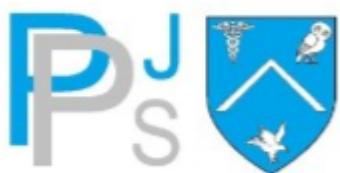


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Issue edited by Dr Przemysław Biskup (University of Warsaw)

Francesco Nicoli

University of Trento/University of Amsterdam

A Theory of Functional Legitimacy

“L’Europe se fera dans les crises et elle sera la somme des solutions apportées à ces crises”

Jean Monnet, *Memoirs*, 1978

“I am sure the euro will oblige us to introduce a new set of economic policy instruments. It is politically impossible to propose that now. But some day there will be a crisis and new instruments will be created.”

Romano Prodi, *Financial Times*, 2001

Introduction

Endless articles, books and papers have begun, in the last half-century, with one of the two previous quotes. Yet, the turn of the year 2017 may sign, for the Eurozone, the ninth consecutive year of crisis, and the Eurozone has only inched towards a comprehensive and stable solution of its disease. Nevertheless, European Integration, says the adage, “advances through crises”; and the Eurocrisis, despite the great deal of institutional activism and creativity already generated, is still far from being permanently solved. On the other hand, the majority of member-states are hesitant in undertaking the fundamental steps towards integration of “core state powers”, some of which, particularly in the field of fiscal policy, constitute a high priority for a permanent resolution of the Eurocrisis. In other words, the EMU seems trapped in its “circular illness” (Wijsman, 2016): without appropriate powers to address the crisis, the Union’s institutions lacks the means to provide either stabilization or economic stimulus at central level, fueling, in ever-growing shares of the population, a growing skepticism towards the capabilities and the usefulness of the Union (Nicoli 2016a). In turn, this lack of effectiveness undermines the people’s trust in the Union and their willingness to proceed with further European Integration, at the moment, probably, when integration is most needed. The Eurosceptic contagion, which began at the periphery of the Union with the electoral triumph of Syriza in Greece and dramatic vote to leave the EU in the United Kingdom, may reach core states like Austria, France and Germany soon enough. In fact, of all branches of political science, scholars of international integration should have been the better-prepared to deal with the Eurocrisis; the once-leading theory of European Integration, neofunctionalism, enshrined in its crisis-feedback dynamics the

very engine of supranational integration. But the golden age of neofunctionalism had long passed, and its heritage notwithstanding, the Eurocrisis surprised many scholars of European integration off guard. To some extent, that “integration advances through crises” was a classical, old adage that everybody knows but most prefer to ignore; - despite the fact that, since its inception, crisis and integration have advanced hand-in-hand (Nicoli, 2016b). The idea that integration proceeds through crises is all but new: it belongs to the functionalist integration paradigm. Functionalism constitutes a loose body of theories of supranational integration which original formulation dates back to the first works of David Mitrany in 1919. It has undergone several cycles of elaboration, from the original functionalism of Mitrany (early functionalism, as defined in this work), to the of Haas (2008, 2004, originally published in 1964 and 1958 respectively) which focuses on agents’ interests and has been largely inspired by the behavioral revolution in social sciences; to the neo-neofunctionalism of Schmitter (2002), based on the idea of cycles of crisis-induced integration; to conclude with the postfunctionalism approach of Hooghe and Marks (2009), postulating “the end of the market-honeymoon” (Hartmann and De Witte, 2014) and the entry of the masses on the scene of European policy making.

Nevertheless, neofunctional theory lacks, today, a fundamental element to explain integration in highly-politicized domains (or the lack thereof): a comprehensive theory of *functional legitimacy*. Obviously, neo-neofunctionalism, implicitly, has always relied on the concept of “indirect legitimacy” to justify support of integration (Nicoli, 2015). Neofunctionalist scholars however have largely neglected the broad question of legitimacy despite the fact that the very engine of integration, in the way they interpret

it (see section 4) is precisely the lack thereof. Still, a theory of integration cannot rely on implicit theorization, especially not in times where mobilization against Europe is in full surge. In fact, the goal of this paper is twofold: on the one hand, it aims to bring in the upfront the legitimacy theory behind the neofunctionalist integration dynamics, which is, in many ways, hidden in earlier scholarly work; on the other hand, it aims to complement it with new theoretical understanding of the mechanics of European integration.

The paper is organized as follows: section 2 deals with the key concepts of neo-neofunctionalism, largely building upon Schmitter (1970; 2002), which constitutes the fundamental paper for neo-neofunctionalism. Section 3 theorizes functional legitimacy, as it appears in the neo-neofunctional dynamics; Section 4 discusses the post-functional dynamics led by democratic deficit; and finally, Section 6 discusses the issue of legitimacy along with negative politicization. The conclusions collect the main theoretical results behind this study.

