pact rules, and address the weaknesses that had contributed to the crisis, the extended debate highlighted the distinct preferences among member states.

Within the package of the six legislative proposals, four of them dealt with fiscal issues including a wide-ranging reform of the Stability and Growth Pact. They were aimed at enhancing the surveillance of fiscal policies, introducing provisions on national fiscal frameworks, and applying enforcement measures for non-compliant member states more consistently and at an earlier stage. The remaining two proposals targeted macroeconomic imbalances within the EU. They were aimed at broadening the surveillance of economic policies, introducing the possibility of fines on member states found to be in “excess imbalance position”.

Approved at first reading under the codecision procedure, most of the Six-Pack informal negotiations were held in “trialogues”.⁸ The purpose of the *ad-hoc*, tripartite meetings, held behind closed doors, is to reach an early agreement on a package of amendments acceptable to the Council and the European Parliament. It is not the purpose of this paper to present a comprehensive analysis of the Six-Pack (Valle-Flor 2015). However, two different moments and contentious issues should be highlighted. Their importance stems from the fact that, even in face of the pressure exercised by the European Council to conclude the package before summer, these few but decisive issues remained open throughout the legislative process, therefore postponing the vote in plenary from June to September 2011.

On April 19, 2011 the rapporteurs’ amendments were adopted by the Econ Committee. The Commission was given stronger powers than those envisioned in its original drafts. In fact, the Commission’s role was reinforced in all phases of the Six-Pack legislative procedures, being at a policing par with the Council in different surveillance steps, which were foreseen to be performed only by the Council in the Commission’s proposals. Between April 20 and September 19 2011, nearly 20 trialogues

⁸ Based on the Commission’s proposals, the European Parliament and the Council enter into informal negotiations or “trialogues” over a legislative outcome. If a compromise is reached, the Parliament includes the Council’s positions in its own amendments. These amendments are voted at first reading requiring a simple majority of votes of Members of Parliament attending plenary. Afterwards, the Council, using qualified majority voting, accepts the Commission proposal as amended by the Parliament, ending the legislative process. In trialogues the actors representing the Council are the deputy permanent representative (COREPER) and the working group chairman of the rotating Presidency. Representing the European Parliament is the Rapporteur, the chairman of the relevant committee and shadow Rapporteurs from other political groups. A Director or director-general represents the Commission.

took place. The first and most contentious issue related to the scope of reverse majority voting, namely the semi-automaticity of early warnings by the Commission to the member states in the preventive arm of the Stability and Growth Pact.⁹ Reverse majority voting means that the Council can only reject recommendations or decisions taken by the Commission if the Council votes by a reverse majority, in a brief period of ten days. Moreover, if the Council does vote to reject a warning, it will need to explain its position publicly. This issue was the main bone of contention along the entire negotiation process.

It is worth noticing that the original text proposed by the Commission did not include reverse majority voting in the preventive arm of the Stability and Growth Pact, and there was a danger from the start that this procedure might be watered down by the insistence of some member states which preferred the status quo. In fact France, Italy, Spain, Portugal, and Greece soon opposed the plan for its automatic penalties as “it was clearly going to be extremely difficult if not impossible for any government to cobble together a sufficiently large coalition to block the process” (Ludlow 2010, 9). Hence, during negotiations the Council insisted that no automatic procedures should apply to the issuing of the early warning by the Commission.

Only two weeks before the adoption of the final text on September 28, 2011, southern countries led by France gave up their insistence that a warning to a country would require approval by the Council. The need to alleviate the pressure from the international markets, as well as the German insistence in budgetary discipline, may explain why the Council was permissive to accept the loss of institutional power brought about by the introduction of reverse majority voting, which, according to Begg (2011) represented a significant weakening of the Council, and a strengthening of the Commission’s position. Later in December 2011, Chancellor Merkel’s desire for more stringent fiscal discipline was found in the Fiscal Compact by introducing reverse qualified majority voting in all the key steps of the Excessive Deficit Procedure, and by eliminating the possibility that the Council could change a Commission recommendation for euro area member states, hereby “resolving” the new Six-Pack voting procedure’s weaknesses, as the Fiscal Compact extends reversed majority in the Council to steps in the Excessive Debt Procedure which the Six-Pack had not foreseen.

The second contentious issue related to the scope of the surveillance of the macroeconomic imbalances implied the need to look at surplus current account countries as well as those with deficits in their current account, when evaluating the causes of imbalances. More than a technical issue, this amendment was a political one, as the real question had to do with German current account surpluses and the lack of willingness of the country to be subjected to corrective surveillance. In fact, media cover regularly mentioned the attempts made by Germany to persuade the Commission to back down on its insistence to consider trade surpluses a macroeconomic imbalance as included in the initial Commission’s legislative proposal, and pressing for an “asymmetric” treatment of trade surpluses.