1. Schmitter's Neo-Neofunctionalism: Key Elements

Neofunctionalism, as a theory of European integration, was originally conceived by Haas (2004; 2008; originally published in 1958 and 1964 respectively) and enjoyed a tremendous success in the 1960s. However, the long stagnation period known as Eurosclerosis (which, in turn, can be considered as an example of neofunctionalism in itself: Nicoli 2016b) froze the expectations for a quick federalization of the Communities, as predicted by Haas in 1958. This predictive failure, along with other shortcomings in theorization and economic modelling, led a widespread rejection of

neofunctionalism in the 1970s, culminated with Haas' own critique of his brainchild theory (Haas, 1975). It turned out it was mainly a question of timing: the Eurosclerosis, was, at the end, nothing less than a long, unsolved crisis. When integration resumed with the 1986 Single European Act and the Treaties of Maastricht, Amsterdam and Nice, the idea that integration advances through major crises acquired new centrality. A lot had happened, however, in the meantime; as since Haas' rebuttal of his own theory (Haas, 1975) two major crises occurred; several treaties were signed; Europe moved towards monetary integration and capital liberalization. Moreover, several referenda (both within the boundaries of the now-European Union, like in France, Ireland and Denmark, or outside, like in Switzerland, or Norway) had shown that the consensus towards European integration could no longer be taken for granted; furthermore, the Maastricht decision from the Bundesverfassungsgericht, and the debate on the missing "*demos*" of the Union had brought the political discourse to challenge the political foundations of the process of integration. The idea that the Union could only be legitimised by its performance (Scharpf, 1970; 1998) was gaining ground. In this context, Schmitter (1970; 2002) revised the aging neofunctionalist theory, providing a modern version of it and endowed with a more complete, and therefore more nuanced, vision of the integration process.

Schmitter's neo-neofunctionalism is grounded in four key concepts: (i) *functional crises*; a complete version of Haas' "spillover" which I would label (ii) "*functional clock*", (iii) *functional cycles*, and (iv) *functional equilibria*."

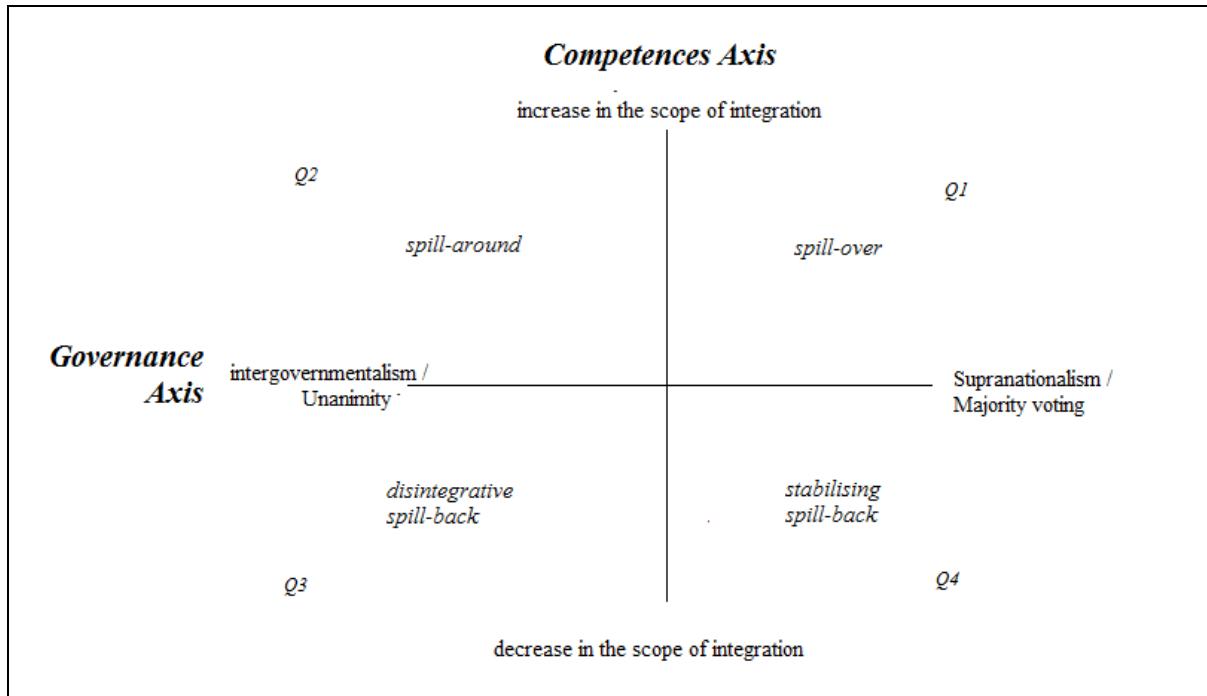
i. *Functional crises*. Neo-neofunctionalism, more than any other previous versions, is a theory of crisis-led integration. In particular, it postulates that

integration advances through cycles of functional crises. A functional crisis is characterised by two elements: first, it has, to some extent, *endogenous origins*; either directly, being the crisis generated by a precise failure of the previous allocation of competences to the supranational institutions, or indirectly, as the allocation of competences to the supranational institutions becomes suboptimal, or even unsustainable, due to changing environmental conditions (Schmitter, 2002).

ii. *The “functional clock”*. As Schmitter himself put it, any theory of integration should necessarily be also a theory of disintegration (Schmitter, 2002; Schmitter and Lefkofridi, 2015a, 2015b). The simple “spillover”, as intended by early neofunctionalists like Haas, is not sufficient to model the range of possible functional reactions to a crisis in terms of competences’ allocation. Therefore, additional concepts are introduced. If spillover is defined as a simultaneous accrual of both the competences and the autonomy of supranational institutions, “*spill-around*” means competences accrual within an intergovernmental framework; “*spill-backs*”, on the other hand, identify a decrease of competences and autonomy.

iii.

Figure 1
the Functional Clock



Now, if competences and autonomy are identified as two crossed axes, then a fourth option emerges: “weak” spill-backs, whereby competences are decreased, but the remaining institutions are strengthened in their autonomy.

Figure 1 visualises the “*functional clock*”, with all possible reactions to a crisis.

- (i) *Functional cycles*. The third key concept of neo-neofunctionalism is that crises and integration are not randomly happening episodes; rather, they are interconnected through “*functional cycles*”. Each functional cycle, with the exception of the very first one, begins and ends with a functional crisis (Schmitter 2002:20). Endogenous forces and path-dependency play a key role in all functional cycles with the exception of the first one, where “endogenous conditions (...) and random variables play their most important role” (Schmitter, 2002:22). Initiating cycles, albeit hard to predict, are followed by “*priming cycles*”, characterised by an autonomous role of supranational

bureaucracies and non-governmental actors seeking to expand the role of the “*new centre*”; priming cycles are therefore characterised by a tension towards spillovers. Finally, third and last are “*transforming cycles*”, where “*integration of the economies*” spills into “*integration of polities*” (Schmitter, 2002:33). Transformative cycles are characterised by increased politicization on several levels: between member-states, on redistributive issues; between centralised and national bureaucracies; between parties supporting integration, and parties opposing it. In other words, transformative cycles sign the beginning of a political struggle on the *finalité politique* of the Union, and will be mostly characterised by a deep political cleavage (almost in a Rokkan-Lipset (1967) fashion) between partisans of the “*new centre*” and of the “*old periphery*”.

(ii) *Functional equilibria (encapsulation)*. Of course, integration is not a necessity: if a community of states manages to withstand a functional crisis, or to solve it, without substantially re-allocating competences across layers of government (for example, by closing external borders, changes in leaderships, or in policies, or simply waiting for background conditions to change again) then the institutions would be considered “encapsulated” into a functional equilibrium. In the opposite direction, when inherent contradictions exist, then the system is in *functional disequilibrium*, which of course brings back the concept of crisis’ endogeneity discussed in the previous paragraphs. Isolated nation states constitute, in many cases, institutions in functional equilibrium, where the key functions of sovereignty (maintaining the ages-

proof listing of Bodin 1999, originally published in 1576) are kept, generally, at the same level. Of course, conceptualising sovereignty (here, quite differently from Bodin) as divisible, supranational integration breaks the nation-state equilibrium. While some international organizations may succeed in finding a new equilibrium and being encapsulated early in the process of integration, the existence of a “*gravitational attraction*” of sovereignty – pulling the key sovereignty functions either towards complete integration, or towards renationalisation – cannot be ruled out *a priori*.¹ In other words, while encapsulation of international organizations is quite possible, historical experience suggests that – when integration concerns some of the key functions of sovereignty – then a pull towards either complete integration or renationalisation exists.

The concepts of functional cycles, crises, and equilibria constitute key factors of the macro dimension of functional integration. Clearly, however, legitimacy appears nowhere in the logic of the argument;. I will claim, instead, that the very nature of the process of functional integration is grounded in a particular theory of legitimacy, explicated by Schaprf (1998) interpretation of Easton; the sudden politicization currently being experienced by the Union is, again, driven by functional legitimacy (or the lack thereof).

2. *Functional legitimacy*

¹ Indeed, some scholars (for instance, Gensschel and Jachtenfuchs [2016]) have interpreted the recent crisis as pulling towards integration of remaining core state powers.

The first cornerstone of a theory of functional legitimacy is given by Scharpf (1970; 1998; 2009), who applies Easton's input- and output-legitimacy to the EU. The logic of Scharpf's typology is, *prima facie*, quite simple: legitimacy (of a policy, of a government) can be provided on the "input side" or on the "output side". Output legitimacy relies on the effectiveness of the policies (and thereby of the decision making process) in achieving welfare-improvements. By definition, therefore, it requires *horizontal symmetry*: in order to be legitimized in front of all constituencies, the benefits of a particular policy should be perceived in all constituencies. A first implication of integration derived from output legitimacy is that, therefore, integration advances through series of "grand bargains" where the losses incurred by certain actors in given fields are offset by the gains of the same actors in other fields (Schmitter, 1969; 1970; 2002). Such a behaviour carries a further implication: retrograde revisions of any agreement are hard to achieve, even when the background conditions (or actor preferences) change (Scharpf, 1998). The second dimension of Scharpf's legitimacy theory is the well-known *input legitimacy*, whereby the legitimacy of a government and of its policies is not ensured by the outcomes they achieve, but through the bonds that link the representatives to the governed; in a democracy, the electoral process above all. Majone (1997) further enriches Scharpf's theorization. In fact, when output legitimacy (i.e. performance) is at stake, protection from the political cycle may be required: indeed, regulatory bodies work more efficiently when "insulated" from politics, thus strengthening output-legitimacy (Majone 1997: 4). However, democratic (input) legitimacy may be required in some cases: European legal philosophy has developed, over time, a rather precise distinction (reproduced by Majone (1997; 2014) between