In sum, estimating the European Parliament’s bargaining success by comparing the Six-Pack outcome against that which was expected (if the Parliament had not been involved in negotiations)

⁹ The introduction of reverse majority voting to early warnings by the Commission (regulation amending the preventive arm of the Pact), represented the first step to reach a “final warning” decision, which triggers a sanctions procedure.

it may be concluded that the European Parliament did not confine itself to be a “sleeping partner”, as expected by the other legislative institutions (Interview B). The Parliament was able not only to see its main claims fulfilled, but it was also able to extract more policy concessions from the Council, in return for coming to an early agreement. This confirms some of the premises of the new institutionalism in that supranational institutions – like the European Parliament – are able to influence other actors’ preferences and alter policy outcomes.

In face of the strong divisions among Party Groups, it cannot be assumed that the Parliament’s amendments reflected the Parliament’s policy preferences, but rather the outcome of intense intra and inter-institutional search for consensus. As Puetter (2016) notes, the Six-Pack confirms the new consensus-oriented decision-making. Although the package has enlarged the scope and depth of the SGP and the BEPGs, it imported the macroeconomic and fiscal coordination, where the final say still rests within the member state representatives in the Council and the Eurogroup. Nevertheless, a greater involvement in economic governance was the Parliament’s key demand. Although the basic inter-institutional division of labour remains the same with the Council and the Commission responsible for economic surveillance, and in spite of the fact that the Parliament’s role is restricted to checking results of surveillance and correct application of legislation, the introduction of “Economic Dialogue” was an important achievement as transparency and accountability in the economic realm was increased. Not all the amendments added by the Parliament rapporteurs were part of the final texts agreed upon by the Council and the Commission. Furthermore, the two most contentious points seem not to have been fully satisfied: the semi-automatic voting in the preventive arm of the Pact was not fully achieved, and the differentiated treatment of trade surpluses was not opposed.¹⁰

Conclusions

The sovereign debt crisis in 2010 has made the process of European integration salient across the continent and has helped to revive the interest in integration theories, as a way to better understand the EU’s crisis. The EU responses to the crisis suggest that the Commission’s primary role is changing from a policy entrepreneur to a policy manager, as noted by the new supranationalism. The fact is that the crisis catalysed the European Council to the centre of decision-making and the complex system of economic governance still rests on the basis of the intergovernmental logic, with the Commission being allowed to play a technical role in monitoring member states economic performance. However, while economic governance reform led to the Commission’s agenda setting power being decreased, its political discretion in supervising and steering policy implementation has been considerably strengthened, not only as a result of the responses found under the Community method, but also of those under intergovernmental agreements.

¹⁰ The indicative thresholds for the current account balance (3 year average) are - 4% and 6%.

Either at meeting in the European Council formation, Euro area summits, or bipartite meetings led by France and Germany, member states setting the tone for the search of joint solutions are likely to hold the premises of the new intergovernmentalism view as the most powerful decision-makers. Divergent national preferences, which dominated interstate bargaining, should be framed within a common will to save the euro and the Eurozone. This endogenous preference, originating from the integration path which followed Maastricht and the construction of the Economic and Monetary Union, ultimately outweighed member states' individual national preferences.

The Six-Pack case reflects the EU's new intergovernmental-supranational decision-making method, viewed as the Commission's agenda setting power which was shared with member states' representatives, and also highlights the way the classical community method had to adapt to the present days within the specific area of economic policy. It also confirms the premises of new intergovernmentalism as member states discuss their preferences and policy alternatives in forums, hereby influencing the policy's outcomes. Nevertheless, the consensual agreement through deliberation was, in the Six-Pack case and throughout the most acute years of the crisis, based on a distorted consensus, which most of the time reflected the North/South divide.

The new supranationalism view recognizes the dismissal of the most important characteristic of the community method – the Commission's exclusive right of political initiation – but it highlights the new powers granted to the supranational institutions, even when the EU crisis responses were found out of the EU's legal framework. The flexibility later given to the Stability and Growth Pact rules¹¹ also gave the Commission more discretion and political power in its interpretation of the same rules, going against individual member states policy preferences. The Six-Pack legislative phase also highlights the way in which supranational institutions, like the European Parliament may move against the Council's preferences, leading to unintended policy outcomes. Finally, although the Community method was weakened during the management of the crisis, the concern of maintaining the "Community" institutions at the centre of the operationalization process has prevailed. As such, although an "intergovernmental drift" was observed in the crisis management, the Union's stabilization rules are still anchored in the Community method.

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¹¹ The indicative thresholds for the current account balance (3 year average) are - 4% and 6%.

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Appendix 1. List of Interviews

Interview A - 4 February 2014. Ecofin, Finance Minister

Interview B - 16 July 2014. European Parliament, Rapporteur.

Interview C - 11 February 2014. DG Ecfm, Official of the European Commission

Interview D - 2 May 2014. Former European Commissioner.