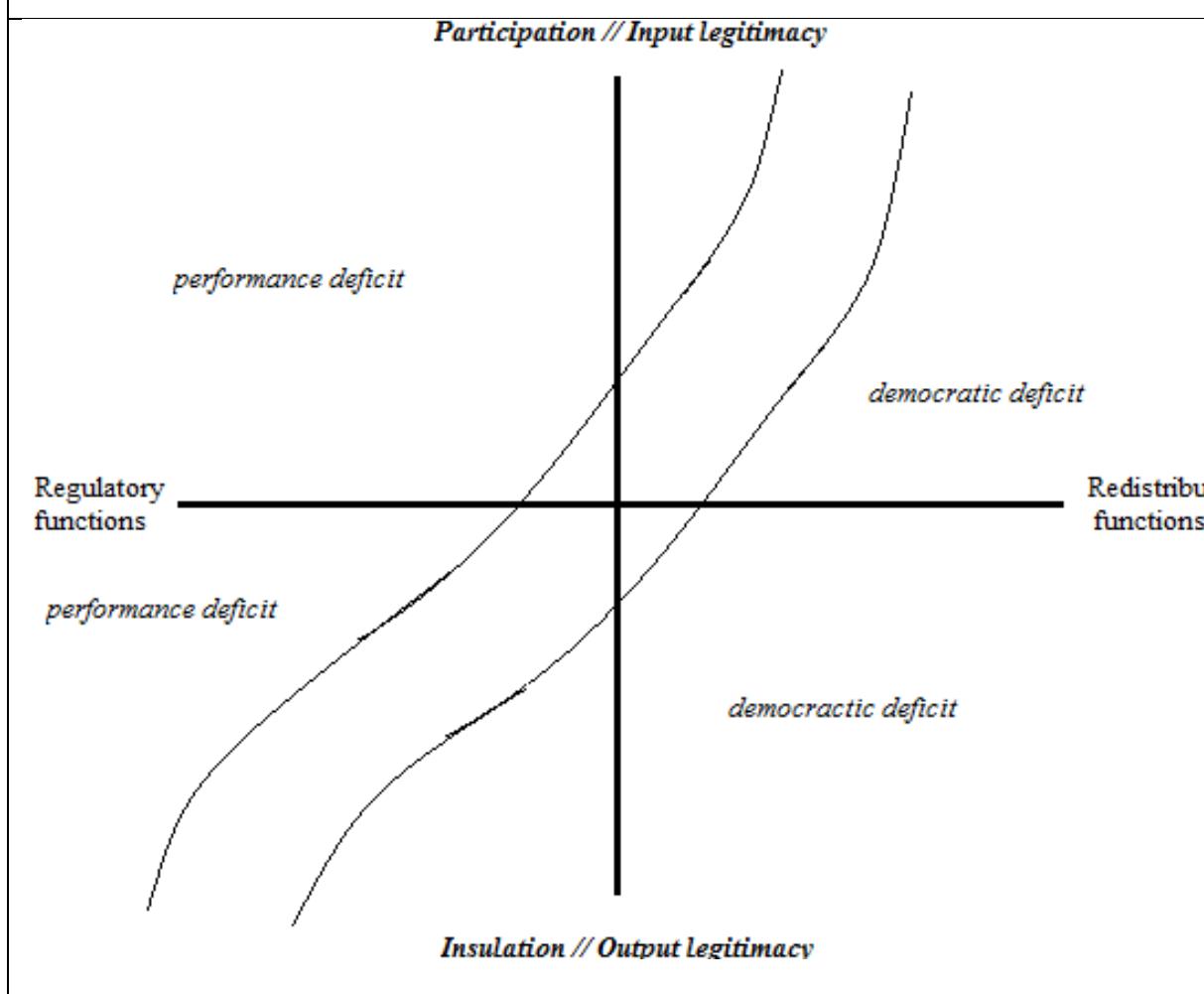
“regulatory policies” (which do not need input legitimacy, because they do not have redistributive goals, although they may entail redistributive implications) and “redistributive policies”, which do have redistribution as a goal and therefore must be decided upon by delegates chosen through an electoral process.

By combining Scharpf and Majone’s theory we can figure out the key elements of a theory of *functional legitimacy*: the nature of the *function* in question (redistributive or regulatory) determines the nature of legitimacy (*input* or *output*) required. It may follow that the institution under observation finds itself in *legitimacy disequilibrium*, *e.g.* excessive *input legitimacy*, (for example, through direct democracy instruments, to deal with functions that do not actually require it (for example, technical regulations). *Disequilibrium* may do to legitimacy more harm than benefit, when they create a clear “*performance deficit*” in policy fields where excesses of representation provide no legitimacy gains. Figure 2 gives a graphical representation of these elements.

There is a degree of substitution between the two components of legitimacy: particular set of policies may still be legitimised even in a situation of democratic deficit, because they produce positive effects. The stronger the democratic deficit, however, the more sensible the reactions to variations in output are to be. Figure 2 conceptualises this reasoning: The vertical axis represents a continuum between the two ideal-types of decision making: on one side, democratic decision making, carried out by democratically elected bodies; on the other side, non-democratic decision making, carried out by non-elected bodies, insulated agencies, and institutions voting by unanimity rules. The horizontal axis represents the continuum of the balance among integrated policies. The diagonal line represents the individual legitimacy threshold of

each agent and of course may change over time and across regions and institutions.

Figure 2: Functional Legitimacy in theory



The “band” in the centre of figure 2 identifies the area where policies are actually fully legitimised; it is curved because it is reasonable to assume that, the more we move towards integration of redistributive policies (or essential democratic functions), the more input legitimacy is needed (and the other way around). At some point, as long as we maintain that individuals do have democratic beliefs, a need for input legitimacy will arise if an international organization acquires sufficient redistributive powers. Therefore, for this condition being satisfied, the level of democratic decision-making

provided by the system must fall between the legitimacy threshold and the vertical axis, hence the curved shape of the legitimacy band. If it falls below, the system suffers from some degree of democratic deficit. If the system does not require input legitimacy, it must be legitimised on the output-side. However, as demonstrated by Majone (1997) and Moravcsik (2002), protection from the influence of politicians is often a condition for effective regulatory policies: agencies often are able to deliver better results if they are insulated from constant political pressure. So, in order to have effective output legitimacy, more we move towards regulative and non-essential policies, more insulation (and less electoral decision making) is needed. Again, agents may hold different beliefs on the degree of insulation needed in a given point, but all agents believe that, at a certain point, insulation will begin to be needed in order to achieve output legitimacy. For this condition being satisfied, the level of non-electoral decision-making must fall between the vertical axis and the legitimacy threshold. If it falls above, the system is experiencing a “*performance deficit*”: in other words, the outcomes of integration are structurally downplayed because of the excessive levels of political pressure, and output legitimacy is not achieved.

Now, integration of redistributive policies resembles opening of an international Pandora’s Box, as discussed by Nicoli (2015a, 2016c). A fundamental divergence of interests emerges, which may drive integration towards the building up of a democratic deficit. Naturally, many redistributive powers constitute “core state powers” which national administrations are unwilling to give up. Consequently, if a pressure to integrate arises, a spill-around outcome is more likely (Nicoli 2016c). However, by definition, a spill-around is inter-governmental in its governance setting, lacking therefore the input

legitimacy required (and in some cases, legally required- see Bundesvergassungsgericht 2009: 242) for redistributive policies; hence the emergence of a democratic deficit and of the ensuing *negative politicization* (Schmitter, 2002; Schmitter and Lefkofridi, 2015a).

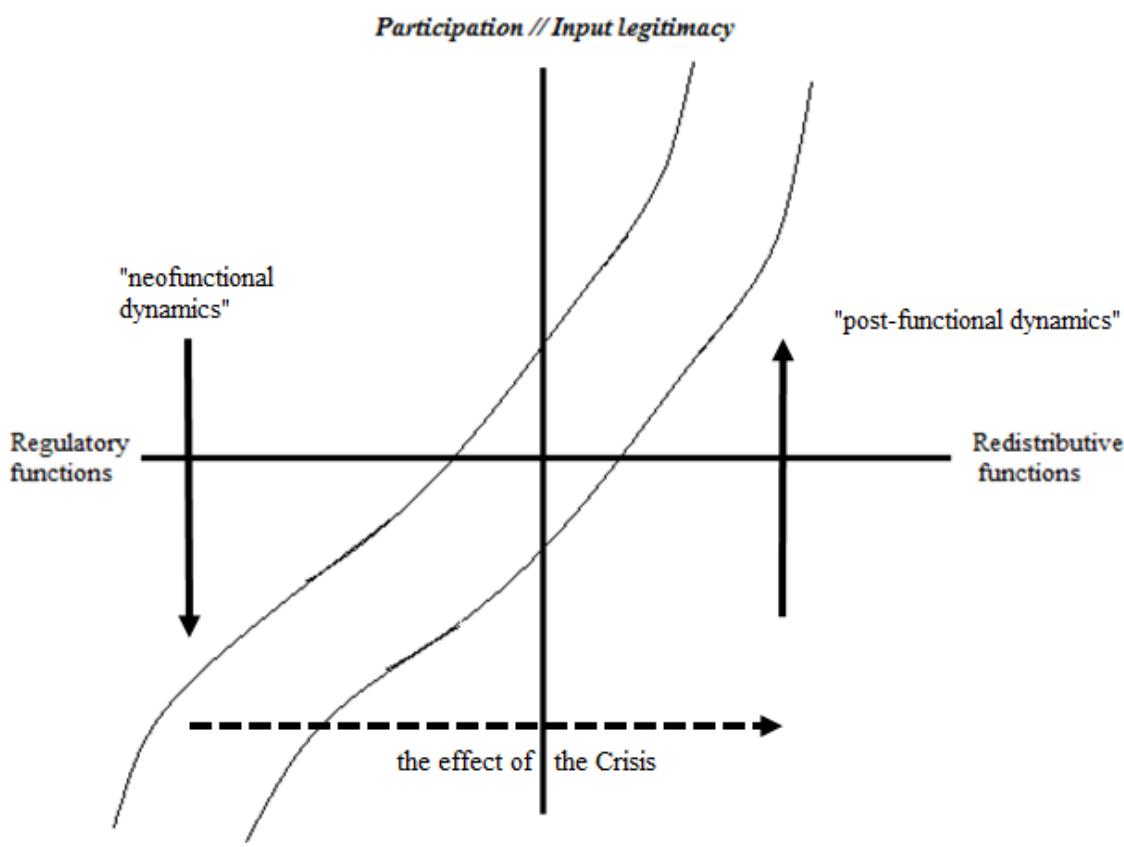
3. Functional Legitimacy and Functional Integration

Let's now reconsider the assumption that "integration advances through crises". What does it imply, in fact? If one thinks carefully, "crisis-led" integration implies that, when integration happens, it is led by a failure of *output legitimacy*; it is precisely when *output legitimacy* is low because of a crisis that gate-keeper agents, such as governments, (eventually) decide to integrate further. When output legitimacy is high, the system is fully functional and all parties are satisfied with the outcomes; when output legitimacy is very low, all parts are dissatisfied with the current setting, and therefore a strong pressure for integration will appear. However, when benefits and costs of integration are unevenly distributed, some parties may indulge with the idea of unilateral break-away from the common structures.

Output legitimacy is, of course, visualized in Figure 2 above, which allows us to graphically visualize the "engine" of European integration, its functional integration dynamics. As discussed in Nicoli (2016b), the "pace" of integration has tended to increase after periods of crisis. As explained, by definition, output legitimacy is low precisely because there is a crisis; the institutional setting is generating a "performance deficit". Now, let's assume that a preference to resolve the crisis through integration (rather than disintegration) exists; i.e. the reaction to the crisis is either going to be a

spill-over, or a *spill-around*. In both cases, to address a performance deficit a higher degree of insulation is needed, in order to shift the institutional setting towards the area of the diagram where policies are legitimized. Naturally, the performance deficit may be due to different reasons, either because of a sub-optimal governance excessively twisted by partisan interests (i.e. a trul “*insulation*” *deficit*), or by a wrong distribution of competences across government’s layers (i.e. a *competences mismatch*).

Figure 3: functional legitimacy and integration dynamics



In the former case, the performance deficit can be solved through more insulation, for example by extending the supervisory and sanctioning powers of the European Commission (left arrow in Figure 3), moving, therefore, along the vertical axis (without

modifying the degree of redistribution enacted by the European institutions). This can be qualified as a typical “neofunctional” dynamics of integration, where no politicization is likely to happen: the conditions for politicization, i.e. the presence of either a truly supranational arena where *competences* mismatch is harder to address; it is likely to require a shift over the horizontal axis, i.e. the degree of *redistribution* enacted by the European institutions.

In fact, if the institutional setting is maintained unchanged but redistributive policies are now integrated, a *performance deficit* can easily evolve into a *democratic deficit*. In other words, if the integration process bring about a set of policies which entail redistribution, but the governance setting maintains its insulated form, a new endogenous pressure to change competences allocation emerges; a *postfunctional* (Hooghe and Marks, 2009) dynamics of integration which is led by the need of addressing the democratic shortcomings of the institutions, *given* the new set of competences that these institutions have acquired. It is easy to see how the expansion of the integration process into the sphere of redistributive policies may constitute a *genetic change* (Nicoli, 2015) of the European Union which recalls Schmitter’s notion of “*transformative cycles*”. The Eurocrisis seems to have produced just as such: the range of policies that have been pooled during the crisis entail some degree of redistribution, but no expansion of democratic oversight; as a consequence, a democratic deficit has emerged.²

² In Nicoli (2016d), from which this paper is inspired, I discuss in detail the combination of redistribution and governance implemented in all different cases of integration occurred since the Eurocrisis (see, in particular, Table 1). More precisely, most institutions introduced during the crisis have implicit redistributive implications, but none has a fully democratic governance (Nicoli, 2016d, Table 1).

What is important to notice, however, is that the dynamics leading to integration (and, as we will discuss in a moment, disintegration) is still perfectly “functional”, for at least two reasons: on the one hand, it is driven by the need of solving problems through changes in the allocation of competences across layers of government. On the other hand, legitimacy (or, better, the lack thereof) constitutes still the engine of the integration dynamics. As much as the lack of output legitimacy (i.e., the performance deficit of the Common institutions) led to the building-up of the autonomy and powers of the Commission, the expansion of the fields of competences of the common institutions, by generating a democratic deficit, will stimulate the demand for a democratization of the European Union- or of its demise. The next section will therefore discuss the features of the next stage of integration, which is likely to be characterised by structural *negative politicization*.

4. From Insulation to Politicization

The previous section showed how the Eurocrisis is generating a new dynamic phase of European Integration, where the force in the driving seat is not the Union’s *performance deficit*, but its growing *democratic deficit*. While Insulation constitutes the policy solution to decrease a classical performance deficit, politicization is a more natural phenomenon, rooted in part in the need of addressing the Union’s democratic deficit. Naturally, politicization is multi-faced phenomenon with several dimensions: *Polarization* of European issues indicates the increased divisiveness of issues related to European integration, creating a new social cleavage *à la* Rokkan-Lipset (Nicoli, 2014); *salience* captures the relative importance of European issues in respect to other elements of public life; *autonomy* indicates the strengthening of the freedom of action of

supranational executive bodies in respect to the national governments, which entails the creation of a supranational political sphere; and *parliamentarization* indicates the strengthening of the role of the European Parliament in the decision-making process.

Increased politicization of the process of European integration may entail the increase in one or more of these different dimensions of politicization. The politicization of a neo-neo functionalist dynamics, which constitutes the engine of Schmitter's "transforming cycles", becomes a central feature of Hooghe and Marks (2009)'s "postfunctionalism", who emphasize, however, its *negative* character, i.e. relying, especially, over increased salience and polarization; given, however, that the non-politicized phase of European integration was characterized by a "*permissive consensus*" (Hooghe and Marks, 2009), increased polarization necessarily implies the rise of *dissensus* towards integration.

Negative politicization was expected by other neofunctionalist scholars too: early neofunctionalist theorists expected a surge of nationalism against the process of centralization as a phenomenon characterising the fourth and conclusive phase of integration of a federal state, when the ruling groups would have been engaged to proceed with political integration (Haas, 1964); the absence of solidarity and common nationhood among the countries of the Union implies that central institutions cannot be based on truly democratic values. Instead, central institutions are likely to acquire an authoritarian nature in the attempt to perform central government functions without having the necessary democratic backstop. As a reaction, "traditional nationalism" would emerge in nation states, where dissident units try to regain their autonomy achieving secession. In Haas' vision, the federation can be saved only by the

establishment of a shared “liberal nationalism”, where common values and norms were to be built over time among the different units. The issue of secession from the process of integration is discussed also by Etzioni (2001: 95); the units opposing integration face a choice between – on one side - “taking over” the central institutions, either from within the political process, or through a revolution, and – on the other side - pursuing a secession from the system. In the author’s views, the final choice is determined by the level of integration achieved by the Union at the moment when such an opposition is to gain momentum: the more the different polities of the Union are integrated, the more an endogenous change will be likely to lead to secession (Etzioni 2001: 314).

Now, negative politicization is not *necessary*; but may very well be likely, and perfectly in line with functionalist theory; both as it developed historically, and in its version presented here. Indeed, while some have interpreted Hooghe-Marks’ postfunctionalism as a rejection of functionalism (for instance, Schimmelfennig 2014), I maintain that postfunctionalism is rather an interpretation of the “reality” of negative politicization, as expected by neo-neofunctionalism. As the European Union moves beyond the purely pro-market organization it used to be at its inception, the existence of “policies without politics” (Schmidt, 2006: 223) becomes increasingly unsustainable. As the Union grows beyond purely regulative functions, the solution of output legitimacy crises entails, to some extent, input-legitimacy crises, and therefore some extent of *negative politicization* becomes increasingly likely no matter what solutions are put in place. Three main channels of functionally-generated, negative politicization are identified:

- (i) *Contestability deficit.* In the simplest (yet less attractive) case, if no solutions are in place and the democratic deficit is not addressed, negative politicization

would increase as direct consequence of the persistence of democratic deficit; it is therefore likely to affect most dimensions of politicization (with the exception, perhaps, of *autonomy*). One shall note that, when it comes to redistributive policies, it is rather complex to achieve the horizontal effectiveness required to obtain output legitimacy; input legitimacy is therefore needed to ensure that the redistributive policies in place can be contested and changed to the benefit of the largest possible majority. It follows thereof that, if no democratic institutions are in place, introducing a Europeanized redistributive policy may entail a twin deficit on both input and output side, driven by the lack of opportunities for contestability and change of the policies in place.

- (ii) *Identity cleavage.* Negative politicization cannot be ruled out even if appropriate democratic institutions are put in place. On the one hand, as extensively discussed in Nicoli (2014), even if appropriate representative institutions are in place (i.e., increase *parliamentarization* of the Union is achieved), the persistent lack of common identity of the Europeans (the notorious “no-demos” hypothesis) may fuel nationalistic resentment and strengthen the national cleavages, both in the parliamentary process and in the increased *salience* of European issues in national press.
- (iii) *Sovereignty cleavage.* Even if appropriate institutions are in place and a sense of common identity emerges in large shares of the European population, some negative politicization may be due to the simple transferring of competences

towards a central institution, therefore entailing a “centre-periphery” cleavage on the issue of sovereignty.

In sum, increased negative politicization seems hard to avoid when integration “spills” from its neofunctional, priming cycle to its postfunctional, transformative cycle; it will be either be fuelled by a lack of contestability (affecting the “losers” of the new redistributive policies), or by a lack of shared identity (widening the identity cleavage), or by defendants of national sovereignty (widening the centre-periphery cleavage), in any combination. From the point of view of functional legitimacy, the spread of negative politicization constitutes a deep alteration of the mechanics, and likely of the direction, of the process of integration. While the neofunctional phase of integration (characterised by a performance deficit) could easily produce a build-up of the common institutions and policies, the introduction of redistributive policies will be met with opposition certain groups no matter how democratic the institutions introduced will be. To be successful, the postfunctional dynamics of integration – despite being led by democratic deficit - requires not only the creation of common democratic institutions, but also a growing sense of common identity and some degree of allegiance to a “new centre”. Without these conditions, integration will be countered by widespread opposition. And yet, if redistributive policies are needed to re-establish output legitimacy (as it seems the case for the Eurozone, which is a rather dysfunctional monetary union lacking a fiscal union), then the very same sentiment of widespread opposition may emerge if fiscal integration is not achieved.

5. Conclusions

This paper has demonstrated that neo-neofunctional theory of integration, as originally elaborated by Schmitter in his 1970/2002 articles, despite lacking a formal theory of legitimacy it did include, implicitly, a theory of legitimacy which constituted the very core of the integration process. Legitimacy, and the lack thereof, represent one of the fundamental endogenous factors bringing integration forward or backward. Building upon Scharpf's and Majone's own theories of legitimacy and democratic deficit, the paper has demonstrated that the neo-neofunctional dynamics of integration is characterised by the need of solving a sudden performance deficit, while a postfunctional dynamic of integration is characterised by the pressure to address a democratic deficit. However, a key difference is maintained between a neofunctional and a postfunctional dynamics of integration. While the former does not imply widespread politicization but only touches upon the parties with a direct interest in maintaining integration, the outcome is more likely to be integrative. However, in the latter case, the emergence of a democratic deficit - especially when coupled with a yet unresolved performance deficit - may lead to widespread politicization of negative nature. In fact, addressing a democratic deficit implies a multi-dimensional leap forward in integration which does not only concern the institutional dimension, but – as highlighted by the German Federal Constitutional Court in its 2009 Lisbon decision – also the very existence of a shared European identity.

The Eurocrisis has created the functional need for integrating fiscal policies, which require democratic scrutiny; the Eurozone is therefore entering in a Transformative Cycle of integration. However, the lacking sense of nationhood prevents the seamless introduction of a fully-sovereign democratic authority at European level; without the

“greasing” effect of a common European identity, the gears of Europe’s functional integration engine are stuck. Negative politicization is most likely unavoidable: if no new policies are introduced, thereby ignoring the functional need for fiscal integration, or if the introduced policies fail to successfully address the crisis, negative politicization will be due to output legitimacy failure coupled with the contestability deficit. If new policies are integrated but without a sudden democratization of the decisional process, negative politicization will ensue as a direct effect of the democratic deficit (if not struck down by activist constitutional courts like the Bundesverfassungsgericht). And yet, if appropriate institutions are introduced, negative politicization along national cleavages is still likely to occur as a consequence of Europe’s identity deficit.

Europe should therefore brace for a prolonged period of political turmoil whatever pattern it chooses, and engage its common institutions in creating policies aimed not only at solving the crisis, but also at fostering the sense of common identity. What is more, since negative politicization is likely in any case delaying the construction of fully democratic institutions provides no advantages and should be regarded as a sub-optimal decision. On the one hand, it is unlikely that activist constitutional courts would allow the creation of European-wide fiscal policy without democratic oversight. Common democratic institutions – although they cannot, alone, prevent the rise of negative politicization of national cleavages – may well alleviate the democratic deficit and will be already in place if, and when, a shared European identity emerges. The opposite occurrence (i.e. delaying the construction of common democratic institutions until a shared identity has emerged) would not prevent the emergence of negative politicization (as it is already the case today) but would rather extend its duration. In that case, if, and

when, a shared identity emerges, the appropriate institutions would be yet to be implemented, stretching therefore the duration of the “democratic deficit” phase (hence, negative politicization) even further. Finally, one shall not rule out that identities might be in part endogenous to the political system, and that the creation of a sovereign European Parliament would contribute to the emersion, over time, of a common sense of belonging to the European project.

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